

Mayor
Kenneth Romney

WEST BOUNTIFUL CITY

City Administrator
Duane Huffman

City Council
James Ahlstrom
James Bruhn
Kelly Enquist
Debbie McKean
Mark Preece

550 North 800 West
West Bountiful, Utah 84087

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

Acting City Recorder
Cathy Brightwell

City Engineer
Ben White

Public Works Director
Steve Maughan

CITY COUNCIL MEETING

THE WEST BOUNTIFUL CITY COUNCIL WILL HOLD A WORK SESSION AND MEETING ON TUESDAY, AUGUST 5, 2014 AT 6:00 PM AT THE CITY OFFICES AT 550 NORTH 800 WEST.

Work Session Agenda (6:00 pm)

1. Liability and property insurance options.

Invocation/Thought by Invitation
Pledge of Allegiance - James Ahlstrom

Agenda

1. Accept Agenda.
2. Public Comment (two minutes per person) or if a spokesperson has been asked by a group to summarize their comments, five minutes will be allowed.
3. Consider request by Natalie Miller to have live music at City Park on August 16, 2014, from 6:30 to 8:30 pm for a birthday party.
4. Consider Resolution #343-14, A Resolution Consenting to the Appointment of Cathy Brightwell as the City Recorder.
5. Consider Resolution #345-14, A Resolution Approving a Telecommunications Franchise Agreement with Syringa Networks, LLC.
6. Consider Resolution #344-14, A Resolution Clarifying Rates for Residential Water for Residences Outside City Limits.
7. Consider Resolution #346-14, A Resolution Allowing the Mayor to Enter Into Public Improvements Reimbursement Agreements.
8. Discuss draft ordinance related to pipeline franchises.
9. Discuss City's participation in public safety retirement systems.
10. Engineering Report.
11. Administrative Report.
12. Mayor/Council Reports.
13. Approval of Minutes from the July 15, 2014 City Council Meeting.
14. Adjourn.

According to the American's with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the meeting should contact Cathy Brightwell, Acting City Recorder, at (801) 292-4486.

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 July 31, 2014.

MEMORANDUM



TO: Mayor & Council

DATE: July 31, 2014

FROM: Duane Huffman

RE: **Liability/Property Insurance Provider Presentations**

At the June 3rd City Council, I briefly presented options and costs related to the City's liability and property insurance coverage. The purpose in doing so was to determine if it would be worth the City's time to pursue options in more detail. The consensus at the meeting was that indeed the City should explore the details of potentially changing insurance providers.

The first step in a further review of options is to hear from the providers directly. Therefore, the three providers have been invited to present at a work meeting on August 5th. Their presentations will focus on (1) the elements unique to their model, (2) the costs and limits of coverages offered, and (3) cost stability. They will each have ten minutes for a presentation, followed by 10 minutes for questions. I have included a brief summary of the current differences in terms of costs and limits.

After the Council has a chance to hear from the providers and give me any direction regarding additional information you would like, I should be able to have a final recommendation ready by the August 19th meeting.

Insurance Comparisons - WBC

	Trust	Olympus	URMMA
Premiums			
General	\$41,373	inclusive	\$26,500 ^a
Property	\$11,203	inclusive	\$9,299
Auto	<u>\$7,177</u>	<u>inclusive</u>	<u>\$2,786</u>
TOTAL	\$59,573 ^b	\$41,589	\$38,585 ^a
Workers Comp	\$21,395	\$24,395	\$24,395
Coverages			
GL Occurrence	\$5 Million	\$5 Million	\$6 Million
GL Aggregate	\$5 Million	\$15 Million ^{de}	No Limit
Deductibles			
General	\$0	\$0-\$2,500	\$2,500
Property	\$0	\$1,000 ^c	varies
Auto	\$0	\$1,000	\$1,000
Clients	Most Cities	Bountiful, SDSD, Davis County, West Jordan, Cedar Hills	Centerville, Farmington, 20 other cities

a. The URMMA model has member cities pay back claim costs over 5 years, with provisions in place to protect against large claims.

b. The Trust has informed us that premiums for next year may decrease \$2K. The City may also qualify for a safety grant of \$2K.

c. The current Olympus proposal includes a \$25,000 deductible for property claims related to earthquakes and floods.

d. The liability program proposed by Olympus includes divisible coverage areas.

e. Olympus Automobile Liability does not have an aggregate limit.

MEMORANDUM



TO: Mayor and Council

DATE: July 30, 2014

FROM: Cathy Brightwell

RE: Live Music Request

Natalie Miller, 1662 Pages Place, Bountiful, has reserved the large bowery at City Park on Saturday, August 16 between 6 pm and 10 pm for her 30th birthday party. She would like to have her brother's band play live music between 6:30 pm and 8:30 pm. The band will be playing mostly soft rock and some American top 40, and she assures us the music will be appropriate for all ages.

Amplified music is not permitted in the Park without prior written consent from City Council. If approved, staff will prepare a memorandum authorizing the live music request.

Cathy Brightwell

From: Natalie <nemiller@live.com>
Sent: Monday, July 28, 2014 9:44 AM
To: Cathy Brightwell
Subject: Letter for music clearance

To whom it may concern:

I have reserved the West Bountiful large bowery for August 16th, 2014 from 6pm to 10pm. I am requesting to have live music played at this event between the hours of 6:30pm and 8:30pm. This is my brother's band consisting of a lead singer, key board, guitar, bass guitar and drums. They do cover songs (mostly soft rock, some american top 40). There is no cursing or loud screaming/yelling in the music they cover. It is appropriate for all ages. This is for my 30th birthday party and would really add to the fun of this big event! A few of the songs they cover to give you an idea of what they do are as follows:

Coming to America-Niel Diamond

All these things that I've done-The Killers (the name is deceiving! The lead singer of this band is LDS)

Lose yourself to dance-Daft Punk

Jumpin' Jack Flash-The Rolling Stones

Fix you-Cold Play

Thank you for your consideration! If more info is required, please feel free to contact me at nemiller@live.com or 801-635-9134.

Sincerely,

Natalie Miller



BOWERY RESERVATION APPLICATION

West Bountiful City
550 N 800 W, West Bountiful, UT 84087
Phone: (801) 292-4486
Fax: (801) 292-6355
www.westbountiful.utah.gov

DATE OF RESERVATION: Aug. 16th TIME: From 6pm to 10pm Number in Party: 50? *
*additional \$100 for groups over 500

Check One:

- #1 Large Bowery-City Park (< 500 people): Resident: ___ \$50/half day, ___ \$100/full day, Non-Res: \$70/half day, ___ \$120/full day
- #2 Large Bowery-City Hall (<200 people): Resident: ___ \$50/half day, ___ \$100/full day, Non-Res: ___ \$70/half day, ___ \$120/full day
- #3 Small SE Bowery-City Park (<50 people): Resident: ___ \$15/half day, ___ \$30/full day, Non-Res: ___ \$25/half day, ___ \$40/full day
- #4 Small SW Bowery-City Park (<50 people): Resident: ___ \$15/half day, ___ \$30/full day, Non-Res: ___ \$25/half day, ___ \$40/full day

APPLICANT NAME (Primary Contact over 21): Natalie Miller

NAME OF GROUP, IF APPLICABLE: _____

ADDRESS OF ABOVE: 1062 Pages Pl. Bountiful, UT 84010

PHONE(s): 801-635-9134 EMAIL: nemiller@live.com

PURPOSE OF RESERVATION: Birthday Party

By signing below, the applicant agrees to the following rules and regulations:

- Park fees are nonrefundable;
- Park hours are from 6 am to 10 pm;
- Glass containers and pets/animals are prohibited in the Park and at City Hall;
- No alcohol or drugs will be permitted at any time;
- Waterslides and ice-blocking are prohibited;
- The lawn may not be used for golfing, skiing, or snowboarding;
- Water activities are not permitted without prior written approval from City staff;
- Amplified music is not permitted without prior written consent from City Council;
- The reserved area will be cleaned-up and trash will be placed in appropriate containers at the conclusion of the event.

As the responsible party for the above reserved event, I certify that I have reviewed the West Bountiful City Facility Use Policy and I agree to the terms and conditions listed therein. I agree to indemnify, hold harmless, and reimburse West Bountiful City with respect to all claims, damages, suits, attorney fees, and other expenses which may arise due to personal injury or property damage suffered or incurred in connection with or incident to the use of the park facilities by the applicant.

I agree that I will be responsible for the conduct of the group if granted use of the facilities specified above. I agree that the group will conform to the official policies set under authority of the West Bountiful Municipal Code. I further agree to reimburse West Bountiful City in full for any loss due to breakage, defacing of property, or other damage to the facilities. I represent that I am duly authorized to sign this bowery application on behalf of the company or organization applying for the reservation. I further certify that the above information is true and correct to the best of my knowledge.

Date: 5/30/14

Applicant Signature: Natalie Miller

FOR OFFICIAL USE ONLY

Application Received date: 5/30/14

Application received by: MT

Fee/deposit paid date: 5/30/14

Fee/deposit paid amount: \$ 70

WEST BOUNTIFUL CITY

RESOLUTION #343-14

A RESOLUTION OF THE WEST BOUNTIFUL CITY COUNCIL CONSENTING TO THE APPOINTMENT OF CATHY BRIGHTWELL AS THE CITY RECORDER

WHEREAS, Utah Code Annotated 10-3-916 provides that the Mayor, with the advice and consent of the City Council, shall appoint a qualified person to the office of City Recorder.

NOW THEREFORE, BE IT RESOLVED that the City Council of West Bountiful City consents to the Mayor's appointment of Cathy Brightwell as the City Recorder.

EFFECTIVE DATE. This resolution shall be effective immediately upon passage.

Passed and approved by the City Council of West Bountiful City this 5th day of August, 2014.

Ken Romney, Mayor

Voting by the City Council: Aye Nay

Councilmember Ahlstrom	_____	_____
Councilmember Bruhn	_____	_____
Councilmember Enquist	_____	_____
Councilmember McKean	_____	_____
Councilmember Preece	_____	_____

ATTEST:

Cathy Brightwell, City Recorder



June 5, 2014

Duane Huffman
City of West Bountiful
550 North 800 West
West Bountiful, UT 84087

RE: Franchise Agreement and Right of Way access

Dear Duane,

I am writing with regard to our upcoming work in the City of West Bountiful. As requested, I have provided additional information for your review that you will find attached to this email.

As you know, we are Syringa Networks and we are a broadband service provider. We provide services to high end bandwidth users; either cellular companies or those who re-sell bandwidth and are seeking your permission to place our facilities within your city. In order to do so this would necessitate our access to your city right-of-ways to place our fiber optic cable.

I am hoping that you can tell me what our next steps are so that we may commence with the orders that we currently have in house. We have to date successfully executed various types of permitting, applications and Franchise Agreements with many surrounding cities and are anxious to begin working in West Bountiful. Please let me know if there is something else I can make available to you so that we are able to move forward with our work in the city of West Bountiful.

Thank you for your consideration in this matter. I look forward to hearing from you.

Robin Sebastian
Outside Plant Coordinator

WEST BOUNTIFUL CITY

RESOLUTION #345-14

A RESOLUTION APPROVING A TELECOMMUNICATIONS FRANCHISE AGREEMENT WITH SYRINGA NETWORKS, LLC.

WHEREAS, Syringa Networks, LLC. desires to provide voice, data or video transmission services within West Bountiful City and in connection therewith to establish a telecommunications network in, under, along, over and across present and future rights-of-way of the City; and

WHEREAS, the City has enacted Title 5, Chapter 24 of the West Bountiful City Municipal Code which governs the application and review process for Telecommunication Franchises in the City; and

WHEREAS, the City Council, in exercise of its management of public Rights-of-Way, believes that it is in the best interest of the public to provide Syringa Networks, LLC. a nonexclusive franchise to operate a telecommunications network in the CITY.

NOW THEREFORE, BE IT RESOLVED by the City Council of West Bountiful City:

Section 1. Franchise Agreement. The Franchise Agreement between West Bountiful City and Syringa Networks attached hereto is acceptable by the City Council.

Section 2. Authorization to Sign Agreement. After acceptance by Syringa Networks, the Mayor West Bountiful City is hereby authorized to sign the Agreement for and in behalf of the City.

Section 3. Effective Date. This Resolution shall become effective immediately upon its passage and authorizes and directs the Mayor to execute and cause to be delivered the same.

Passed and approved by the City Council of West Bountiful City this 5th day of August, 2014.

Ken Romney, Mayor

Voting by the City Council:	<u>Aye</u>	<u>Nay</u>
Councilmember Ahlstrom	___	___
Councilmember Bruhn	___	___
Councilmember Enquist	___	___
Councilmember McKean	___	___
Councilmember Preece	___	___
Mayor Ken Romney	___	___

ATTEST:

Cathy Brightwell, Recorder

**FRANCHISE AGREEMENT
WEST BOUNTIFUL CITY – SYRINGA NETWORKS, LLC**

THIS FRANCHISE AGREEMENT (hereinafter “Agreement”) is entered into by and between West Bountiful City, Utah (hereinafter the “CITY”), a municipal corporation and political subdivision of the State of Utah, with principal offices at 550 North 800 West, Utah 84087, and Syringa Networks, LLC, an Idaho limited liability company (hereinafter the “PROVIDER”) with its principal offices at 12301 West Explorer Drive, Boise, Idaho 83713.

WITNESSETH:

WHEREAS, the PROVIDER desires to provide voice, data or video transmission services within the CITY and in connection therewith to establish a telecommunications network in, under, along, over and across present and future rights-of-way of the CITY; and

WHEREAS, the CITY has enacted Title 5, Chapter 24 of the West Bountiful City Municipal Code (hereinafter the “Telecommunication Rights-of-Way Ordinance”) which governs the application and review process for Telecommunication Franchises in the CITY; and

WHEREAS, the CITY, in exercise of its management of public Rights-of-Way, believes that it is in the best interest of the public to provide the PROVIDER a nonexclusive franchise to operate a telecommunications network in the CITY.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, and for other good and valuable consideration, the CITY and the PROVIDER agree as follows:

ARTICLE 1. FRANCHISE AGREEMENT AND ORDINANCE.

1.1 Agreement. Upon execution by the parties, this Agreement shall be deemed to constitute a contract by and between CITY and PROVIDER.

1.2 Ordinance. The CITY has adopted a Telecommunications Rights-of-Way Ordinance. The PROVIDER acknowledges that it has had an opportunity to read and become familiar with the Telecommunications Rights-of-Way Ordinance. The parties agree that the provisions and requirements of the Telecommunications Rights-of-Way Ordinance are material terms of this Agreement, and that each party hereby agrees to be contractually bound to comply with the terms of the Telecommunications Rights-of-Way Ordinance. The definitions in the Telecommunications Rights-of-Way Ordinance shall apply herein unless a different meaning is indicated. Nothing in this Section shall be deemed to require the PROVIDER to comply with any provision of the Telecommunications Rights-of-Way Ordinance which is judicially determined to be unlawful or beyond the CITY’s authority. If any term or condition of this Agreement shall be in conflict with State law, CITY ordinance, rule or regulation, the provision of the ordinance, rule or regulation shall govern and control.

1.3 Ordinance Amendments. The CITY reserves the right to amend the Telecommunications Rights-of-Way Ordinance at any time. The CITY shall give the PROVIDER notice and an opportunity to be heard concerning any proposed amendment. Subject to Article 5 and Section 10.2, if there is any inconsistency between the PROVIDER's rights and obligations under the Telecommunications Rights-of-Way Ordinance as amended and this Agreement, the provisions of this Agreement shall govern during its term. Otherwise, the PROVIDER agrees to comply with any such amendments.

1.4 Franchise Description. The Telecommunications Franchise provided hereby shall confer upon the PROVIDER the nonexclusive right, privilege, and franchise to construct and maintain a telecommunications network in, under, above and across the present and future public Rights-of-Way in the CITY. The franchise does not grant to the PROVIDER the right, privilege or authority to engage in community antenna (or cable) television business; although, nothing contained herein shall preclude the PROVIDER from: (1) permitting those with a cable franchise who are lawfully engaged in such business to utilize the PROVIDER's System within the CITY for such purposes; or (2) providing such service in the future if an appropriate franchise is obtained and all other legal requirements have been satisfied.

1.5 Licenses. The PROVIDER acknowledges that it has obtained the necessary approvals, licenses or permits required by federal and state law to provide telecommunication services consistent with the provisions of this Agreement and with the Telecommunications Rights-of-Way Ordinance. PROVIDER shall deliver a copy of the relevant permits to the CITY before construction is commenced.

1.6 Relationship. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to act, nor shall either party act, toward third persons or the public in any manner that would indicate any such relationship with each other.

ARTICLE 2. FRANCHISE FEE.

2.1 Franchise Fee. For the Franchise granted herein, the PROVIDER shall pay to the CITY a tax in accordance with the Municipal Telecommunication License Tax Act (*Utah Code Ann.* §§ 10-1-401 to 10-1-410, as amended), less any business license fee or business license tax enacted by the CITY and charged to PROVIDER. All payments shall be made to the Utah State Tax Commission, and sent as follows:

Utah State Tax Commission
210 North 1950 West
Salt Lake City, Utah 84134

Within ten (10) days of any filing with the Utah State Tax Commission, the Provider shall deliver to the CITY copies of the same reports it files with the Utah State Tax Commission.

2.2 Equal Treatment. CITY agrees that if any service forming part of the base for calculating the franchise fee under this Agreement is, or becomes, subject to competition within

the CITY from a third party, the CITY will either impose and collect from such third party fees and taxes at the same rate as those imposed under this Agreement, or waive collection of fees under this Agreement to the same extent as such competition is exempt from such fees and taxes.

ARTICLE 3. TERM AND RENEWAL.

3.1 Term and Renewal. The franchise granted to PROVIDER shall be for a period of five (5) years commencing on the first day of the month following execution of this Agreement, unless this Franchise is sooner terminated as herein provided. At the end of the initial five (5) year term of this Agreement, the franchise granted herein may be renewed for up to two (2) additional five (5) year extensions upon the mutual written agreement of the parties for each extension. PROVIDER shall notify the CITY of the expiration date and of its wish to renew the Franchise Agreement for another term at least three months before and not earlier than six months before the termination date of any term of this Agreement.

3.2 Rights of PROVIDER Upon Expiration or Revocation. Upon expiration of the franchise granted herein, whether by lapse or time, by agreement between the PROVIDER and the CITY, or by revocation or forfeiture, the PROVIDER shall have the right to remove from the Rights-of-Way any and all of its facilities upon reasonable notice to the CITY. In such event, the PROVIDER, immediately upon such removal, shall restore the Rights-of-Way from which such facilities are removed to as good condition as before the removal was effected. The PROVIDER shall cooperate with the CITY to minimize any adverse impacts to the CITY and its residents in connection with such removal.

ARTICLE 4. PUBLIC USE RIGHTS.

4.1 City Uses of Poles and Overhead Structures. The CITY shall have the right, without cost, to use all poles owned by the PROVIDER within the CITY for fire alarms, police signal systems, or any lawful public use; provided, however, any said uses by the CITY shall be for activities owned, operated or used by the CITY for any public purposes and shall not include the provision of telecommunications service to third parties.

4.2 Limitations on Use Rights. Nothing in this Agreement shall be construed to require the Provider to increase pole capacity, alter the manner in which the PROVIDER attaches equipment to the poles, or alter the manner in which the PROVIDER operates and maintains its equipment. Such CITY attachments shall be installed and maintained in accordance with the reasonable requirements of the PROVIDER and the then current National Electrical Safety Code. CITY attachments shall be attached or installed only after written approval by the PROVIDER, which approval will be processed in a timely manner and will not be unreasonably withheld or conditioned.

4.3 Maintenance of CITY Facilities. The CITY's use rights shall also be subject to the parties reaching an agreement regarding the CITY's maintenance of the CITY attachments.

ARTICLE 5. POLICE POWERS.

The CITY expressly reserves, and the PROVIDER expressly recognizes, the CITY's right and duty to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as the CITY may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties.

ARTICLE 6. CHANGING CONDITIONS AND SEVERABILITY.

6.1 Meet to Confer. The PROVIDER and the CITY recognize that many aspects of the telecommunication 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 PROVIDER conducts its business and the way the CITY regulates the business. In recognition of the present state of uncertainty respecting these matters, the parties agree, upon request of either party during the term of this Agreement, to meet 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 developments.

6.2 Severability. If any section, sentence, paragraph, term or provision of this Agreement or the Telecommunications Rights-of-Way Ordinance is for any reason determined to be illegal, invalid, or superseded by lawful authority, including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof; or is determined to be unconstitutional, illegal or invalid by any court of competent 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, all of which shall remain in full force and effect for the term of this Agreement or any renewal or renewals thereof. Provided that if the invalidated portion is considered a material consideration for entering into this Agreement, the parties will negotiate, in good faith, an amendment to this Agreement. As used herein, "material consideration" for the CITY is its ability to collect the franchise fee during the term of this Agreement and its ability to manage the Rights-of-Way in a manner similar to that provided in this Agreement, the Telecommunications Rights-of-Way Ordinance, and the City's Excavation Permit Ordinance. For the PROVIDER, "material consideration" is its ability to use the Rights-of-Way for telecommunication purposes in a manner similar to that provided in this Agreement, the Telecommunications Rights-of-Way Ordinance, and the CITY's Excavation Permit Ordinance.

ARTICLE 7. EARLY TERMINATION, REVOCATION OF FRANCHISE AND OTHER REMEDIES.

7.1 Grounds for Termination. The CITY may terminate or revoke this Agreement and all rights and privileges herein provided for any of the following reasons:

(a) The PROVIDER fails to make timely payments of the franchise fee as required under Article 2 of this Agreement and does not correct such failure within sixty (60) calendar days after written notice by the CITY of such failure;

(b) The PROVIDER, by act or omission, materially violates a material duty herein set forth in any particular within the PROVIDER's control, and with respect to which redress is not otherwise herein provided. In such event, the CITY, acting by or through its CITY Council, may determine, after hearing, that such failure is of a material nature, and thereupon, after written notice giving the PROVIDER notice of such determination, the PROVIDER, within sixty (60) calendar days of such notice, shall commence efforts to remedy the conditions identified in the notice and shall have ninety (90) calendar days from the date it receives notice to remedy the conditions. After the expiration of such 90-day period and failure to correct such conditions, the CITY may declare the franchise forfeited and this Agreement terminated, and thereupon, the PROVIDER shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further, that in the event such failure is of such nature that it cannot be reasonably corrected within the 90-day time period provided above, the CITY shall provide additional time for the reasonable correction of such alleged failure if the reason for the noncompliance was not the intentional or negligent act or omission of the PROVIDER;

(c) The PROVIDER becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt, or all or part of its facilities should be sold under an instrument to secure a debt and is not redeemed by the PROVIDER within sixty (60) days.

7.2 Reserved Rights. Nothing contained herein shall be deemed to preclude the PROVIDER from pursuing any legal or equitable rights or remedies it may have to challenge the action of the CITY.

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

7.4 Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of the CITY and the PROVIDER. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

ARTICLE 8. PARTIES' DESIGNEES.

8.1 CITY designee and Address. The City Administrator or his or her designee(s) shall serve as the CITY's representative regarding administration of this Agreement. Unless otherwise specified herein or in the Telecommunications Rights-of-Way Ordinance, all notices

from the PROVIDER to the CITY pursuant to or concerning this Agreement, shall be delivered to the CITY's representative at 550 North 800 West, West Bountiful, Utah 84087, or such other officer and address as the CITY may designate by written notice to the PROVIDER.

8.2 PROVIDER Designee and Address. The PROVIDER's Chief Executive Officer or his or her designee(s) shall serve as the PROVIDER's representative regarding administration of this Agreement. Unless otherwise specified herein or in the Telecommunications Rights-of-Way Ordinance, all notices from the CITY to the PROVIDER pursuant to or concerning this Agreement, shall be delivered to PROVIDER's headquarter offices at 12301 West Explorer Drive, Boise, Idaho 83713, or such other office as the PROVIDER may designate by written notice to the CITY.

8.3 Failure of Designee. The failure or omission of the CITY's or PROVIDER's representative to act shall not constitute any waiver or estoppels by the CITY or PROVIDER.

ARTICLE 9. INSURANCE AND 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 PROVIDER of the facilities.

9.2 Insurance. Prior to commencing operations in the CITY pursuant to this Agreement, the PROVIDER shall furnish to the CITY evidence that it has general liability and property damage insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and in the aggregate. Any and all insurance shall be in a form and of a scope of coverage acceptable to the CITY.

9.3 Indemnification. The PROVIDER agrees to indemnify, defend and hold harmless the CITY (including its officers, employees and agents, individually and collectively) from and against any and all claims, demands, liens, and all liability or damage of whatsoever kind on account of or arising from the PROVIDER's acts or omissions pursuant to or related to this Agreement, and to pay any and all costs, including reasonable attorney fees, incurred by the CITY in defense of such claims. The CITY shall promptly give written notice to the PROVIDER of any claim, demand, lien, liability, or damage, with respect to which the CITY seeks indemnification. Unless in the CITY's judgment a conflict of interest may exist between the parties with respect to the claim, demand, lien, liability, or damage, the CITY shall permit the PROVIDER to assume the defense of such with counsel selected by the PROVIDER subject to the CITY's approval. Notwithstanding any provision of this Section to the contrary, the PROVIDER shall not be obligated to indemnify, defend or hold the CITY harmless to the extent any claim, demand, lien, damage, or liability arises out of or in connection with negligent acts or omissions of the CITY.

ARTICLE 10. INSTALLATION

10.1 Coordinated Installation. In order to prevent and/or minimize the number of cuts to and excavations within the CITY Rights-of-Way, PROVIDER shall coordinate with the CITY and other providers or users of the CITY Rights-of-Way, when such cuts and excavations will be made. Unless otherwise permitted by the CITY, installation, repairs, or maintenance of lines and facilities within the CITY Rights-of-Way shall be made in the same trench and at the time other installations, repairs or maintenance of facilities are conducted within the CITY Rights-of-Way. All facilities shall be located so as to cause minimum interference with the use of the Rights-of-way by others, and shall cause minimum inferences with the rights of owners of property that abuts any portion of the Rights-of-Way.

10.2 Underground Installation. Unless otherwise provided, all of PROVIDER's facilities within the CITY shall be constructed underground. Notwithstanding the provisions of Section 1.3 of this Agreement, PROVIDER expressly agrees to install and maintain all of its facilities in accordance with CITY Ordinances regarding the undergrounding of utility lines, in effect at the time this Agreement is entered into and as subsequently amended during the term of this Agreement. Nothing herein shall require PROVIDER to convert existing overhead facilities to underground facilities until and unless other similarly situated providers in the same location are required to do so.

10.3 Excavation Permit. PROVIDER shall comply with the CITY's Excavation Permit Ordinance and any other applicable City Ordinances regarding installations, repair or work within the CITY Rights-of-Way.

10.4 PROVIDER Duty to Relocate. Whenever the City shall require the relocation or reinstallation of any of the facilities situated within the Rights-of-Way, the PROVIDER, within a reasonable time after notice of such requirement and written demand, but not more than sixty (60) days from the date of notice, shall commence to remove and relocate or reinstall such facilities as may be reasonably necessary to meet the requirements of the CITY, which relocation shall be completed within a reasonably practicable time thereafter, but in no event longer than one hundred twenty (120) days, unless extended by mutual agreement. Such relocation may be required by the City for any lawful purpose, including, without limitation, the resolution of existing or anticipated conflicts or the accommodation of any conflicting uses or proposed uses of the Right-of-Way, whether such conflicts arise in connection with a CITY project or a project undertaken by some other person or entity, public or private. Such relocation shall be accomplished by the PROVIDER at no cost or expense to the CITY. In the event the relocation is ordered to accommodate the facilities or uses of an entity other than the City or the PROVIDER, the cost and expense of such relocation shall be borne by such other entity.

10.5 Repair to Damage. If the PROVIDER causes damage to or alters any portion of the Right-of-Way, or any CITY facilities or other public or private property or facilities, the PROVIDER shall at its own cost and expense and in a manner approved by the CITY replace and restore such portion of the Right-of-Way or property or facilities.

ARTICLE 11. GENERAL PROVISIONS

11.1 Damage by CITY to the PROVIDER's facilities. In the event of physical damage or interference caused by the CITY to the PROVIDER's facilities, the PROVIDER shall inform the CITY of such damage or interference as soon as it is aware of the same, and the CITY shall be responsible to reimburse the PROVIDER for the actual cost of repairing and restoring such damage. However, the CITY shall not be responsible for any other losses or damage, including incidental or consequential damages, suffered by the PROVIDER as a result of such physical damage or interference, including but not limited to lost profits resulting from service interruption.

11.2 Binding Agreement. The parties represent that: (a) when executed by their respective parties, this Agreement shall constitute legal and binding obligations of the parties; and (b) each party has complied with all relevant statutes, ordinances, resolutions, by-laws and other legal requirements applicable to their operation in entering into this Agreement.

11.3 Governing Law. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH, IRRESPECTIVE OF ANY CONFLICTS OF LAWS PROVISIONS, EXCEPT AS UTAH LAW MAY BE PREEMPTED OR SUPERSEDED BY THE LAWS OF THE UNITED STATES. EACH PARTY HEREBY CONSENTS TO THE JURISDICTION OF THE COURTS OF THE STATE OF UTAH OR THE COURTS OF THE UNITED STATES LOCATED IN THE STATE OF UTAH, AS THE CASE MAY BE, WITH VENUE IN DAVIS COUNTY, IN ANY DISPUTE ARISING OUT OF THIS AGREEMENT.**

11.4 Time of Essence. Time shall be of the essence of this Agreement.

11.5 Interpretation of Agreement. The invalidity of any portion of this Agreement shall not prevent the remainder of the Agreement from being carried into effect. Whenever the context of any provision shall require it, the singular number shall include the plural number and vice versa, and the use of any gender shall include any other and all genders. The paragraphs and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

11.6 No Presumption. All parties have participated in preparing this Agreement. Therefore, the parties stipulate that any court interpreting or construing the Agreement shall not apply the rule of construction that the Agreement should be more strictly construed against the drafting party.

11.7 Amendments. This Agreement may be modified or amended by written agreement only. No oral modifications or amendments shall be effective.

11.8 Binding Agreement. This Agreement shall be binding upon the successors, administrators and assigns of each of the parties.

[The remainder of this page is intentionally left blank.]

SIGNED AND ENTERED INTO this ____ day of _____, 20__

“CITY”
WEST BOUNTIFUL CITY

By: _____
Kenneth Romney, Mayor

ATTEST:

Cathy Brightwell, City Recorder

APPROVED AS TO FORM:

City Attorney

“PROVIDER”

Syringa Networks, LLC, an Idaho limited liability company

By: _____
Greg Lowe, Chief Executive Officer

WEST BOUNTIFUL CITY

RESOLUTION #344-14

A RESOLUTION CLARIFYING RATES FOR RESIDENTIAL WATER FOR RESIDENCES OUTSIDE CITY LIMITS

WHEREAS, West Bountiful City owns and operates the culinary water system within the City as separate enterprise funds, periodically adjusting service fees by resolution of the West Bountiful City Council; and

WHEREAS, the culinary water system serves a small number of residences outside city limits; and

WHEREAS, the West Bountiful City Council adopted Resolution 336-14 on May 6, 2014, adjusting the monthly rate for residential culinary water use, which adjustment applied only to residences within city limits; and,

WHEREAS, the West Bountiful City Council intended for the May 6th, 2014, adjustment to included residences outside city limits:

NOW THEREFORE, BE IT RESOLVED by the City Council of West Bountiful City that the monthly service fees for culinary water be set forth as follows below.

A. CULINARY WATER RATES

WATER BASE RATE (OUTSIDE CITY LIMITS)	Current Monthly	New Monthly
First 8,000 gallons	\$41.00	\$41.00
Bond Repayment	\$18.00	\$18.00
Capital Improvement Plan ¹	\$23.00	\$10.00
Monthly Residential Base Rate²	\$82.00	\$69.00

¹ The Capital Improvement portion of the rate expires June 30, 2018, unless renewed by the City Council.

² There is no change to monthly overages. These will be billed separately, per the current fee schedule.

EFFECTIVE DATE. The fees set forth in this resolution shall take immediately.

Passed and approved by the City Council of West Bountiful City this 5th day of August, 2014.

Ken Romney, Mayor

Voting by the City Council:	<u>Aye</u>	<u>Nay</u>
Councilmember Ahlstrom	___	___
Councilmember Bruhn	___	___
Councilmember Enquist	___	___
Councilmember McKean	___	___

Councilmember Preece

—

—

Mayor Ken Romney

—

—

ATTEST:

Cathy Brightwell, Recorder

MEMORANDUM



TO: Mayor & Council
DATE: July 31, 2014
FROM: Ben White
RE: Public Improvements Reimbursement Agreement

Background

We all know of locations in the City where the construction of curb, sidewalk, catch basin or some other public improvement would benefit the adjoining property owner as well as the City as a whole. Remedying drainage related problems or pedestrian access are the two most common. The installation of curb or sidewalk is often the cure. The impediment to the construction is usually money.

Proposal

Staff is suggesting that the City implement a program where the City would be willing to carry the cost of the construction public improvements and the adjoining property owner reimburse the City over time.

We have a current situation where this program would be very useful. The construction of the Chase Subdivision along with curb and sidewalk in front of Brian Moore's new home on Pages Lane exacerbates a drainage issue for the Horrock's property (west and downhill of the other properties). By carrying the cost for curb and sidewalk for Horrocks, it allows curb and sidewalk to be installed in front of their property at the same time as the neighboring properties.

Staff will work with Legal Council on drafting such an agreement that would then be executed by the Mayor and property owner. The terms of the agreement would include:

1. Agreement is recorded
2. Reimbursement period of 5 years (typically)
3. Balance of monies due upon sale of the property
4. Zero interest rate
5. Construction must be to city standard

MEMORANDUM



TO: Mayor & Council

DATE: July 31, 2014

FROM: Duane Huffman

RE: **Draft Pipeline Franchise Ordinance**

In reviewing the City's current ordinances, it is unclear how we would process or consider requests for the placement of pipelines in the city's streets or public rights-of-way by entities without franchise agreements. This is problematic because some pipelines have a legal right to use the City's rights-of-way, such as those carrying oil, but we need a mechanism to ensure the City is treated fairly.

To fill this gap in the current ordinances, staff has drafted the proposed ordinance included with memo, which is based on a similar ordinance recently adopted by Bountiful City. It makes clear that even for pipelines that have a legal right to use the City's rights-of way, the City maintains control over the placement of the lines, and is entitled to fair lease payments for the use of the right-of way.

After the Council has an opportunity to review and discuss this draft at the August 5th meeting, I would recommend a final ordinance be considered for adoption at the August 19th meeting.

Chapter 5.26 Pipeline Franchises

5.26.010. Scope

This chapter applies to pipelines that will be located inside the geographical limits of West Bountiful City without providing direct local services to West Bountiful residents or businesses on a general or widespread basis.

5.26.020. Franchise Required.

- A. Franchise issued by the West Bountiful City Council in the form of a Franchise Agreement is required to install any pipeline in a public street or public right of way or upon City-owned land, or to do any excavation or other construction work whatsoever in connection with such a pipeline.
- B. No person or entity shall locate pipelines in a public street or public right of way or upon City-owned land and/or do any excavation or other construction work whatsoever, without having in place a current Franchise agreement with the City. Any excavation, construction or other physical work done prior to the granting of a pipeline Franchise, or done inconsistently with any pipeline Franchise granted, is a class B misdemeanor, and is hereby declared to be a public nuisance which may be abated summarily or by legal action of the City.

5.26.030. Franchise Agreement.

The West Bountiful City Council is authorized to enter into a Franchise Agreement with an applicant as it deems in the best interests of the City and its residents, subject to the provisions of the West Bountiful City Code and applicable Federal and State law.

- A. If the proposed pipeline is not mandated by applicable Federal or State law, the City Council has the discretion to grant or deny the application as it deems appropriate.
- B. If the proposed pipeline is mandated by applicable Federal or State law, the City Council may in the Franchise Agreement attach such conditions as are necessary to protect the public interest, the citizens of West Bountiful, and to comply with the West Bountiful City Code and other applicable law.
- C. Franchise Agreement shall have a term of not less than five years but not greater than fifteen years.
- D. The term "Franchise" means the rights and obligations granted by the City to a Franchisee to lease, construct, maintain, use or operate a pipeline in the public streets and public rights of way within the boundaries of the City, and upon City-owned lands within or beyond those boundaries. Any such authorization, in whatever form granted, does not mean or include: (i) any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City; (ii) any other permit,

agreement or authorization required in connection with operations on public streets, public rights of way or public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along the rights of way.

- E. A Franchisee must comply with all provisions of the Franchise Agreement; all requirements of the West Bountiful Municipal Code, including Chapter 12.08, Excavation in Public Rights-of-Way; applicable construction codes; and other applicable federal, state, and local laws and regulations.

5.26.040 Regulatory Approval Needed.

- A. Prior to any installation or construction pursuant to a Franchise Agreement, the Franchisee shall obtain any and all regulatory approvals, permits, authorizations or licenses required by law from the appropriate federal, state and local authorities, and shall submit to the City upon the written request of the City evidence of all such approvals, permits, authorizations or licenses.
- B. The Franchisee shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the pipeline. A Franchisee shall obtain any required permit, license, approval or authorization, including excavation permits and pole attachment agreements, prior to the commencement of the activity for which the permit, license, approval or authorization is required.

5.26.050 Nature of Franchise Granted.

- A. A Franchise does not convey title, equitable or legal, in the streets, rights of way or City- owned lands, to which it applies. A Franchise is only the right to occupy rights of way on a non-exclusive basis for the limited purposes and for the limited period stated in the Franchise; the right may not be subdivided, assigned, or subleased, except as may be expressly provided in the Franchise Agreement.
- B. Any pipeline Franchise granted is non-exclusive. Other Franchises may be granted to other entities.
- C. Franchise and Franchise Agreement are non-transferrable without the express written approval of the West Bountiful City Council, which approval shall not be unreasonably withheld.

5.26.060 Compensation to the City.

- A. The City finds that the City should receive fair and reasonable compensation for permitting persons and entities to use the streets, public rights of way and City-owned lands, including lease compensation, reimbursement for actual costs incurred, and payment for staff time spent in the administration of such uses.
- B. As fair and reasonable compensation for any Franchise granted, a Franchisee shall pay to the City the following:

1. Application Fee. In order to offset the cost to the City to review an application for a Franchise and in addition to all other fees, permits or charges, a Franchisee shall pay to the City, at the time of application, \$5,000 as a non-refundable application fee.
 2. Lease Fee. A lease fee shall be set forth in the Franchise Agreement, which shall be compensation for the privilege and advantage of using the ground within the public streets, public rights of way, and City-owned lands. The Franchisee shall pay the Lease Fee annually in advance, due no later than January 15th of each year.
 3. Reimbursement of Costs. The Franchisee shall reimburse to the City all costs actually incurred by the City in connection with the pipeline, the Franchise Agreement, and the ongoing supervision and administration of the pipeline and its construction and installation. This includes payments to third parties for consultation, services rendered, supplies required, and all management costs for the reasonable, direct and actual costs incurred in exercising authority over the public streets, public rights of way and City-owned lands. The Franchisee shall pay such costs within 45 days of being billed.
 4. Reimbursement of City Staff Time. The Franchisee shall reimburse to the City the full cost of staff time spent in connection with the pipeline, the Franchise Agreement, and the ongoing supervision and administration of the pipeline and its construction and installation. This includes all management costs for the reasonable, direct and actual costs incurred in exercising authority over the public streets, public rights of way and City-owned lands. The Franchisee shall pay such costs within 45 days of being billed.
- C. No acceptance by the City of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the City may have for additional sums payable.

5.26.070 Compensation to Other Entities.

The Franchisee shall pay all costs incurred by other entities with existing facilities in the public streets and public rights of way for the removal, relocation, and/or replacement of those facilities in order to accommodate the installation of any pipeline and its appurtenances under a Franchise.

5.26.080 Power to Manage Public Streets and Public Rights of way.

- A. The City asserts full power to manage the public streets, public rights of way and City-owned lands, pursuant to common law and case law, the United States and Utah Constitution, the Utah Code, and the West Bountiful City Code.
- B. The City shall direct specifically where and how pipelines are to be located within the public streets, public rights of way and City-owned lands. This includes pipelines and all related appurtenances and support structures and work.
- C. All plans for work to be done within public streets, public rights of way and City-owned lands must be reviewed and approved in advance by the City. No excavation or construction work whatsoever shall be commenced until approval has been granted.

- D. All work within public streets, public rights of way and City-owned lands must be done in compliance with the plans approved by the City.
- E. The City shall have the right to oversee, regulate and inspect the construction, maintenance, and upgrade of the pipeline, and any part thereof. A Franchisee shall establish and maintain managerial and operational records, standards, procedures and controls to enable a Franchisee to prove, in reasonable detail, to the satisfaction of the City at all times, that the Franchisee is in compliance with the Franchise.
- F. The Franchisee shall at all times maintain on file with the City, a full and complete set of plans, records and "as-built" hard copy maps (and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the City's existing GIS system) of all existing and proposed installations and the types of equipment and Pipelines installed or constructed in the public streets, public rights of way and on City-owned lands, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all rights of ways where work will be undertaken. As used herein, "as-built" maps includes "file construction prints." Maps shall be drawn to scale. "As-built" maps, including the compatible electronic format, as provided above, shall be submitted within 30 days of completion of work or within 30 days after completion of modification and repairs.

5.26.090 Construction Work.

- A. Quality. All work performed by the Franchisee under the Franchise Agreement and the requirements of the West Bountiful City Code, including the construction, maintenance, repair, upgrade and removal of any pipeline, shall be performed in a safe, thorough and reliable manner using materials of good and durable quality, and shall be performed by qualified and licensed construction and maintenance personnel. All work and materials shall be in conformity with all applicable Federal, State, and local laws.
- B. Protection of Structures. In connection with the construction, maintenance, repair, upgrade or removal of a pipeline, the Franchisee shall, at its own cost and expense, protect any and all existing structures belonging to the City and other entities. A Franchisee shall obtain the prior written consent of the City to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the rights of way of the City required because of the presence of the pipeline. Any such alteration shall be made by the City or its designee on a reimbursable basis. A Franchisee shall pay the costs incurred by the City to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the City, any municipal structure or any other public streets or public rights of way of the City involved in the construction, maintenance, repair, upgrade or removal of the pipeline that may become disturbed or damaged as a result of any work thereon by or on behalf of the Franchisee.
- C. Obstruction. In connection with the construction, maintenance, upgrade, repair or removal of a pipeline, the Franchisee shall not unreasonably obstruct the public streets or public rights of way without the prior consent of the appropriate authorities.

- D. Safety. A Franchisee shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA, Utah OSHA, and any other applicable law. A Franchisee shall comply with all applicable federal, state and local requirements.

5.26.100 Insurance.

- A. Prior to the execution of a Franchise, a Franchisee will deposit with the City an irrevocable, unconditional letter of credit or surety bond as required by the terms of the Franchise, and shall obtain and provide proof of the insurance coverage required by the Franchise.
- B. No work shall be permitted in the public streets, the public rights of way or on City-owned lands until a construction completion bond, in a form and by an institution satisfactory to the City, has been provided by the Franchisee. This bond shall be a cash or surety bond in the amount of 100% of the total cost of the installation of the pipeline, the moving of other facilities to accommodate the pipeline, the closure, paving and restoration of the street, and all other costs associated in fulfillment of the requirements of the Franchise Agreement and applicable law, in the manner shown on the approved engineering drawings and in accordance with the City's specifications.
- C. The Franchisee and all contractors, subcontractors and agents of the Franchisee performing work pursuant to the Franchise must be insured as to comprehensive general liability, and give evidence thereof, in an amount reasonably related to the scope of the work to be completed and the risks thereof, as required in the Franchise Agreement. Such amounts shall at a minimum be \$2,000,000 per occurrence and \$2,000,000 in the aggregate, but may be more as required by the City in the Franchise Agreement. The insurance must indemnify the City against all liability for personal and bodily injury, death, and damage to property arising from activities conducted pursuant to the Franchise. The City, its officials, employees and agents, shall be listed as additional insureds. Prior to any construction, the Franchisee will provide the City a certificate of insurance consistent with the requirements of this section.

5.26.110. Indemnification.

To the fullest extent allowed under applicable law, the Franchisee shall indemnify West Bountiful City, its officials, employees and agents, from any and all liability whatsoever from activities conducted pursuant to the Franchise.

MEMORANDUM



TO: Mayor & Council
DATE: July 31, 2014
FROM: Duane Huffman
RE: **Public Safety Retirement System**

A bill adopted during this year's legislative session opens a window and requires that the City contemplate transitioning from the "contributory system" to the "non-contributory system" for our Tier 1 public safety employees. This memo briefly explains the differences between these systems, reviews a hearing requirement, and recommends that the City make the change to the non-contributory system.

Contributory vs. Non-Contributory

The Tier 1 (defined benefit) program of the Utah Retirement System originally allowed cities either to pay the full retirement costs (non-contributory system) or to split the cost between the city and the employee (contributory system). The contributory system's total rates are higher, but the city has the option to pay a smaller share. This year for public safety employees the costs are as follows:

FY 2015	City	Employee	Total
Non-Contributory	22.75%	12.29%	35.04%
Contributory	34.04%	-	34.04%

West Bountiful City has always belonged to the contributory system, but has paid both the employer and employee portions. At any time, the City could require the employees to contribute up to the 12.29%.

The other significant difference between the systems for public safety employees is the death benefit, in that the non-contributory system has a more favorable death benefit program.

Hearing with Officers

The bill that opens a 6-month window to allow West Bountiful to make the switch from the contributory to the non-contributory system also requires that the City hold a hearing with its public safety employees to hear their views on making any changes. Notice of this hearing must be mailed to the officers within 30 days of the hearing.

Recommendation

In my review of this issue, the only reason West Bountiful would have an interest in remaining with the contributory system is if the Council wanted to keep the option open of shifting a portion of the retirement costs to the employees. While I am generally in favor of keeping options available, the savings of making the change, along with the myriad of other options to shift costs if needed, lead me to recommend making the change.

1 Minutes of the West Bountiful City Council meeting held on **Tuesday, July 15 , 2014** at West
2 Bountiful City Hall, 550 N 800 West, Davis County, Utah.

3
4 Those in attendance:

5
6 **MEMBERS:** Mayor Kenneth Romney, Council members James Bruhn, Debbie McKean,
7 and Mark Preece

8
9 **STAFF:** Duane Huffman (City Administrator), Steve Doxey (City Attorney), Chief Todd
10 Hixson, Ben White (Engineer), Paul Holden (Golf Director), Cathy Brightwell (Acting City
11 Recorder/Secretary)

12
13 **EXCUSED:** Council members James Ahlstrom and Kelly Enquist

14
15 **VISITORS:** Alan Malan, Corey Sweat, Gary Jacketta, Kelly Chase, Robert Holmes, Mr.
16 and Mrs. Knighton, Shawn Draney, Ron Jensen, and Chief Bassett-South Davis Metro Fire
17 Dept.

18
19
20 Mayor Romney called the meeting to order at 7:35 pm. Debbie McKean gave an Invocation, and the
21 Pledge of Allegiance was led by Mark Preece.

22
23 **1. Accept Agenda**

24
25 **MOTION:** *Debbie McKean moved to approve the agenda as written. James Bruhn*
26 *seconded the Motion which PASSED by unanimous vote of all members*
27 *present.*

28
29 **2. Public Comment**

30
31 Mrs. Knighton, 647 W Pages Lane, said the issue of rocks on the sidewalk began in October
32 1989 when they purchased their home in West Bountiful and were told by the City that sidewalks,
33 curb, and gutter were part of the City's five year plan so they chose to install it then. She said
34 because there is no sidewalk to the east of them, there is a drop off at the end of the sidewalk and
35 even though they filled it in with dirt, kids used it as a bike jump. One parent even threatened to sue
36 them when their son broke his leg while making the jump. She said they have complained to the city
37 and to the police but nothing has changed in 20 years. To keep kids off, they placed cones at each
38 end. She said Steve Maughan came to their home recently (even though there were 'no trespassing'
39 signs) and left a note in their mailbox and then they received a letter from the City with the wrong
40 address that did not say anything about solving the bike jump problem. She claims they are tired of
41 it. It's a liability and harassment and they want to know what the city's going to do. Mayor Romney
42 stated he had talked with them before the meeting began and they have agreed to meet with the City
43 Administrator to discuss the issue and get something worked out.
44

45 **3. Consider request by the developer of Olsen Ranches subdivision to defer the Water**
46 **Right Fee and the Storm Drain Impact Fee, and have them paid as part of future**
47 **building permits for each home.**
48

49 The Council recently approved the final plat for Olsen Ranches, which included a standard
50 requirement for payment of the water right fee and storm drain impact fees. Ben White reviewed
51 how the last four subdivisions have been handled showing that some had paid the fees upfront and
52 some when building permits were issued. Council member McKean agreed we need to develop and
53 follow a consistent policy even though in some cases deferment may be best for the City. Mayor
54 Romney commented that we need to consider this specific request now, and then decide how to
55 handle the issue in the future. Council member Preece asked staff how hard it is to track these
56 deferments. Ben responded it is difficult when they are handled differently and it requires digging
57 through old files; there is always a chance something will be missed. The Mayor added that our
58 current Ordinance requires these fees be paid as part of development but we have sometimes allowed
59 deferment. Duane Huffman suggested we need to consider that some impacts are immediate, such
60 as streets and storm drains, so it is better to get the money up front. Mayor Romney believes the
61 issue needs more discussion - on another night.

62 There was discussion about whether a decision had to be made tonight or if it could be tabled
63 until the next meeting. Robert Holmes, the developer, said that based on their construction schedule
64 they would like it decided tonight.

65 **MOTION:** *James Bruhn moved to defer the Water Right Fee and the Storm Drain*
66 *Impact Fee for Olsen Ranches subdivision and have them paid as part*
67 *of future building permits for each home. There was no second on the*
68 *motion.*
69

70 **MOTION:** *Mark Preece moved to deny deferment of the Water Right Fee and the*
71 *Storm Drain Impact Fee for Olsen Ranches subdivision for the purpose*
72 *of following our ordinance. Debbie McKean seconded the motion.*
73

74 The vote was recorded as follows:

75 James Ahlstrom – absent
76 James Bruhn – Nay
77 Kelly Enquist – absent
78 Debbie McKean– Aye
79 Mark Preece – Aye
80

81 **Pursuant to Resolution 331-14, City Council Rules of Order and Procedure, without**
82 **a minimum of 3 affirmative votes, the Motion fails and as a result, the request is**
83 **denied.**
84

85 Mayor Romney directed staff to prepare a policy recommendation reasonably quickly to get
86 this issue resolved for future developments.

87
88 **4. Consider final plat approval for the Frank Chase Subdivision at approximately 950 W**
89 **1600 North.**
90

91 This 1.53 acre 3 lot subdivision on Pages Lane is being subdivided and sold by Frank
92 Chase's children as part of his estate. Ben White described the parcels and confirmed they do meet
93 zoning requirements. Staff is recommending final approval with no deferral on curb and gutter.

94 Shawn Draney, representing the Chase family, described this situation as a little different
95 than the previous agenda item because they are just trying to liquidate the estate, and as a result are
96 'accidental developers.' The property includes one existing home, one abandoned home, and a lot
97 with only an accessory building. They are asking for deferral of the storm drain impact fees because
98 there are two existing homes and no new roads. There was discussion about whether the water right
99 fees have been paid. Ben commented that the existing home has water service and a meter, but he
100 does not believe any fees have been paid for the two vacant lots, except to connect when Pages Lane
101 was re-built. Council members Preece and McKean noted they are not fans of deferral.

102
103 **MOTION:** *Mark Preece moved to approve the Frank Chase Subdivision at*
104 *approximately 950 W 1600 North, with the following requirements: 1.*
105 *Applicant will provide a title report for review by the City Attorney that*
106 *contains no items of concern to the City Attorney; 2. Applicant will pay*
107 *the Public Improvement Inspection fee; and 3. Applicant will provide an*
108 *acceptable means to satisfy bonding requirements for the public*
109 *improvements, namely curb, sidewalk, utility services, a storm drain*
110 *catch basin and asphalt. James Bruhn seconded the Motion which*
111 *PASSED.*

112 The vote was recorded as follows:

113 James Ahlstrom – absent
114 James Bruhn – Aye
115 Kelly Enquist – absent
116 Debbie McKean – Aye
117 Mark Preece – Aye
118

119 **5. Consider Resolution #342-14, approving the form of the Equipment Lease Agreement**
120 **with Zion's First National Bank, Salt Lake City, Utah, finding that it is in the best**
121 **interests of West Bountiful City, Utah to enter into said agreement, and authorizing the**
122 **execution and delivery thereof. (Golf Equipment)**
123

124 Duane Huffman explained that as part of the FY 2015 budget, \$13k was budgeted for the
125 lease of a new rough mower for the golf course. Resolution 342-14 approves this six year lease with
126 Zion's Bank, with an annual payment of \$12,009, interest rate of 2.1%, and an option to purchase at
127 any time. He added that in general his recommendation would be to pay cash for equipment, but the

128 golf course does not have sufficient cash reserves and there is a critical need for the mower, so this
129 lease option is recommended.

130 **MOTION:** *James Bruhn moved to approve Resolution #342-14 approving the form*
131 *of the Equipment Lease Agreement with Zion's First National Bank,*
132 *Salt Lake City, Utah, finding that it is in the best interests of West*
133 *Bountiful City, Utah to enter into said agreement, and authorizing the*
134 *execution and delivery thereof after legal counsel review. Debbie*
135 *McKean seconded the Motion which PASSED.*

136
137 The vote was recorded as follows:

138 James Ahlstrom – absent
139 James Bruhn – Aye
140 Kelly Enquist – absent
141 Debbie McKean – Aye
142 Mark Preece – Aye
143

144 **6. Planning Commission Report**

145 Ben White reported that the last planning commission meeting included granting a
146 conditional use application for a swimming pool that was less than 10 feet from the corner of the
147 garage, and a presentation by Duane Huffman regarding height exceptions omitted from
148 commercial/industrial zones when the supplemental language was moved several years ago.
149

150 **7. Engineering Report**

151
152 Ben White reported on the street seal coating status and several problems with notice,
153 especially for 1000 North, and added we will do better to let the general public know when there are
154 major closures. He explained that part of the project got rained out so it is scheduled to be
155 completed on July 30. Council member Bruhn asked if they will be touching up an area north of the
156 Stake Center, and Ben responded that if we can't get to it this year, it will be included with a handful
157 of other areas later.

158 The 800 West water line is installed, water services are being connected on Pages Lane, and
159 they will start connecting laterals on 800 West. We hope to see asphalt by the end of the month.
160 Council member Preece asked for clarification about the north section of 800 West and what work
161 will be done.

162 Alice Acres – the sewer district did not approve the sewer manhole so it will be redone for
163 the third time. Curb and gutter will go in next week on 1100 West. We approved 3 bore pits on 400
164 North, but now they want to expose irrigation lines in the west lane, and at this point we are telling
165 them no.
166

167 **8. Police Report**

168
169 Chief Hixson explained the statistics program is down so he can't provide the recent
170 statistics. He reported that Officer Wilkinson is starting the recruitment process for new reserve

171 officers, and a staff meeting will be held on July 31 to provide information from the past three years,
172 including job basics and vision, with all officers.

173 The Chief commended Officer Boyle for the fantastic job he did putting together the Safety
174 fair on July 3rd and added that the event has improved each year. He also recognized Officer
175 Robbins for the work he put in on the parade and complemented him on a good job especially being
176 his first year. He was thankful there were no reported police events over the holiday.

177 The Chief also reported that the State Beer tax grant was approved.
178

179 **9. Administrative Report**

180
181 Duane Huffman reported on preparations for the week's Long Drive events at Lakeside. The
182 activities kick-off Thursday with local qualifying and a high school competition, the long drive
183 competition on Friday for Rockwell, and Saturday is the Re/MAX World Long Drive competition.
184 Bleachers will be moved from the Park tomorrow, and unfortunately, we still have no air
185 conditioning at the Clubhouse.

186 Duane asked to defer the rest of his report until after the closed session.
187

188 **10. Mayor/Council Reports**

189
190 Mark Preece passed out the annual report for the South Davis Sewer district and reported the
191 Youth Council is reviewing applications for the upcoming year.
192

193 James Bruhn – no report
194

195 Debbie McKean thanked everyone for helping with the Independence day events. An
196 appreciation dinner will be held for the Arts Council at the golf course on Aug 27 beginning at 6:30.
197 The City Council is invited.

198 She reminded everyone that the newsletter has been changed to quarterly with the fall edition
199 (out the end of August) articles due July 30.

200 She and Duane have a meeting with Principal Sun on Friday to discuss the school's efforts on
201 new playground equipment. In the past, the PTA has raised funds. Mayor Romney asked about the
202 City's property boundaries by the school playground and it was explained that it basically goes
203 around the perimeter of the bowery.

204 Now that July 4th has passed, she will work on putting together the Historic Commission.
205 She has people in mind but will need to formalize it.

206 Mosquito report – they have found some West Nile activity in Southern Utah, for example,
207 Kanab had a positive reading. She added that an eight page mail insert will be coming out soon with
208 lots of good information about mosquitoes.
209

210 Mayor Romney thanked everyone for a great Independence Day celebration.

211 He also reported that he sent an email to UDOT regarding the 400 North dip. They replied
212 saying the design team is still looking at it, there are procurement issues, they are not sure of the
213 schedule, and more information should be available next week.
214
215
216

217 **11. Approval of Minutes from the July 1, 2014 City Council Meeting.**
218

219 **MOTION:** *James Bruhn moved to approve the minutes from the July 1, 2014*
220 *meeting as presented. Debbie McKean seconded the Motion which*
221 *PASSED by unanimous vote of all members present.*
222

223 **15. Executive session, pursuant Utah Code 52-4-205 (a) to discuss the character,**
224 **professional competence, or physical or mental health of an individual.**

225
226 **MOTION:** *James Bruhn moved to go in to Executive Session at 8:43 p.m. in the*
227 *police training room to discuss the character, professional competence,*
228 *or physical or mental health of an individual. Debbie McKean seconded*
229 *the Motion which PASSED by unanimous vote of all members present.*
230

231 The vote was recorded as follows:

232 James Ahlstrom – absent
233 James Bruhn – Aye
234 Kelly Enquist – absent
235 Debbie McKean – Aye
236 Mark Preece – Aye
237

238
239 **MOTION:** *Mark Preece moved to close the Executive Session at 9:45 p.m. Debbie*
240 *McKean seconded the Motion which PASSED by unanimous vote of all*
241 *members present.*
242

243 The vote was recorded as follows:

244 James Ahlstrom – absent
245 James Bruhn – Aye
246 Kelly Enquist – absent
247 Debbie McKean – Aye
248 Mark Preece – Aye
249

250
251 **9. Administrative Report - continued**
252

253 Duane said he is not clear about how to handle the council's involvement in the process for
254 non-seasonal hiring. He asked the Council how they wanted to participate with the upcoming public
255 works and finance clerk positions processes. He explained that the general practice would be to
256 prepare the job description, advertise for the position, establish interview criteria and go through
257 applications to see who qualifies for an interview. Then they would put together a group to
258 interview those candidates. Mayor Romney commented that for these positions, he is fine either
259 way. If anyone is interested, they are welcome to participate. Council member Preece believes each
260 interview committee needs at least one council member. Council member McKean offered to be on

261 the finance interview committee and council member Bruhn will be on the public works interview
262 committee. If anyone else is interested, two council members could participate in each committee.

263

264 **Adjourn**

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MOTION: *Mark Preece moved to adjourn this meeting of the West Bountiful City Council at 9:50 pm. James Bruhn seconded the Motion which PASSED by unanimous vote of all members present.*

The foregoing was approved by the West Bountiful City Council by unanimous vote of all members present on Tuesday, August 5, 2014.

CATHY BRIGHTWELL (ACTING CITY RECORDER)