Mayor
James Behunin

City Council
James Bruhn
Debbie McKean
Kenneth Romney
Cheryl Searle
Valerie Shaw

West Bountiful City

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City Administrator
Craig Howe

City Recorder
Beverly Haslam

Chief of Police
Randy W. Lloyd

CITY COUNCIL AGENDA

NOTICE IS HERBY GIVEN THAT WEST BOUNTFUL CITY WILL HOLD THE REGULARY SCHEDULED CITY COUNCIL MEETING ON TUESDAY APRIL 21, 2009 AT 7:30 P.M. – NORTH 800 WEST. WEST BOUNTIFUL. UTAH.

AGENDA AS FOLLOWS:

Invocation/Though (Limit 2 minutes please)
Pledge of Allegiance – Ken Romney
Accept Agenda

1. Public Comment (Two minutes per person or if a spokesperson who has been asked by a group to summarize their comments, five minutes will be allowed).
2. Emma Dugal – Bountiful Arts Center.
3. Consider approval of O4rdinance 310-09 Amendment to the West Bountiful City General Plan to Include Zoning Designations "Mixed Use" Zone and "Legacy Gateway" Overlay, and to a amend the Proposed Future Land Use Map to Represent New Zoning Designations.
4. 8:00 p.m. (Or as soon thereafter as the agenda will allow) Public Hearing to receive input on the West Bountiful City Beautification Ordinance.
5. Consider approval of Ordinance 311-09 – Beautification Ordinance.
6. Environmental Protection Agency Report.
7. Planning Commission Report
8. Police Report
9. Financial Report
10. City Administrator Report
11. Mayor/Council Member Reports
12. Approval of Minutes of Previous Meeting
13. Adjournment

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

Any resident or property owner in West Bountiful City may request to offer a prayer or thought at the City Council meetings. Please notify Beverly Haslam (City Recorder) of this desire, twenty four hour (24) hours before the meeting.

I Certify that this agendas has been posted on State and City Web, delivered to the City Council and Clipper Publishing Company on 04/15/09.

Minutes of the regular session of the City Council of West Bountiful City and Public Hearing held on Tuesday, April 21, at West Bountiful City Hall, Davis County, Utah

Those in Attendance

MEMBERS PRESENT: Mayor James Behunin, Debbie McKean, James Bruhn, Cheryl Searle, Valerie Shaw, Kenneth Romney

STAFF PRESENT: Craig Howe (City Administrator), Heidi Vordecker (Accountant), Beverly Haslam (City Recorder), Randy W. Lloyd (Chief of Police), Nathalie Ellingson (secretary).

VISITORS: Scott Wenerholm, Lissa Thompson, Brent Thompson, Paco Gutierrez, Sandy Smith, Anna Marie Kingston, Daniel Petersen, Monica Petersen, Alice Jackson, John Tucker, Ed Hickey, Dave Allison, UDEQ, Andrew Schmidt, Ed and Ann Smith, Stacie Philips, Ellen Ketcham, Todd Bragdon, Heather Smith, Emma Dugal, Kent Bond, Jean Madsen, Kathy Behunin, Karen Edon, USEPA, Mario Robles, Kevin Murray, Teresa Thoms, Cherice Foster, Cindy Gubler, Boone Chen, Dell and Carole Zeeiger, Chris Jenson, Jeff Lund, Nicole Golden, Paul Faby, Orville Ryber, Lisa Ryber, Ben Hopkins, Janey Ahlstrom, Kevin Staples, Judy Morgan, Mark Phillips, Nathan Long, Mary Naegle, Trisha Davis, Trent Lawson, Spencer Hughes, Craig Parker, Mike Smith, Shelley Bruhn, Don Zeriger, Niel Christensen, Jim and Bonnie Hadow, Kim Staker, Terry Olsen, Cheryl Fulmer, Dennis Hopkinson, James Ahlstrom, Kevin Christensen, Ben Booth

Called to Order:

Mayor James Behunin of West Bountiful City called this session to order at 7:34 pm.

Scout Pledge and Pledge of Allegiance by Boy Scouts Dallin and Brady.

Accept Agenda

Debbie McKean suggested tabling Agenda Item No. 5 in order to give Council time to consider public opinion.

MOTION: Jim Bruhn moved that Council approve the Agenda tabling Item No. 5.

SECOND: Cheryl Searle seconded the Motion.

PASSED: Ken Romney – Aye
Valerie Shaw – Aye
James Bruhn – Aye
Cheryl Searle – Aye
Debbie McKean – Aye

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1.
Public Comment

No public comment.

2.
Emma Dugal –
Bountiful/Davis Art Center

The Summerfest for 2009 will begin August 4th with presentations at the year-round schools, then a culinary presentation at DATC and a street dance August 5th, a Mayor's Reception August 6th, with a special VIP reception for all supporters and sponsors, performances at the Bountiful Park August 7th and 8th, and a chuck wagon breakfast at the First Baptist Church August 8th. Taste of the Town will also be in the south end of the county. The festival will continue to be free.

3.
Consider approval of
Ordinance 310-09 Amendment

CONSIDER APPROVAL OF ORDINANCE 310-09 AMENDMENT TO THE WEST BOUNTIFUL CITY GENERAL PLAN TO INCLUDE ZONING DESIGNATIONS "MIXED USE" ZONE AND "LEGACY GATEWAY" OVERLAY, AND TO AMEND THE PROPOSED FUTURE LAND USE MAP TO REPRESENT NEW ZONING DESIGNATIONS.

Mike Eggett presented results of a public hearing held March 24, 2009 regarding the amendment to the West Bountiful General Plan in which the Commission discussed the "mixed use" zone and overlay, and it was being presented to the City Council for approval. Craig Hall from Chapman and Cutler proposed new language. Presentation to City Council had been postponed from the last council meeting so that more members would be present.

James Ostrum: They are six months behind on a six month moratorium. They need to develop a broad vision for the mixed use area. The freeway zone is A1, and may want different requirements. They will have drafts of five- to ten-page ordinances for each zone.

Further discussion:

Jim Bruhn: In the light industrial zone, there are nonconforming businesses. He has spoken with the people, and he asked for clarification on Ordinance 17.36.020. Item b sounds like the business conforms, but 020 does not cover automobile service. Response was that the context becomes clear when read in its entirety.

Mayor Behunin observed that the moratorium is in place for time to clarify the code and handle such questions. The moratorium stays in place until July 31st.

Ken Romney addressed a question to James Ostrum regarding locations of homes in the mixed use areas. The focal point of the new ordinance is to buffer homes so the residents do not lose their quality of life. Mayor Behunin asked how residences and businesses can mix. James stated as an example the Gateway downtown, in which condos are above the stores; not what would be appropriate for West Bountiful, however, just the general idea. The idea is to mix agricultural, residential, and business. The zoning needs to stay flexible for the highest best use close to the freeway. Numerous public hearings will be necessary.

In regards to amending the proposed future land use map, Ken Romney asked if there was a concern if they carve out a section that already has homes. The Mayor suggested they should talk with residents to see if they want to be included. James stated that at previous hearings, the public has not stayed for the decision portion of the meetings. There is already a business in the area of two or three homes.

Cheryl Searle stated it should go back to Planning and Zoning before the City Council voted on it. Debbie McKean stated they would not be actually voting on the zones as outlined on the map; they would only be voting on the mission statement of the Commission.

MOTION: Ken Romney moved to amend the proposed future land use map to represent new zoning designations, with a charge to the Planning and Zoning Commission to investigate the redlined section.

SECOND: Debbie McKean seconded the Motion.

PASSED: Ken Romney – Aye
Valerie Shaw – Aye
James Bruhn – Aye
Cheryl Searle – Nay
Debbie McKean – Aye

4.
Public Hearing to receive
Input on the West Bountiful
City Beautification Ordinance

Debbie McKean opened the hearing by stating that Ed Swankey had appeared before the Council and presented a proposed Beautification Ordinance to replace the Nuisance Ordinance. They looked at several Ordinances from various cities, and used the one that most addressed the needs of a city like West Bountiful. There was some misunderstanding as to what appeared in the newsletter in regards to farm animals. There is a prorating system for size of property, so you can have some farm animals on a smaller property. The current ordinance was in the newsletter, and the new ordinance is on-line.

Mayor Behunin: Speaking for Council, they have been very careful how ordinances are enforced. The City receives a lot of complaints from neighbors, and the City uses a gentle but persistent approach to cleaning up property. Most complaints are regarding junk and

disrepair. Rarely do attorneys need to be involved. The new ordinance clarifies the existing ordinance.

Mayor Behunin asked for a show of hands for comments.
1. Paul Dovenbarker – citizen of West Bountiful for three years. He has been frustrated with the difference between living in Holladay and West Bountiful. He is a member of the City Beautification Committee, and it is not the goal of the Committee to pick on people. He has had feedback stating that citizens have a right to do what they want on their property. The ordinances are about what they can or cannot do to their community. He is a real estate appraiser and is aware of the effects of unsightliness on property values. Regulations are needed. Dumpsters are available for free for individuals or neighborhoods that might need them.

2. Lisa Ryber – she desires to keep West Bountiful rural. One person's junk is another person's antique and people have different opinions on what is unsightly or not. Some people think old cars and farm equipment has beauty. The ordinance states that if she goes on vacation, her things can be removed at her expense. She wants more balance in the ordinance. (Debbie McKean disputed her statement regarding removal of her property – it would only be done if there was an emergency. This was disputed by Mr. Orval Ryver.)

3. Teresa Thomas – opposed to the ordinance. She read a statement that the ordinance gives the government too much power over individuals and opens the way for vindictive retribution. If you don't like your neighbor, just go to the City. She has looked at codes in other cities, and the only one with similar enforcement is West Jordan. They have forty officers. She questioned at what cost. Also, she asked what defines "attractive." Illegal activities are covered by state laws. These ordinances will put a burden on those who cannot afford it. Regarding concerns of property value, these are more affected by the economic climate. If you want a homeowners' code, move to a place like that.

4. Stacie Philips – she echoed the same points as Teresa and invited all to read the ordinance – attractive is open to interpretation. She does not want West Bountiful to become a Homeowners Association. If the City comes after you, you start to wonder which neighbor picked on you, and that leads to lack of unity in the community. Long time residents would be resentful of complaints from newcomers. She has gone door to door and collected signatures against the ordinance. These included people who are not out of ordinance with the current ordinance, but they would be out of ordinance with the new one. She was of the opinion that the new ordinance could not have been written by an attorney because too much is left to interpretation. (Debbie McKean stated that it is Payson's ordinance and has been reviewed by an attorney.) Stacie proposed that even if the current Council did not plan to enforce the ordinance completely, future Councils could take a stricter approach. (Debbie invited her to redline the ordinance. The Mayor stated that the current ordinance is more vague.)

5. Kent Bond – lives in the heart of Lakeside Golf Course. Every year the state passes about 300 laws. These laws would have prevented him from being able to build a chicken coop or a rabbit hutch when he was a kid. He likes the rural flavor of West Bountiful. He feels passing the new ordinance would take away freedom.

6. Ellen Ketchum – regarding the noise ordinance, it would be nice to have it enforced. Her neighbors have race cars and they make noise until 2 or 3 o'clock in the morning. Reporting this to the City does not seem to have changed anything. She would like a longer period for quiet to be enforced. She lives on 6th West.

7. Mark Raddison – resident for 11 years. He has neighbors that are unpleasant and the City cannot do anything about them because of a lack in the current ordinance. Old cars leak fluids that could be harmful. He likes the rural atmosphere, but the community is growing rapidly, and the agricultural code cannot be applied to subdivisions. He is a civics teacher at Davis High School, and he believes the City needs to have a chance to work out a beautification ordinance.

8. Randy Lloyd – speaking as a citizen rather than Police Chief, he has been a resident on 6th West for 19 years. Laws and ordinances are there for neighbors who cannot work things out together. There is a question as to how rural is rural. He is aware of some properties with too many animals on them.

Debbie McKean stated that the goal of the Beautification Committee is to help people with compliance, not to just enforce it with the law. The Council does not intend to make things difficult for people and force them to leave, but they need something in place that will protect everybody.

Mayor Behunin thanked everyone for their comments, and stated that enforcing these codes is the hardest thing that cities have to deal with.

MOTION: Debbie McKean moved to close the Public Session.

SECOND: Cheryl Searle seconded the motion.

PASSED: Ken Romney – Aye
Valerie Shaw – Aye
James Bruhn – Aye
Cheryl Searle – Aye
Debbie McKean – Aye

5.
Consider approval of
Ordinance 311-09
Beautification Ordinance

Tabled so that Council can have time to consider public comments.

6.
Environmental Protection Agency
Report

Kevin Murray, attorney from Chapman and Cutler, Environmental Council for the City, invited the Environmental Protection Agency ("EPA") to address the Council regarding the Bountiful 5th South PCA Plume and other issues. He introduced Richard Sisk, attorney for the EPA and designed site attorney for Region 8, Mario Robles, Karen Edson, Community Involvement Coordinator, Andrew Schmidt, Hydrogeologist, Michael Stoert, State Project Coordinator, Dave Allison, UDEQ, Scott Everett, State Toxicologist, and Ed Hickey, who works on issues regarding the NTB plume at Holly Refinery.

Mario Robles has been a project manager for five years, working on the Bountiful/Woods Cross 5th South PCE Plume. He also works on the NCE site. He had Powerpoint slides showing the extent of groundwater contamination, which covers 450 acres of land. The source of the PCE plume was the property now owned by Bountiful Family Cleaners, the contamination having occurred before their ownership in the 1960s. The other two plumes is a MTBE plume from the refinery and a third NTB plume from Hatchco Trucking Company.

Mike Eggett clarified that the domestic water in West Bountiful is safe. Water from wells and water for stock and irrigation have the higher levels of contaminants. Mario stated that any residents using water from a well may contact the EPA, and they will connect them to domestic water at no cost to the residents.

The EPA has done a risk assessment of the groundwater and found it to be contaminated with tetrachloroethene (PCE) and other volatile organic compounds. If people were to drink and/or use the water they would risk their health. A question from the public addressed the source of West Bountiful's drinking water. The answer was that all drinking water comes from Weber Basin, except for one well, which is currently being rehabilitated. Mayor Behunin asked if the Project was testing all the wells in West Bountiful. Mario stated they are testing all wells east of 800 East, which is the location of the upper aquifer. They will start cleaning the lower aquifer, and are investigating the best remedy.

The strategy to correct the situation is to place extraction wells at three sites. One is already in place, and two will be on the Holly Refinery property. They will pump ground water 24 hours a day most of the year, which will put a belt around the plume. After the water is extracted, it will be cleaned and used for irrigation or they will work with UDOT to restore the wetlands. The water treatment plant will be located on the refinery property as well. The water would be safe enough for other uses, but that is governed by water rights. The pumping at the three sites will not dry up any local wells, but they might get less pressure. The EPA is prepared to provide pumps, if they can come and get a base pressure rate on a well to begin with, then see if

there is a measurable decrease of pressure. However, they do not anticipate much impact. One of the slides showed the anticipated reduction of the plume after extraction.

Karen Edson passed around a clipboard for those requesting more information to provide their email address.

Ed Hicks is the project manager of the Holly Refinery plume. He is from the State of Utah, not the EPA. NTBE is actually gasoline. It is in a shallow aquifer 25 feet below the refinery and a little shallower by 11th West. Holly has 40 wells, and samples are sent two times per year to a lab at the State of Utah. They watch if the plume is moving or if chemicals are depleting. Mayor Behunin asked if they are looking for new chemicals. The answer was only if they are gasoline components. The EPA's wells on the property are screened for broader chemicals. The results are available to the public. Holly pays for an environmental contractor called ERM. The State depends on the findings of ERM. A question was raised that the State is not double-checking the findings of Holly's contractor.

Public Comment:

Kevin Staples, a citizen of West Bountiful, works for an environmental contractor, and stated that the State does quality control on the findings of these contractors.

A question was directed to Mario regarding a well that is close to a resident's house, and he does not believe that well is tested every year because there is a wild rose bush growing over it. Mario stated they have a list of domestic wells, and they will go out and test them upon request.

Ellen Ketchum stated she has cancer, and thinks that we should worry about the water that is used for purposes other than drinking. Mario responded that there are ecological investigations that measure how much water is used by animals. That water should not be used in the house.

The toxicologist, Scott Everett, addressed the meeting, stating that the particular chemicals in question do not move from animals and plants to people because they are solvents. They do not have accumulative properties.

Mayor Behunin asked for personal experiences from people residing in the area.

Mike Dixon lived next to Holly Refinery and questions the credibility of Holly's testing. There was a noise issue, and the noise went down only when the investigators were there. He is a heating and A/C contractor, and he does independent air quality controls. He says particulates go off the charts. Holly says they are from traffic, but there is not that much traffic. He asked the EPA to address air quality issues. Particulates are the issue, not monoxide or dioxide. While residing in West Bountiful, he got pneumonia three times a year, and his child used Albuterol and a nebulizer. Since moving to North Salt Lake, they have no more problems.

Richard Sisk suggested contacting the EPA about air issues.

Nathan Long moved to West Bountiful in 2001 and loved it. After Holly purchased the refinery from Phillips, there was a downward spiral in noise levels and odors. He made calls to them daily. He feels the City is run by the oil company. They moved away because he got severe headaches. (Mayor Behunin pointed out that the EPA is meeting with them at the City's request.)

Carol Jepson lived in West Bountiful since 1980. She is a registered nurse. When Phillips owned the refinery, she noticed leaves in her garden drying up and a light yellow film on her car. She has upper respiratory problems and has had skin cancer. She has heard strange whooshing sounds coming from the refinery since Holly purchased it. Also the water seems to have turned harder. As a nurse she is concerned. She knows people who worked for Phillips and died early. She recognizes we need the refinery and it will always be there, but so will the people, and we need to figure out a way to have them together.

Mayor Behunin asked for a raise of hands of those who think it has gotten worse since Holly bought the refinery.

Ed Smith lives on 2nd North, and does not like to see the meeting become a "Holly bashing" experience. He is concerned with time frames. The EPA suggests their projects will take up to 50 years. We need to worry about now. The EPA people at the meeting addressed the water issues, but there isn't just one issue. There is an obvious lack of trust with information coming from Holly, and he hasn't had his phone calls returned from the EPA regarding water and air issues. The Council represents the citizens, and they need to address these issues for them. If there is a lack of participation from the public, it is because there has been a lack of action in the past. He states that some information has not been shared with the citizenry.

Mayor Behunin spoke in the spirit of accountability as to meeting with other mayors in the area and with the Division of Air Quality ("DAQ"), attempting to get some air monitoring equipment. They are asking for some mobile air monitoring equipment from the State, but that has not been forthcoming. Therefore the City is considering acquiring their own, which will not be as sophisticated. The Mayor has developed an environmental committee in the past which has conducted testing, and the results are posted on the website. If they have not done enough, they are working on it. The City has hired a legal expert who is working to address the problems. Holly has purchased and demolished homes around their property, and the City is working to prevent this from happening further.

Ed Smith questioned the accountability, noting that there has been no discussion yet concerning property values and current health issues. He is willing to work with the City if he sees results. Mayor Behunin stated that the EPA and DAQ require hard data in order to take action. The City would consider looking into health issues. Mr. Smith

suggested doing a survey of absenteeism at West Bountiful Elementary compared to other South Davis elementary schools.

Debbie McKean posed the question as to, in Ed's opinion, how the City might gain the trust of the citizens in the face of what has been done so far. He stated most of his concern comes from the City's dealings with Holly, the fact that the tests are not independent.

10:10 pm.
Continuance

Mayor Behunin noted that the Council Meeting was scheduled until 10:00 pm, and asked for a motion to continue.

MOTION: Jim Bruhn moved to continue the meeting until 10:30 pm.

SECOND: Debbie McKean seconded the motion.

PASSED: Ken Romney – Aye
Valerie Shaw – Aye
James Bruhn – Aye
Cheryl Searle – Aye
Debbie McKean – Aye

Valerie Shaw stated she shares Mr. Smith's frustrations as some of her questions have been put off. The citizens think the City disagrees with them, but having the EPA present is a move in the right direction, and she appeals to the public to use the information they receive tonight.

Crystal Foldman lives in the mid-lower bench area of North Salt Lake and is affected by the air quality. She has a view of the Holly refinery and takes pictures of their activities. She is happy about the EPA addressing the meeting, but states the problem is much broader than in West Bountiful. She asked that West Bountiful join with Woods Cross, Bountiful and North Salt Lake to address health issues. She lived in the Detroit area downriver from the auto industry and witnessed the cleanup of the Rouge River. Her son has had pneumonia five times since moving here, cystic fibrosis, meningitis, and RSV. Her daughter has had repeated ear infections and respiratory infections. She is concerned that her child and several others in her neighborhood were born with autism. She watches the wind flow. 85 to 90 percent of the time the smoke goes south and southwest. She watches the mercury levels from Holly and other sources. She wants to press the EPA to help our communities. She recommends health tracking.

Mayor Behunin stated we can look to the county health departments and other refineries in the area for a global solution.

Rick Foster is a six year resident. In regards to the City restoring trust, he addressed the fact that a citizen (Mike Dixon) was able to conduct his own tests. Mike had

borrowed equipment from Lennox Industries. His tests came back with very negative results.

Craig Howe responded the City is in budget discussions at the present time, and they are looking at purchasing air quality equipment. Mike Dixon congratulated the City for moving forward on this, as his experiences trying to get results from Holly Oil have been very unsatisfactory. Rick Foster asked if the citizenry has to say they will give up services in order for the City to purchase testing equipment. The Mayor stated although the City is planning to purchase equipment, they need to get advice as to the best method of testing that will provide sufficient data for the EPA. Mario Robles stated that samples gathered by any entity must be legally defensible; meeting standards, quality data objectives, etc. Also, it is important that when citizens bring complaints to the EPA or any agency, they identify the particular expert in an agency who can best address their particular concerns.

James Bruhn commented that Holly Oil is pumping several gallons of water and using it on site, and wondered where it is going, since they may be pulling some of the contaminated water. Mario stated he does not know since that is outside his regulatory frame. James asked if all EPA work is going to be reviewed by the City before it takes place. Mario stated that all work is public information.

Mayor asked if there were any further public comment.

10:35
Adjournment

MOTION: James Bruhn moved to close the Council Meeting at 10:35 pm.

SECOND: Cheryl Searle seconded the motion.

PASSES: Ken Romney – Aye
Valerie Shaw – Aye
James Bruhn – Aye
Cheryl Searle – Aye

MAYOR JAMES BEHUNIN

BEVERLY HASLAM (CITY RECORDER)

NATHALIE ELLINGSON (SECRETARY)

WEST BOUNTIFUL CITY CORPORATE SEAL DAVIS COUNTY UTAH