

**TREMONTON CITY CORPORATION
CITY COUNCIL MEETING
October 5, 2010**

Members Present:

David Deakin
Diana Doutre
Lyle Holmgren
Byron Wood
Jeff Reese, Mayor Pro Tem
Shawn Warnke, City Manager
Darlene S. Hess, Recorder

CITY COUNCIL WORKSHOP

Mayor Pro Tem Reese called the October 5, 2010 City Council Workshop to order at 6:00 p.m. The meeting was held in the City Council Meeting Room at 102 South Tremont Street, Tremonton, Utah. Those in attendance were Mayor Pro Tem Reese, Councilmembers Doutre, Holmgren, and Wood, City Manager Shawn Warnke, Recorder Darlene S. Hess, Public Works Director Paul Fulgham, Police Chief David Nance, Treasurer Sharri Oyler, and Animal Control Officer Greg Horspool. Mayor Fridal was excused from the meeting. The Council reviewed the agenda and discussed the following items in detail.

1. Discussion on holding a special meeting to discuss UTOPIA

City Manager Warnke explained that he has been in correspondence with UTOPIA in an attempt to get some of the Council's questions answered. Tremonton's share of UTOPIA's operational shortfall is \$5,400 per month. The City has received a bill for approximately \$20,000 for the City's share of the operational short fall with an annual bill will be about \$62,000. This is based on the same formula they are using for Utah Infrastructure Agency (UIA) members, so Tremonton is essentially paying the same as they would be if they were signed up with UIA. Councilmember Wood expressed his concern that it appears they are penalizing Tremonton for having customers as part of the formula associated with operational short fall includes the number of customers. Manager Warnke replied that he thinks they are trying to ease the pain for cities like Perry who have no customers. October 22nd is the drop-dead date for joining UIA and also to have all the bonds associated with joining UIA adopted. Councilmember Holmgren questioned, inasmuch as about 90% of Tremonton's streets have the fiber optic lines laid, why couldn't wireless hot spots be set up around the City so more people could receive service. A carrier, such as Xmission, could let people in. It wouldn't be an open hot spot but, where UTOPIA charges \$3,000 to bring the line to a house, why wouldn't this make sense? The City could just be turned on and people could connect via the hot spots. Mayor Pro Tem Reese asked how far a hot spot would transmit. Councilmember Holmgren replied that what had caused him to think about it was that this was done at the

County Fairgrounds. The entire Fairground was lit up with three or four antennas. The signal was strong enough that people in the surrounding subdivisions were logging on and getting it for free until the County changed things so permission was needed to log on. This should help the City obtain more customers and help the City meet its commitment to UTOPIA. Most UTOPIA customers are very happy with the data portion. The hot spots, or wireless antennas, could be placed on top of a light pole.

Councilmember Deakin arrived at 6:07 p.m.

Councilmember Wood stated that permission would have to be obtained from UTOPIA. Mayor Pro Tem Reese reminded the Council that they still need to decide if they are going to consider payments of the operational short fall. Councilmember Deakin stated that technology (wireless hot spots) is going to win in the end and if people had the option to have wireless internet, they would take it. Wireless would not be as fast as fiber optics. Councilmember Holmgren responded that he didn't think homeowners would notice the difference. The wireless at the Fairgrounds is really fast. The County built their system at the Fairgrounds for about \$20,000. If the City could increase their participation from 450 to 1,000, it may be cost effective for the City and the fees would not be of such concern. Councilmember Deakin stated that UTOPIA would have been wise to have moved to that strategy a few years ago. It is a lot cheaper than putting wires to everyone's house. Councilmember Holmgren commented that UTOPIA customers are not happy with some of the other UTOPIA offerings besides the internet. Public Works Director Fulgham commented that it depends on what type of bandwidth the area could get. Bandwidth is lost quickly with video. However, he gets good video reception with UTOPIA as he has good bandwidth. Mayor Pro Tem Reese asked if he can still get video with UTOPIA, and Director Fulgham replied that he can because he is already wired in. They just are not adding anyone new at this time. There are two or three different TV providers available. The more users you have the more it eats up the bandwidth. There was discussion about the possibility of Tremonton City managing their system and whether UTOPIA would allow that. Mayor Pro Tem Reese gave the opinion that it would do more harm for UTOPIA to shut Tremonton off than to leave them on. Very negative publicity could come from their shutting the City off. Councilmember Wood stated that he still doesn't believe that the UTOPIA Board understands the growth potential and possibilities with their product. Director Fulgham commented that you can't get the speed with wireless. Councilmember Holmgren said that the only way wireless works for the City is if it is turned into fiber. Director Fulgham said that fiber isn't going away, but the City would need to work with one of the providers to put the equipment in, set up the hot spots, and then start selling to customers.

Mayor Pro Tem Reese reminded the Council that they need to make a decision on joining UIA. Manager Warnke said that he has conveyed to UTOPIA that Tremonton is not joining UIA, but UTOPIA now wants Tremonton to consider the City's share of UTOPIA's operational shortfall. UTOPIA has been told that the City has not budgeted for UTOPIA's operational short fall. Councilmember Holmgren commented that the

Council needs to find a way to keep the service alive for those who are using it until something comes along to help with the debt. Councilmember Deakin reminded everyone that the member cities will be servicing all the debt. UTOPIA is not even making enough money to pay their salaries. Councilmember Wood stated that, in the real business world, they would have declared bankruptcy two years ago. Even with the grant UTOPIA received, they still will not be able to build out anywhere close to what they need to keep afloat. Councilmember Wood said that he doesn't want to give them one more dollar. Mayor Pro Tem Reese asked if the City was obligated to give UTOPIA the \$20,000. Manager Warnke replied that the City is not obligated through any agreement. If the City joins UIA they would be under mandatory assessments and working capital commitments. Councilmember Wood stated that, if the City joins UIA, they would lose control and be under the thumb of the big cities. Manager Warnke explained that there are no mandatory assessments with UTOPIA. UTOPIA will use whatever leverage they can to encourage the cities, with the biggest threat being that they would shut the users off. Councilmember Deakin commented that the Council needs to decide what end result they would like to see and manage to that end resolve. If the Council wants control of the service, giving them more money is not going to help. Councilmember Deakin mentioned that he had a \$280 cell phone bill the month UIA circulated the fliers encouraging UTOPIA customers to contact City Councilmembers. He met with a lot of people and asked them if this is what it would cost to pay their fair share of what the City is obligated to pay, not expecting the other people who are not on the system to pay anything, would they stay on the system. Only two people said they would. All the rest were shocked to know that the City already pays half of the total cost.

Councilmember Wood commented that the Council needs to make a line in the sand and let UTOPIA know that they aren't going any further, then, perhaps they will negotiate. Mayor Pro Tem Reese stated that what he is hearing is that the Council doesn't even want to hold a meeting to discuss funding the City's share of the operational short fall brought to a vote.

Councilmember Holmgren stated that he respects everyone's feelings, but, though he doesn't know, yet, where it is going, he thinks it is worth buying a little more time. If UTOPIA is shut off there is no chance of keeping it going. Mayor Pro Tem Reese asked if it is costing more to keep UTOPIA running than they are making in Tremonton. Manager Warnke explained that because Frontier is a small user, they operate under different regulations. So, in order for a UTOPIA phone customer's call to not be a long distance call through Frontier, UTOPIA had to buy phone numbers from Frontier and then pay for services to connect those numbers. That is why less money is being made in Tremonton. The cost for purchasing the phone numbers was between \$7,000 and \$8,000 plus the cost of connecting those numbers. UTOPIA told Manager Warnke that they are making money in Tremonton, but it is less than the City's share of UTOPIA's operational shortfall (\$5,400). Mayor Pro Tem Reese stated that some of the problem is with the providers. He noted that some customers have been dissatisfied with the service from a

phone provider and have turned off the services but are still getting a phone bill, which means that UTOPIA is still paying for that line. It all comes down to poor management.

The Council discussed the advisability of paying the \$5,400 per month on a year-to-year basis, no long term commitments, with the hope of getting something else, like the wireless service, operational. Councilmember Holmgren commented that the City is going to be paying this money out irregardless. It would be worth committing to the funding for a year at a time to try to get the wireless service up and going. No one has approached UTOPIA to see if they would buy into this. They need to be approached. Mayor Pro Tem Reese suggested that the City approach them before paying them.

The possibility of UTOPIA folding because of UIA was discussed. It was felt that the big cities would keep UTOPIA afloat as long as they could, but, unless something changes, there would come a time when that would not longer be feasible. Director Fulgham asked who the customers are, because, if they are businesses like Malt-O-Meal or West Liberty Foods they depend on the high speed and the City may want to think twice before disconnecting the service if it damages industry. He wondered if UTOPIA would provide the City with a list of their customers, Councilmember Holmgren stated that overall economic development needs to be considered. This could be a determining point on whether or not a business would decide to come to Tremonton. No one wants to give them any more money, but there are weighty things that need to be considered before pulling the plug. Councilmember Deakin commented that he would like the City to have control so that more users could be encouraged. The problem is that the money is going to roll into management. Councilmember Wood asked how the City could make the system ours. Councilmember Deakin replied that the City would have to pay for it or have another company buy it. Councilmembers Deakin and Wood both felt that there is no way UTOPIA can climb out of the debt they have incurred.

Councilmember Wood stated that there are other companies who can provide service that is almost as good as UTOPIA. Director Fulgham reminded the Council that those companies did not step up with the service until Tremonton was already heavily invested in UTOPIA. Comcast is bringing the higher speed service in now, but they are not going into every subdivision. They are being selective based upon the demand, or number of customers within a subdivision. One thing UTOPIA has done for the City is to bring Frontier's rates down.

Mayor Pro Tem said that the Council needs to decide if a special meeting needs to be held to discuss this further. Councilmember Wood stated that he would vote no on UIA and no on giving them the shortfall. Councilmember Deakin said he would do the same. Councilmember Wood said there is no use holding another meeting as his mind will not change unless they are able to come up with an absolute miracle. Mayor Pro Tem Reese stated that he doesn't feel he could vote for it, either. Councilmember Holmgren said that he would vote "yes" on the maintenance and "no" on UIA.

Manager Warnke commented that he understands the Council's concerns, but wanted to make sure the Council understands that UIA does have a plan, now. They have created a model which they hope will bring them closer to where they want to be. They have also been working with Key Bank to try to come to an understanding on the gap coverage. Councilmember Wood asked if they were blaming their entire shortfall on the bank being downgraded. There are a couple of different shortfalls: one shortfall is operational; one shortfall is due to not receiving enough revenue to cover the debt; now, there is a shortfall between the Letter of Credit that UTOPIA has with Key Bank and the coverage. It is going to come to the point where we are going to be in default because the Letter of Credit will only cover "this much" on the debt and there is "that much" left. Councilmember Wood stated that it is still incredible to him that, with all the money the cities are paying, they still are unable to meet their obligations. Manager Warnke explained that when Key Bank was downgraded the variable rate changed. Councilmember Deakin stated that this situation was an unanticipated risk that UTOPIA didn't take into consideration. Councilmember Wood stated that you don't pass that on to your customers.

Mayor Pro Tem Reese again presented the question of whether the Council wants to schedule a special meeting to discuss this further. Councilmember Wood said he didn't think so. Councilmember Holmgren stated that he felt this should be open to the public for their input. It needs to be very public. The Council discussed the advantages of holding a public meeting and in the end, the majority decided against it. Councilmember Deakin said that he would like to hear from Todd Marriott, UTOPIA Executive Director, whether he has pursued looking for a buyer as the Council requested six months ago. At that time, he indicated that finding a buyer was a legitimate option and that he would pursue it. He said he would like to see some other name on our fiber optic system than UTOPIA. Councilmember Wood stated that that he would still like to see the City get their own system, bond for it for a better rate, and manage it themselves so there would be some control. The City could get customers and make it work.

Nancy Fuller commented that they bonded in Brigham City and Brigham City owns the new company, but people are upset because, in the bonding, they put a lien on the homes of everybody who paid the \$3,000 to hook up to UTOPIA. Councilmember Holmgren asked what the general feeling for this is in Brigham City. Ms. Fuller replied that they feel like they own the fiber optics within the City. That is what they bonded for. They are not going to give any more money, but, they did sign up for UIA. The Council questioned whether they could own the fiber optics. They probably own from the street to their homes, but not the trunk lines. Ms. Fuller said that this was not their understanding as they have been told that, if UTOPIA fails, Brigham City will still own their lines.

2. Review of agenda items on the 7:00 p.m. Council Meeting:

The Council reviewed the October 5, 2010 Agenda with the following items being discussed in more detail:

- Animal Ordinance – Councilmember Deakin asked about Item 13.700(i)(3) on page 13-4. This relates to cruelty to animals, specifically the cropping of ears. Councilmember Holmgren explained that this item defers to the State Veterinarian rule and accepted production practices. Councilmember Deakin asked if agricultural animals were excluded in this. Police Chief referred the Council to the definitions in the front which states that “Animal” excludes any and all goats, cows, horses, sheep, llama, pigs, except for pot-bellied pigs.
- Tree Ordinance – Manager Warnke commented that the Tree Ordinance is not meant to be controversial and asked if the Council sees any problems with any of it. No problems were mentioned. Councilmember Holmgren suggested that a member of the Beautification Committee serve on the Board to provide continuity between organizations.

The meeting adjourned at 6:56 p.m. by consensus of the Council.

CITY COUNCIL MEETING

Mayor Pro Tem Reese called the October 5, 2010 City Council Meeting to order at 7:00 p.m. The meeting was held in the Tremonton City Council Meeting Room at 102 South Tremont Street, Tremonton, Utah. Those in attendance were Mayor Pro Tem Reese, Councilmembers Deakin, Doutre, Holmgren, and Wood, City Manager Shawn Warnke, Recorder Darlene S. Hess, Public Works Director Paul Fulgham, Police Chief David Nance, Treasurer Sharri Oyler, and Animal Control Officer Greg Horspool.

1. Opening Ceremony.

Mayor Pro Tem Reese informed the audience that he had received no written or oral request to participate in the Opening Ceremony. He asked anyone who may be offended by listening to a prayer to step out into the lobby for this portion of the meeting. The prayer was given by Councilmember Deakin and the Pledge of Allegiance was led by Councilmember Wood.

2. Approval of agenda.

Mayor Pro Tem Reese asked if there were any changes to the agenda. There were no comments.

Motion by Councilmember Holmgren to approve the August 5, 2010 agenda. Motion seconded by Councilmember Doutre. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, and Councilmember

Wood - aye. Motion approved.

3. Approval of minutes – September 21, 2010.

Mayor Pro Tem Reese asked if there were any changes or corrections to the minutes. No comments were made.

Motion by Councilmember Wood to approve the minutes of September 21, 2010. Motion seconded by Councilmember Deakin. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, and Councilmember Wood - aye. Motion approved.

4. Introduction of guests. Mayor Pro Tem Reese welcomed all the guests. There were ten scouts and two scout leaders in attendance. He encouraged all of the scouts to agree to become Eagle Scouts. He also welcomed the Youth City Council.

5. Department Head Reports

a. Report on the 1000 North road project submitted by the City to the Small Urban Committee – Paul Fulgham, Public Works Director

Public Works Director Fulgham reminded the Council of the City Council Meeting held September 7, 2010 when the Council selected a project to be placed on the Small Urban list. The project selected was the 1000 North Project. A Small Urban meeting was held on September 9th at which Director Fulgham proposed that this project be placed on the Small Transportation Improvement (STIP) List. The project was accepted and is on the STIP List for 2015. This means that the City is up for a \$1M grant, but the project cost is closer to \$4.5M. The City will receive \$1M of Federal money which must be matched with at least 7%. If the entire project is done, there will be plenty of matching money. They will allow a City to start working on the project three years in advance, meaning the City can start getting the project designed and environmental and historical studies done. This project needs to be placed on the Council's calendar to start looking towards funding for approximately \$3.5M.

There is another year to year program, depending on whether the Governor budgets for it, where the Federal money can be turned in and exchanged for 80% of State money. The State takes the Federal money and does certain things which they are allowed to do with it. What it does for the municipalities is that it alleviates some of the environmental impacts and design standards the Federal Government requires when using Federal Funds. When the City did the Small Urban project on 2000 West, the application for the project was submitted in 2001 and the project was done in 2007. By the time the City was able to get to the project, the \$1M only did half of the project, so the City had to bond for the other half. The second half was done for less money because the City was not required to meet the governmental standards. There is no noticeable difference between the two sections of road. This is what the buy-out does for municipalities. As we

get closer to 2015, the Council may want to look at applying for the State Exchange Program.

The project would be reconstruction of 1000 North from I-84 to I-15, approximately a 2½ mile stretch, which would be done with curb and gutter, drainage, sidewalks and widening the road to accommodate the expanding traffic on the hillside and to bring traffic off of the interstate highways.

6. Proclamation

a. Domestic Violence Awareness – Annette MacFarlane

Annette MacFarlane thanked the Council for the opportunity to present the proclamation. One of the things that has been discovered about domestic violence is that it starts earlier than was thought. Dating violence has been tracked since July 1, 2010. Since then, there have been twenty-two young people within Box Elder County who have sought stalking injunctions to prevent a relationship from continuing. These incidents are fairly evenly spread between the north and south ends of the County. Through August 31, 2010, they have handled 317 domestic violence cases, 89 assaults, 132 sexual assaults, 15 rapes, 107 child physical abuse, and 64 child sexual abuse cases in Box Elder County. Ms. MacFarlane thanked Police Chief Nance for being a tremendous partner for them. He is a great Chief of Police and does a lot to protect the women and children of this County. She also thanked the Council for the financial support the Council provides each year which helps to keep their doors open.

Shauna Barfuss commented that it is empowering when a problem is not kept secret, and that it is out in the open so that people who are victims of violence know that there is hope and that there is help available for them.

Motion by Councilmember Holmgren authorizing Mayor Pro Tem Reese to sign the Proclamation declaring October 2010 as Domestic Violence Awareness Month in Tremonton City. Motion seconded by Councilmember Doutre. Vote: Councilmember Deakin - aye, Councilmember Doutre, Councilmember Holmgren - aye, and Councilmember Wood - aye. Motion approved.

Councilmember Wood commented that the numbers are staggering and that they have the right idea to get it out in the open and let people know there is help. Councilmember Doutre expressed admiration for those who can work with this on a daily bases. Councilmember Holmgren asked who people can contact for information or assistance. Ms. MacFarlane replied that it is the New Hope Crisis Center and CADVA. They are located at 435 East 700 South, Brigham City, toll free phone number: 866-723-5600. There are advocates on call 24 hours per day 365 days a year. They respond to a lot of law enforcement and hospital calls. The shelter has been continuously occupied since November, 2008. The current economy, while it is not an excuse, is definitely a factor in the increase in domestic violence cases, and Box Elder County has the second highest rate of

unemployment in the State.

7. Common Consent - Consent Agenda.

- a. Approval of the August Financial Statement.

Motion by Councilmember Deakin to approve the August 2010 Financial Statement. Motion seconded by Councilmember Wood. Vote: Councilmember Deakin - aye, Councilmember Doutre, Councilmember Holmgren - aye, and Councilmember Wood - aye. Motion approved.

8. Request to be on the agenda (not an action item):

- a. Citizens for Families – Matt Zollinger and John Gunther

Matt Zollinger thanked the Council for the opportunity to come and present some information. For the past eight or ten years Mr. Zollinger has been going to Salt Lake City to attend a Utahns Against Pornography Conference. Recently he has been a little more encouraged about the things they are able to do to counter pornography. Last fall, Mr. Zollinger met John Gunther and Mr. Gunther provided him with a CD of Joanne Hamilton which provides information on how a community can establish a community standard which allows a City to fight a business from promoting something which does not meet the standard. Copies of the CD were provided to Councilmembers.

Mr. Zollinger told the Council that for a long time there has been a Red Ribbon Week in the schools. This is an anti-drug program. This year there will also be a White Ribbon Week which will address internet safety and include a component of anti-pornography. This would be in conjunction with the Child Abuse Prevention Council from Ogden. One of the things being considered is for cities to adopt a Proclamation that would begin to set the City standard. Another way is to encourage people to complain if they see something within a store that they don't like. We have seen the destruction of the family that pornography can cause. Its power is in its secrecy. Mr. Zollinger encouraged the City Council to adopt a proclamation against pornography. Samples of proclamations passed by other cities were provided.

Mayor Pro Tem Reese commented that pornography is an issue that needs to be brought out in the open as much as domestic violence. Families and parents need to talk to their children. It cannot be hidden. Mr. Zollinger noted that there was a program on television last Sunday regarding this issue. The more secrecy there is, the more difficult it becomes to do anything about it. They have found that if people who are addicted can get out of the home and meet in a group with others who have the same problem and begin fighting their own fight, there is light at the end of the tunnel. There is now a variation of the Twelve Step Program for alcohol and drugs that has been written to help people addicted to pornography. There is another group, called Pornography the New Drug that has been organized

by high school and college students. It stresses that pornography is as bad, or worse, than drugs and can be harder to get away from than drugs.

Councilmember Holmgren commended Mr. Zollinger for the work he is doing. Mr. Zollinger stated that he feels bad that our youth can't grow up innocent and naïve. Councilmember Deakin requested that Mr. Zollinger provide the Council with the wording for the Proclamation. He agreed to do so.

Mr. Zollinger introduced John Gunther, and commented that there are forty-four cities in Utah that already have passed a proclamation. Mr. Gunther informed the Council that there are about 50,000 predators on line at any given time. Councilmember Doure asked if the kids are being taught in school about the dangers of the internet. Mr. Zollinger replied that sometimes they will want to introduce something and parents will say that they aren't sure they want their children exposed to that. Even education against something sometimes creates a curiosity, and they don't want to do that. The Child Abuse Prevention Council does teach internet safety. School is a good setting for that if it is done appropriately. Parents are invited to come that week to see what is being taught, but more has to be done in the home.

b. Oath of Office to the Youth City Council

Mayor Pro Tem Reese commented that we have a new year and another group of fine individuals serving as Youth City Councilmembers. Councilmember Wood commented that he is proud of every one of them. They are special kids and there is a new leader this year that is doing a great job. It is such a learning experience for them that will help them throughout life. They will learn about government and get great training which they, in turn, can return to the community. He encouraged them to support their leader because she is going to be one of the best ones we have ever had.

The Oath of Office was administered by City Recorder Hess to the following Youth City Councilmembers:

Mayor – Abigail Payne
Recorder – Katrina Perkins
Communications – Landon Fulgham
Photographer – Jeff Chadwick, Dallin Spackman
Councilmembers Spencer Borup, Zach Brown, Darcie Christensen, Lacey Jensen, Kallton Joesphsen, Caitlin Johnson, Bradon Manning, Bradon Manning, Maggie Palmer, and Brady Stuart. Councilmember Benjy Christensen was not present.

9. New Council Business:

a. Discussion and consideration of adopting Ordinance 10-04 revising Title 13

Animal of the Revised Ordinances of Tremonton City Corporation

Police Chief Nance explained that the Ordinances are being revised and updated. Major changes have been made to the Animal Ordinance.

Councilmember Deakin stated that there is an item on page 13-15, Item 13.705 Motorist Duty to Report Upon Striking an Animal, that he would like to have stricken or changed. It requires people to come and report to the police if they hit an animal with a car. Councilmember Deakin feels that this requirement is a little excessive and more reporting than the City may want to deal with. He asked Chief Nance if he felt strongly about including this section. Chief Nance said that he didn't have any problem with striking that section.

Councilmember Deakin also called attention to 13.700(i)(3). Though the ordinance definitions clarify that "animals" refers to domestic animals and not agricultural animals, he would like to avoid confusion by making it clear that this does not interfere with any of the practices that are common practice on a farm but are not acceptable in a domestic situation. He would like it made clear the Council is not trying to mandate the agricultural industry. They are just trying to protect domestic animals.

Councilmember Doutre asked if, in the past, the Ordinance has specified a maximum of two dogs and two cats per household. Chief Nance replied that it has always been pretty much that way for dogs, but he thinks cats was changed a while ago. They are trying to crack down because there are some folks who have a lot of cats. Neighbors complain and it becomes a big problem. Councilmember Doutre asked how it is enforced and whether it is done by neighbor complaint. Chief Nance said that it is done by complaint. There are a lot of people who are trapping cats because they have such a problem with them.

Councilmember Doutre asked what people are paying for when they get a permit for trapping cats. Chief Nance explained that it is a minimal fee which pays for the trap and for helping dispose of the animal. Otherwise, people get their own traps and then call the Police Department at times when no one is available. With the permit, this gives specific information on when they can trap and when Animal Control is available for them to bring trapped cats in.

Motion by Councilmember Deakin to approve the adoption of Ordinance 10-04 revising Title 13 Animal of the Revised Ordinances of Tremonton City Corporation with the striking of clause 13-705. Motion seconded by Councilmember Holmgren. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, and Councilmember Wood - aye. Motion approved.

- b. Discussion and consideration of approving Resolution 10-38 accepting the Dan

Chournos Annexation Petition

Recorder Hess informed the Council that Mr. Chournos plans to build a home on the property next to his current home. At the time he built his other home, a water meter was installed, but in order to have water for the new home, the property needs to be annexed to the City. He is proposing that the two lots right next to him be annexed. This Petition starts the process for annexation.

Manager Warnke added that Mr. Chournos has filed for a building permit and the City is in the process of issuing it. There is an issue related to water impact fees and how the City treats impact fees. The City Attorney is reviewing that issue. Councilmember Deakin asked what the issue is. Manager Warnke answered that the meter was installed before impact fees, but there was a connection fees. At that time, connection fees served somewhat as impact fees. The City needs to look at the City Impact Fee Ordinance to determine how this should be handled. The Water Impact Fee amount is \$3,342.44 and the Wastewater Treatment Plant impact fee for sewer collection, \$1,932.29. Mr. Chournos will also need a sewer connection onto a common lateral they ran up the back of the property years ago. Councilmember Doutre asked Director Fulgham if Mr. Chournos is on the sewer system now, and was told that he is.

Motion by Councilmember Holmgren to approve Resolution 10-38 accepting the Annexation Petition for Dan Chournos. Motion seconded by Councilmember Doutre. Vote: Councilmember Deakin - aye, Councilmember Doutre – aye, Councilmember Holmgren - aye, and Councilmember Wood - aye. Motion approved.

- c. Discussion and consideration of adopting Ordinance 10-08 establishing a City Tree Board and governing planting, pruning, and care of public trees

Manager Warnke explained that Tremonton is trying to attain the level of certification of a Tree City USA city. There are several requirements for participating in that program. Two of them are contained in this Ordinance: establishing a Tree Board and having an ordinance that regulates trees. Another requirement is for capital spending. For Tremonton, that amount is approximately \$14,000. Tremonton is well on its way to meeting that requirement with its day-to-day operations. Another requirement is the observance of Arbor Day. Several communities in the area participate in this program. One of the standards in the proposed ordinance relates to the creation of mulch tree rings. Manager Warnke passed out photos of some of the City trees which are receiving damage from mowers. In consultation with Councilmember Holmgren, it was felt that trees rings would be the best way to address this problem. Councilmember Holmgren explained that they are not talking about placing cement rings around the trees. What is being suggested is removing the grass from around the trees and replacing it with mulch. It does two things. It looks good and it provides a

protection for the trees. Mowers and weed whackers can do a lot of damage to even a large tree.

Councilmember Doutré asked about Section 12. Tree Removal where it talks about the Tree Board's right to have trees removed on private property when the tree creates an unsafe condition or damage to curbs, etc. She asked who would be making that determination and who would be charged for the removal. Manager Warnke stated that he doesn't feel the City would be proactive, but would use this section of the Ordinance on an as needed basis. Street trees always create problems. The intent is to address an extreme situation that needs to be dealt with. The City would work with the property owner, but if the arborist certifies that there is disease in a tree that is affecting others trees around it, or if there are utility issues, then the City could take the tree out and require the owner to pay for the removal. It is not the intent for this Ordinance to be controversial. It would be better to remove this section if it is an issue. Councilmember Doutré was further concerned that the paragraph states that a lien could be put upon the property for payment of the removal. Manager Warnke explained that the City has other ordinances which deal with abatement of nuisances. This is essentially what it is. This section can be stricken from the Ordinance, but there is good reason, from the City's standpoint, to have it included.

Someone in the audience asked if it would help to have an Ordinance which prevents new homes from planting trees in the parking strip. Director Fulgham stated that he believes the City Ordinances already state what type of tree can be planted in parking strips. Manager Warnke explained that parking strips belong to the City but feel like they are private property to the homeowners. While the Ordinance prescribes standards, it purposely does not have a heavy enforcement on street trees in residential zones. The City strives to work with homeowners. Director Fulgham stated that, while trees in the parking strips can be a problem, they improve the appearance of the area. Councilmember Holmgren said that there are trees which are bred for these types of situations.

Motion by Councilmember Holmgren to adopt Ordinance 10-08 establishing a City Tree Board and governing planting, pruning, and care of public trees. Motion seconded by Councilmember Wood. Manager Warnke suggested discussion on Section 10. Tree Circles and Grates, and determination of where the tree rings will be placed. He offered to re-write the section, giving the Tree Board discretion as to where the tree rings are placed. **Councilmember Holmgren withdrew his original motion.**

Motion by Councilmember Holmgren to adopt Ordinance 10-08 establishing a City Tree Board and governing the planting, pruning, and care of public trees and allowing City Manager Warnke to re-write Section 10 to allow the Tree Board discretion on the placement of tree rings. Motion seconded by Councilmember Wood. Vote: Councilmember Deakin - aye, Councilmember

Doutre - aye, Councilmember Holmgren - aye, and Councilmember Wood - aye.
Motion approved.

10. Comments:

a. Administration/City Manager Advice and Consent.

1) Proposed ordinance on City surplus personal property and real property

Manager Warnke stated that he is working on an ordinance related to the surplus of personal property. Now the City Council has charge over all personal property. In most cases, when the City surpluses personal property, the life of the property has been used up. This Ordinance shifts some of the responsibility to determine surplus property to an administrative process with established thresholds. Often, with some exceptions like automobiles, it costs more to facilitate the sale of the property than is recouped in the sale of the property.

There is a section in the State Statute which requires cities to classify real property and to follow public noticing procedures for its disposal.

2) Proposed ordinance regarding the Flood Damage Prevention Overlay District and Tremonton City becoming a participating community in the National Flood Insurance Program

FEMA has mapped the flood plain through the Bear River and the Malad River, and those maps have become effective. The City has the choice to become a participating community in the National Flood Insurance Program, or not. Manager Warnke recommended that the City consider joining. With FEMA mapping the flood plain, it is going to require individuals who are in the flood plain to obtain flood insurance if they have a mortgage on their property. Joining the National Flood Insurance Program will allow these individuals to get the insurance their lender will most likely require. It will also require that the City regulate the development within the flood plain. The City already does this. FEMA requires that their ordinance be adopted with little or no variation. That will be presented to the Council soon.

3) Proposed draft storm water pond and road relocation agreement between Spring Acres LLC and Tremonton City

This is a time sensitive issue. It might be well to hold a special meeting on this long standing issue. The City has been partnering with Spring Acres LLC to correct a deficiency due to the storm pond being located within the City right-of-way. There is a deficiency with an intersection, as

well. Spring Acres LLC is, fortunately, a willing partner who is willing to relocate the storm drain pond and pay a portion of the cost, and also to re-align the Harvey Drive intersection (10th North and 2300 West) so that it isn't an off-setting intersection. The City has received a bid for the work to be done. The City needs to take that bid. Spring Acres will pay for \$65,000 of the overall project costs. The City's portion would be about \$51,000. There is some in-kind work that both parties will do. The net effect for the City will be about \$38,000 with the 10% contingency listed for the City's share. About \$20,000 would come out of the Road Fund and \$22,000 in miscellaneous costs which would come out of the Storm Drain Fund less the in-kind work for doing the irrigation system. City Attorney Dustin Ericson worked on the original version, but Spring Acres requested some changes, so we are waiting for Attorney Ericson's comments. Manager Warnke asked the Council to review the information, then, when everything is finalized, a meeting will be called to vote on it. Both parties will be required to deposit the required funds prior to beginning the improvement, and Spring Acres is not quite ready to do that. It is the hope that everything can be completed this fall except for the irrigation system and the laying of the sod. The Council was in agreement to proceed with the project. Councilmember Deakin suggested that the City proceed with the project and then ratify the Mayor's signing of the agreement at the next meeting.

4) Proposed amendments of various City Personnel Policies and Procedures Manual

Manager Warnke said he wanted the Council to be aware that the staff is also working on updating the Personnel Policies and Procedures.

b. Council Reports:

Councilmember Holmgren reported that the Museum Board has been active trying to raise funds for the Museum. They held a fund raiser at the County Fair and were also involved with a barn dance recently. There were a lot of people at the barn dance. They held an auction and came up with some money, so the Museum Board is making progress. Brigham City is also very active in trying to get a regional museum there. The feeling of the Board is that they would still like to keep their identity and move toward a museum in Tremonton which would represent the northern part of the County.

A tree planting is coming up on October 20th. The Library Board will have some people there to help out. Any additional help would be welcomed.

Councilmember Wood said that he was glad to see the Youth City Council receive Oath of Office this evening and he commended Recorder Hess for the

great job she did. They are planning on helping with the tree planting on October 20th.

Councilmember Deakin commented that he has seen the Youth City Council in many situations and, largely, they go unrecognized. Their service is well appreciated.

Councilmember Deakin stated that he met today with Chief Batis on the ambulance bill write-off situation, so the process has started. Several issues were resolved, and the process worked well. Treasurer Oyler was well prepared and made the process easy.

Manager Warnke was congratulated for getting the Trail Grant. Councilmember Deakin said he was looking forward to see what they come up with. The Planning Commission has been informed and they are excited to have a role in planning a trail system.

There have been several situations within our community, as a result of the economic situation, where people have tried to do harm to themselves. In the last Emergency Preparedness Meeting Councilmember, Deakin had the opportunity to speak with Kevin Christensen, Bear River Health Department, about the possibility of putting together a meeting where people in our community who are unemployed could receive information about some of the resources that are available to them before they get discouraged to the point that they want to do harm to themselves. Chief Batis indicated that three people attempted suicide just this past Saturday. It is time to do something. If there was an intersection in town creating this type of damage, the Council wouldn't stand for it. The Council needs to address some kind of presentation to let people know what is available and that there is hope. The Chamber of Commerce would probably be the best organization to sponsor this, but there are other organizations that could play a role such as Job Services, Bear River Mental Health, local churches and others. He asked the Council for the okay to proceed in getting something started. The Council supported proceeding with development of the program.

Mayor Pro Tem Reese asked Councilmember Holmgren to give an update on Mayor Fridal. Councilmember Holmgren reported that Mayor Fridal is doing fine and that he would be back for the first meeting in November. The Mayor had surgery but is doing well and will be back soon.

11. Public comments: Comments limited to three minutes.

Cody Anderson brought pictures of his Eagle Scout project, a bicycle rack placed at the Natatorium. In addition to the \$130 Tremonton provided, he also received funding from the Public School District. He had assistance from some companies for things such as the

construction of the bike rack. The City Council congratulated him on the terrific job he did and thanked him for showing them the pictures of the completed project.

12. Adjournment.

Motion by Councilmember Deakin to adjourn the meeting. Motion seconded by Councilmember Wood. Vote: Councilmember Deakin - aye, Councilmember Doutre - aye, Councilmember Holmgren - aye, and Councilmember Wood - aye. Motion approved.

The meeting adjourned at 8:20 p.m.

The undersigned duly acting and appointed Recorder for Tremonton City Corporation hereby certifies that the foregoing is a true and correct copy of the minutes for the City Council Meeting held on the above referenced date. Minutes were prepared by Norene Rawlings.

Dated this _____ day of _____, 2010.

Darlene S. Hess, Recorder