

Minutes of the
BOUNTIFUL CITY COUNCIL
November 8, 2022 – 6:00 p.m.

Official notice of the City Council Meeting was given by posting an Agenda at City Hall and on the Bountiful City Website and the Utah Public Notice Website and by providing copies to the following newspapers of general circulation: Davis County Journal and Standard Examiner.

Work Session – 6:00 p.m.
City Council Chambers

Present:	Mayor	Kendalyn Harris
	Councilmembers	Millie Segura Bahr, Jesse Bell, Richard Higginson, Cecilee Price-Huish
	City Manager	Gary Hill
	City Engineer	Lloyd Cheney
	City Attorney	Clinton Drake
	Planning Director	Francisco Astorga
	Finance Director	Tyson Beck
	Streets Director	Charles Benson
	Police Chief	Ed Biehler
	Recording Secretary	Maranda Hilton

Mayor Harris called the meeting to order at 6:03 p.m. and welcomed those in attendance.

SHORT TERM RENTALS FOLLOW UP DISCUSSION – MR. FRANCISCO ASTORGA

Mr. Francisco Astorga explained that since the adoption of the short-term rental (STR) ordinance in April, there have been a total of four applications for STRs in Bountiful; three of which have been approved.

He reminded the Council that one of their main concerns regarding STRs was the issue of owner-occupancy. However, the code does not provide a definition of owner-occupancy, which is why staff first interpreted an LLC/Trust as being consistent with the owner occupancy requirement while reviewing the application for 211 North 800 East for Mr. Morataya. However, after City Attorney, Mr. Clinton Drake, researched the issue, it was concluded that LLCs and trusts are not included in the definition of owner occupancy. So, the current code does not allow homes owned by LLCs or trusts to have ADUs or STRs.

Mr. Drake explained that LLCs and trusts are considered separate legal entities under the law. If an LLC or a trust owns a property, it is the LLC or Trust that is the owner, not the person who may be a member or beneficiary.

Mr. Astorga asked the Council if they are comfortable with the code as it currently stands, not allowing LLCs or trusts to have STRs, or if they want to consider changing it.

Councilmember Price-Huish said she would like to allow people who put their homes in a trust to be able to apply for an STR, and that she feels trusts and LLCs are very different things. She suggested staff look at other cities who have dealt with this issue for guidance. In Provo they allow trusts if the trustor occupies the home or if the owner-occupier owns a 50% interest in the property.

1 Councilmember Bell agreed that if the City can find a way to allow people to have their home
2 in a trust and also be eligible to apply for an STR, he would like to explore that.

3 Councilmember Higginson said he liked the language in the Provo code and felt that those
4 who created a trust “for estate planning purposes” and who live in the home would fulfill the spirit of
5 the code.

6 Mr. Drake noted a potential issue could be that anyone could create a trust and list any
7 number of beneficiaries similar to an LLC or other entity.

8 Mr. Gary Hill said he felt the Provo code specified the persons who created the trust, not the
9 listed beneficiaries, would be the qualifying owner-occupiers.

10 Councilmember Bahr said that she would like the code to be as simple as possible, stating that
11 anyone with their name on the title who lives in the home would meet the owner-occupier
12 requirement.

13 Councilmember Bell asked how many trusts exist in Bountiful right now. Mr. Drake said he
14 did not know, but there are a substantial number.

15 Mr. Hill read comments on behalf of Councilmember Bradshaw, who was unable to
16 participate in the work session. Councilmember Bradshaw wrote that she feels STRs are a
17 commercial entity and should not be prevalent in single-family neighborhoods. She is not in favor of
18 broadening the definition to include LLCs or trusts. She also asked that the Council address property
19 ownership, code enforcement, City staff response expectations, existing STR permits and renewal
20 policy when there is poor performance by the landlord.

21 Mayor Harris asked each Councilmember whether or not they wanted to pursue making
22 changes to the current code. Councilmember Bahr said no. Councilmember Bradshaw’s remarks
23 pointed to no. Councilmember Price-Huish said yes, she feels that giving more definition about
24 ownership will help protect people, especially adding the 50% ownership language. Councilmember
25 Bell said no, there are other issues he believes need to be corrected first. Councilmember Higginson
26 said he would be comfortable adding the part of the Provo code that says, “a natural person who
27 possesses fifty percent (50%) ownership or more in the dwelling and said dwelling is the primary
28 residence of such person.” He would like to focus on making the permitting process transparent and
29 creating a robust enforcement policy.

30 Mr. Drake said the only way to not have grey area is to either completely restrict or
31 completely allow STRs and suggested the City should have more definitive language that meet the
32 goals of the Council.

33 Councilmember Bell agreed and supported adding more definition and having more
34 conversations about it. Councilmember Bahr said she was still not in favor of revisiting it.
35 Councilmember Price-Huish said she would like to add both parts of Provo’s code and agrees that the
36 bigger problem is the processes around permitting and enforcement.

37 Mr. Hill said that staff has already begun working on the code enforcement process, but they
38 welcome any thoughts and ideas via email. He said they will draft potential changes to the code and
39 bring it back for the council review for adoption, most likely in January.

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41 The meeting ended at 7:00 p.m.
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Regular Meeting – 7:00 p.m.
City Council Chambers

Present:	Mayor	Kendalyn Harris
	Councilmembers	Millie Segura Bahr, Jesse Bell, Kate Bradshaw (via Zoom), Richard Higginson, Cecilee Price-Huish
	City Manager	Gary Hill
	City Engineer	Lloyd Cheney
	City Attorney	Clinton Drake
	Planning Director	Francisco Astorga
	Finance Director	Tyson Beck
	Streets Director	Charles Benson
	Police Chief	Ed Biehler
	Asst Finance Director	David Burgoyne
	Power Superintendent	Alan Farnes
	Recording Secretary	Maranda Hilton

WELCOME, PLEDGE OF ALLEGIANCE AND THOUGHT/PRAYER

Mayor Harris called the meeting to order at 7:04 p.m. and welcomed those in attendance. Ms. Becky Ginos led the Pledge of Allegiance and Chaplain Deborah Milan-Niler, Lakeview Hospital, offered a prayer.

CONSIDER APPROVAL OF RESOLUTION 2022-19 ALLOWING ELECTRONIC PARTICIPATION BY COUNCILMEMBER KATE BRADSHAW – MR. CLINTON DRAKE

Councilmember Higginson made a motion to approve Resolution 2022-19 and Councilmember Bahr seconded the motion. The motion passed with Councilmembers Bahr, Bell, Higginson and Price-Huish voting “aye.”

Councilmember Kate Bradshaw joined the meeting via Zoom and participated in the remainder of the meeting.

PUBLIC COMMENT

The public comment section was opened at 7:08 p.m.

Mr. Edmund Richardson (231 North 800 East) suggested that the speed and transparency of the short-term rental enforcement policies could be improved. He explained some of the grievances he and his neighbors faced as a result of the City allowing Mr. Brady Price to operate an illegal short-term rental of six months.

1 Ms. Alison Smart (3413 South 100 West) proposed that Bountiful City allow their tennis
2 courts to be open and playable year-round, and that they provide port-a-potties if restrooms
3 must be locked.
4

5 Mr. Kort Delost (310 South 750 East) asked the Council to rescind the short-term rental
6 ordinance that they passed last spring, making it illegal to rent a home on a per-day basis in
7 residential neighborhoods.
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9 Mr. Cacey Bowen (196 North 100 East) said he disagrees with Mr. Price’s short-term rental
10 being called “legal.” He brought up questions about the definition of “rent” and about
11 ownership.
12

13 Mr. Eric Hattabaugh (3894 Bountiful Blvd) invited the Council, Mayor and all residents of
14 the community to attend the Veteran’s Day ceremony at the Veterans Park on Friday at 11:00
15 a.m.
16

17 Ms. Bea Glover (191 North 800 East) said that she believes when a single-family home is
18 turned into a hotel, it becomes a commercial enterprise. She does not feel the Prices are
19 motivated by what is best for their community, but by money. She asked the Council to please
20 help their neighborhood restore its sense of peace.
21

22 Mr. David Glover (191 North 800 East) suggested the City make short-term rentals illegal in
23 residential neighborhood zones. He said Provo, Kaysville, Salt Lake and Farmington do not
24 allow them in residential zones either.
25

26 The public comment section was closed at 7:22 p.m.
27

28 Mayor Harris asked Mr. Astorga to share what he discovered about policies in other cities in
29 Utah. He answered that about one-third of the forty-eight cities he spoke with do not allow short-term
30 rentals in residential zones, and two-thirds do allow them in residential zones. Mayor Harris
31 encouraged everyone to reach out to Mr. Astorga and the Councilmembers with further questions and
32 comments and thanked everyone for coming to share their thoughts on this issue.
33

34 **CONSIDER APPROVAL OF MINUTES OF PREVIOUS MEETINGS HELD OCTOBER 25,**
35 **2022**

36 Councilmember Bell asked to make a revision to line 18-19 on page 20 of the packet, deleting
37 the words “and large cobbles exceeding six inches in diameter” and Councilmember Higginson also
38 asked to correct the location of the work session held on October 25 (it was held in the basement
39 room at City Hall, not in the Council Chambers).
40

41 Councilmember Bell made a motion to approve the minutes with those two corrections and
42 Councilmember Higginson seconded the motion. The motion was approved with Councilmembers
43 Bahr, Bell, Bradshaw, Higginson and Price-Huish voting “aye.”
44

44 **COUNCIL REPORTS**

45 Councilmember Price-Huish encouraged everyone to get involved in the general plan update
46 by filling out a questionnaire online, and by submitting questions and suggestions. She also reported

1 that the BDAC has a few upcoming events; The 6th Annual Gingerbread Festival, November 21st -
2 December 3rd; new art exhibits starting on Friday; Winterfest Art Jubilee also starting on Friday and
3 going through December 23rd; Musicfest “Winter Nocturn” concert on January 19th.

4 Councilmember Bell explained that the Christmas concert will feature Crescent Super Band
5 this year, and that ticket sales fund our summer concert series, so he encouraged everyone to go
6 purchase tickets for the concert which will be held December 3rd at 7:00 p.m. at Woods Cross High
7 School.

8 Councilmember Bradshaw thanked her colleagues for allowing her to participate
9 electronically this evening. She reported that the Recreation District met last night and worked
10 through the district’s expenses. She shared her concerns that they are still struggling to make sure the
11 expenses balance with the revenue, so there is more work to be done.

12 Councilmember Higginson did not have a report.

13 Councilmember Bahr reported that the Bountiful Museum will be open on Monday nights in
14 December from 5:00-7:00 p.m. and Santa will be there.

15
16 **BCYC REPORT**

17 No report was given.

18
19 **CONSIDER APPROVAL OF:**

20 **A. EXPENDITURES GREATER THAN \$1,000 PAID OCTOBER 17 & 24, 2022**

21 **B. SEPTEMBER 2022 FINANCIAL REPORT**

22 Councilmember Price-Huish made a motion to approve the expenditures paid October
23 17 & 24, 2022 and the September Financial Report. Councilmember Higginson seconded the
24 motion. The motion was approved with Councilmembers Bahr, Bell, Bradshaw, Higginson
25 and Price-Huish voting “aye.”

26
27 **UDOT PRESENTATION – MR. JUSTIN SMART & MR. KEVIN KILPATRICK**

28 Mr. Justin Smart and Mr. Kevin Kilpatrick from Penna Powers (Utah Department of
29 Transportation – UDOT’s public relations firm) presented the progress on the environmental impact
30 study being done for UDOT along I-15 between Farmington and Salt Lake City.

31 Mr. Smart gave an overview of the process and explained that they have done a lot of
32 listening in order to determine the needs along the corridor. They completed an extensive public
33 outreach process and have begun drafting a “purpose and needs statement.” He said they have
34 realized that potential solutions need to improve quality of life through better mobility, good health,
35 connected communities and a strong economy and address the needs of all users including drivers,
36 pedestrians, cyclists and public transit users. He said the suggested solutions will be on their website
37 on Thursday and invited everyone to go and check it out. He explained that the next phase will
38 include open houses and public comment meetings; the meetings for this area will be held November
39 14 (virtual meeting at i15eis.udot.utah.gov, 5:00-7:00 p.m.), November 15 (Rose Park Elementary,
40 5:00-7:00 p.m.), and November 16 (South Davis Rec Center, 5:00-7:00 p.m.). The virtual meeting
41 will be recorded and made available on the website afterward. He added that because they understand
42 it can be difficult for people to attend these meetings, they are providing food, a children’s activity,
43 and free transportation through UTA’s on-demand service.

44 Councilmember Bell thanked them for their presentation and asked what the timeline looks
45 like for project completion. Mr. Smart answered that after the final Environmental Impact Statement

1 is released in 2024, the earliest a preferred alternative could be built is 2026, if everything goes
2 perfectly.

3 Mayor Harris thanked them and added her excitement about the far-reaching impacts of this
4 study on quality of life in this area.

5
6 **FISCAL YEAR 2022 ANNUAL COMPREHENSIVE FINANCIAL REPORT (ACFR)**

7 **A. PRESENTATION OF THE FISCAL YEAR 2022 ACFR – MR. TYSON BECK**

8 Mr. Tyson Beck thanked Mr. David Burgoyne and Mr. Galen Rasmussen for their help
9 creating the Annual Comprehensive Financial Report (ACFR) for FY2022. He explained that
10 FY2022 had a positive net position thanks in part to increases in our staple revenue sources:
11 sales tax, property tax, operating grants and transportation tax.

12 Mr. Beck explained that the City tries to save money in anticipation for years they need to
13 spend it, which requires a significant amount of cash. He said that the City trended up for a
14 number of years, but in FY's 2020 and 2021 the City saw dips in its cash balance as big capital
15 projects were built. He said FY2022 showed the cash balances start to come up again, which is a
16 great sign.

17 Mr. Beck presented the balances of each of the City's funds. The General Fund had a net
18 loss of \$820k, but Mr. Beck explained that it was an "artificial loss" due to compliance with State
19 laws, requiring the City to push money into its Capital Projects Fund to stay within the 35%
20 maximum balance restriction. The Capital Projects Fund had a net income of \$6.5M, which was
21 artificially high for the reason just stated. The Redevelopment Fund had a net loss of \$4.2M,
22 which was a planned loss due to the creation of loans and grants for new developments. The
23 Landfill Closure Fund had a net income of \$4k. The RAP Tax Fund had a net income of \$131k.
24 The Cemetery Perpetual Care Fund had a net income of \$70k. The Debt Service Fund saw a very
25 small net loss of \$320. The Light and Power Fund had a net loss of \$1.2M due to some of the
26 highest power costs on record. The Water Fund had a net income of \$995k. The Landfill and
27 Sanitation Funds had a net loss of \$372k, mostly due to a change in the landfill closure plan
28 which will increase closing and capping costs but also increase the life expectancy of the City's
29 landfill by 20 years. The Storm Water Fund had net income of \$564k. The Golf Course had a net
30 income of \$8k. The Recycling Fund had a net income of \$95k. The Cemetery Fund had a net
31 income of \$305k.

32 Mr. Beck next went over the results of the fund balance and reserve policy. All of the
33 funds met and exceeded their minimum fund reserve balances except the Recycling Fund. He
34 explained that the City has the ability to allow an exception in specific instances. In this case the
35 Council decided against raising resident recycling fees while it waits for the market to return to
36 normal.

37
38 **B. INDEPENDENT FINANCIAL STATEMENT AUDIT PRESENTATION FOR FY2022**
39 **– MR. GARY KEDDINGTON**

40 Mr. Gary Keddington, of Keddington and Christensen, explained their process of auditing
41 the City in its compliance to State and Federal accounting laws. He said that they also look at all
42 the controls in place over money going out and money coming in, ensuring that proper
43 authorization and controls exist over those funds.

44 Mr. Keddington presented the auditor's supplemental report, stating that they did not have
45 any findings regarding internal controls, that all financial statements were properly represented.
46 He showed the list of all the areas they had to test this year including budgetary compliance, fund

1 balances, restricted taxes and related restricted revenue, fraud risk assessment, governmental fees,
2 impact fees, Utah Retirement Systems and Public Treasurers' Bond.

3 He said that the auditors had two findings to report. First, regarding budgets, they found
4 that the liability insurance fund overspent its budget. Mr. Beck explained that the City tried to
5 estimate how many claims it would receive during the year, but they ended up having a few more
6 settlements added after the fiscal year was over, which put them over their estimate.

7 The second finding is regarding governmental fees. Mr. Keddington explained that the
8 State Compliance Audit Guide requires auditors to determine if "the revenues and expenses [are]
9 tracked for each specific service or regulatory activity for which the fees are charged." However,
10 there is no State legal requirement to account for governmental fees, nor are there any accounting
11 guidelines that require such accounting. Mr. Keddington said that although they are required to
12 report this finding, they also have no recommendations, since the City is not required to track the
13 separate expenses.

14 Mr. Keddington lastly reported that the audit went very smoothly and all adjustments were
15 done as requested.

16
17 **CONSIDER ADOPTION OF ORDINANCE 2022-10 WHICH AMENDS THE LAND USE**
18 **CODE TEXT FOR LANDSCAPING – MR. FRANCISCO ASTORGA**

19 Mr. Astorga said that staff made eight changes following the recommendations from Council
20 during the October 25 Council meeting, as well as clarifying the language a little bit.

21 Councilmember Price-Huish had two suggested edits which were accepted by the Council. On
22 page 60, lines 378-379 she proposed they leave the grouping of live vegetation up to the discretion of
23 the landowner. Mr. Astorga said that she was right, it was supposed to be removed from the code and
24 he accidentally left that in when he was editing the document. Councilmember Price-Huish also
25 asked that clarifying language be added on page 60. She proposed adding the line "and are in addition
26 to the tree requirements in section 14-16-109" after the words "setback areas."

27 Councilmember Bell suggested they change the two-inch caliper tree requirement to be one-
28 inch caliper instead, explaining that a two-inch caliper tree is quite expensive and could be cost
29 prohibitive for many residents. The Council accepted that change but asked that the amendment only
30 apply to residential developments and that commercial developments still be required to plant two-
31 inch caliper trees.

32 Councilmember Bell also suggested they change page 56, line 203 to be "one plant per fifty
33 square feet." The Council decided against this suggestion.

34 Councilmember Bell made a motion to adopt Ordinance 2022-10 with the changes as outlined
35 and Councilmember Price-Huish seconded the motion. The motion was approved with
36 Councilmembers Bahr, Bell, Bradshaw, Higginson and Price-Huish voting "aye."

37 Councilmember Higginson suggested Councilmember Bahr be excused from the remainder of
38 the meeting to attend to some family engagements. Councilmember Bahr thanked him and left the
39 meeting at 8:53 p.m.

40
41 **CONSIDER APPROVAL OF AN AGREEMENT WITH SOLAR TURBINES TO REPLACE**
42 **TWO NATURAL GAS TURBINES IN THE AMOUNT OF \$2,163,327 – MR. ALLEN**
43 **JOHNSON**

44 Mr. Alan Farnes, standing in for Mr. Allen Johnson, explained that the Power Department has
45 three gas turbines they use for power generation during peak hours. Staff has discovered that turbine
46 #2 has started leaking oil into the combustion chamber during shutdown, which is causing it to smoke

1 during startup. He said that they have tried some inexpensive repairs that have not been successful, so
2 now Solar (the manufacturer) has recommended doing an engine exchange. This would typically cost
3 about \$3.8M per unit, but Solar is interested in studying the City's turbines and are offering to do an
4 exchange for both turbine #2 and turbine #3 for just over \$2M total. This item was not budgeted for,
5 but staff feels it is too good of an opportunity to pass it up.

6 Councilmember Higginson added that the importance of these turbines is hard to overstate,
7 they save the City a lot of money and could easily pay for themselves after only a couple of
8 heatwaves.

9 Councilmember Higginson made a motion to approve the agreement with Solar Turbines and
10 Councilmember Price-Huish seconded the motion. Councilmember Price-Huish asked where the
11 funding for the agreement will come from. Mr. Gary Hill answered that the money will come from
12 the Power Reserves Fund, not from taxpayer dollars. The motion was approved with
13 Councilmembers Bell, Bradshaw, Higginson and Price-Huish voting "aye."
14

15 **CONSIDER APPROVAL OF THE PURCHASE OF A POLICE VEHICLE IN THE**
16 **AMOUNT OF \$34,426 – CHIEF ED BIEHLER**

17 Chief Ed Biehler explained that this vehicle will be a Ford Escape assigned to the Viewmont
18 Highschool Student Resource Officer (SRO). They obtained two bids and Performance Ford had the
19 lower bid. He said the Police Department will sell a 2017 Ford Mustang that has 43k miles on it.
20 There are sufficient funds in the Police budget for this purchase.

21 Mayor Harris asked if the Mustang should be retained, since it has such low mileage. Chief
22 Biehler explained that the Mustang is just not a good vehicle for a police officer and staff
23 recommends selling it.

24 Councilmember Bell made a motion to approve the purchase of the police vehicle and
25 Councilmember Price-Huish seconded the motion. The motion passed with Councilmembers Bell,
26 Bradshaw, Higginson and Price-Huish voting "aye."
27

28 **CONSIDER APPROVAL OF THE LOT LINE ADJUSTMENT AT 4317 SOUTH MONARCH**
29 **DRIVE – MR. LLOYD CHENEY**

30 Mr. Lloyd Cheney explained that this lot line adjustment has been requested by the Murdock
31 family, who own two adjacent lots and would like to build accessory structures on the second lot. To
32 do this they must combine the lots. Staff has reviewed the request and has no issue with the
33 adjustment to the lot line.

34 Councilmember Higginson made a motion to approve the lot line adjustment at 4317 South
35 Monarch Drive and Councilmember Bradshaw seconded the motion. The motion passed with
36 Councilmembers Bell, Bradshaw, Higginson and Price-Huish voting "aye."
37

38 **CONSIDER APPROVAL OF THE LOT LINE ADJUSTMENT AT 153 SOUTH 300 EAST –**
39 **MR. LLOYD CHENEY**

40 Mr. Cheney explained that this lot line adjustment is for a lot in the Hayward subdivision that
41 is adjacent to a landlocked interior lot. Mr. Dupaix, the property owner, would like to combine the
42 two lots in order to build a single-family dwelling and an accessory structure there. Mr. Cheney
43 explained that staff is working through easement issues for the actual plat but see no issue with
44 approving the lot line adjustment with the conditions outlined in the staff report.

1 Councilmember Bell made a motion to approve the lot line adjustment at 153 South 300 East
2 and Councilmember Higginson seconded the motion. The motion passed with Councilmembers Bell,
3 Bradshaw, Higginson and Price-Huish voting “aye.”
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5 **CONSIDER APPROVAL OF THE LOT LINE ADJUSTMENT AT 4396 SOUTH HIDDEN**
6 **HOLLOW DRIVE – MR. LLOYD CHENEY**

7 Mr. Cheney explained that Mr. Crockett owns two lots in Hidden Hollow PUD in the
8 Summerwood area and is requesting an amendment to the rear lot line between them. The
9 realignment would not affect the area of lot 704 and has no impacts on what can be built on either lot,
10 but any future building plans would be reviewed at the time they are submitted.

11 Councilmember Price-Huish made a motion to approve the lot line adjustment at 4396 South
12 Hidden Hollow Drive and Councilmember Higginson seconded the motion. The motion passed with
13 Councilmembers Bell, Bradshaw, Higginson and Price-Huish voting “aye.”
14

15 **ADJOURN**

16 Councilmember Price-Huish made a motion to adjourn the meeting and Councilmember Bell
17 seconded the motion. The motion passed with Councilmembers Bell, Bradshaw, Higginson and
18 Price-Huish voting “aye.”
19

20 The regular session was adjourned at 9:10 p.m.
21

Mayor Kendalyn Harris

City Recorder