Mayor
James Behunin

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

West Bountiful City

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West Bountiful, Utah 84087

Phone (801) 292-4486
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City Administrator
Craig Howe

City Recorder
Beverly Haslam

Chief of Police
Randy W. Lloyd

NOTICE OF SPECIAL MEETING

NOTICE IS HEREBY GIVEN OF A SPECIAL MEETING OF THE WEST BOUNTIFUL CITY COUNCIL TO BE HELD ON TUESDAY JULY 14, 2009 AT 8:00 P.M. AT 550 NORTH 800 WEST, WEST BOUNTIFUL, UTAH.

AGENDA AS FOLLOWS:

Invocation/Thought (Limit 2 minutes please)

Pledge of Allegiance – Ken Romney

1. Accept Agenda
2. 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).
3. Announcement of Employee of the Month
4. Announcement of Employee of the Year.
5. Discussion and action on legal fees.
6. 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) - 801-292-4486.

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 (801-292-4486) of this desire, twenty four (24) hours before the meeting.

I certify that this agenda has been posted, delivered to the City Council and sent to Clipper Publishing Company on 7/08/09

Minutes of the special session of the City Council of West Bountiful City held on Tuesday, July 14, 2009 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), Beverly Haslam (City Recorder), Nathalie Ellingson (secretary).

VISITORS: Kent Bond, Denis Hopkinson, John Veranth, Vern Jackson.

Called to Order:

Mayor James Behunin of West Bountiful City called this session to order at 8:00 pm.

Invocation was given by Valerie Shaw.

Pledge of Allegiance was let by Ken Romney.

1.
Accept Agenda

MOTION: Valerie Shaw moved that Council approve the Agenda as posted.

SECOND: Debbie McKean seconded the Motion.

PASSED: Voting was as follows:
Ken Romney – Aye
Valerie Shaw – Aye
James Bruhn – Aye
Cheryl Searle – Aye
Debbie McKean – Aye

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2.
Public Comment

Kent Bond announced he has put his name in to run for city council. He brought $35,000 revenue to the City with his work on the golf course. He asked for the Council's support.

3.
Employee of the Month

Craig Howe presented Heidi Voordeckers as the West Bountiful Employee of the Month for June 2009. She was recently brought in as accountant for the City, and she came well-prepared, cheerful and helpful. She picked up quickly on the accounting needs and financial reporting. She has established good working

s with other entities in the state and county. She
ertificate and letter, and introduced her husband, Eric,
ildren.

relatio
receive
and thr

4.
Employee of the Year

presented Michael Eggett as West Bountiful City's
f the Year. He served several years as an intern for the
now a full member of the staff. He is the resident
ty codes and ordinances. He has recently had the
Craig I k of zoning the west side of the City. He received a
Emplo a letter.
City an
expert ssed the Council, saying he appreciates the faith and
difficul ve had in him to handle the challenges he has been
plaque t Bountiful is his heritage, and he appreciates being
k for its future.
Mike a
trust th
given.
able to

5.
Discussion and Action on
Legal Fees

nin introduced this topic by stating that a few weeks
y received word that the Utah Division of Air Quality
as entertaining a Notice of Intent to Modify a Consent
Holly Oil, which would increase emissions, instead of
Mayor em as the Consent Decree had required. This special
ago, th called because the Council needed to determine what
("DAQ e regarding this and other legal issues that the City
Decree would not have been time after the regular Council
lowerin t week to develop a public response to Holly Oil's
meetin
action t
faces. said he has been working to develop a process by
meetin ouncil and the City can handle the many legal issues
Intent. me before the City. The process would be similar to
handle engineering projects. He wants to try to use as
Craig I se services as possible, then contract out for additional
which t eve Doxey is the attorney for the City, and Craig wants
that ha entralize all legal issues with him. The packet
that us Council members includes a memorandum from Steve
much i veral matters that are currently before the City. Craig
service ouncil that during the discussion they should stay away
the Cit ies of current litigation. If it is necessary to discuss
provide s, they may call a closed session.
regardi
caution commented he has met with City Administration
from st e process. The process would provide for better
any str ion with Council regarding legal fees and the status of
s on an ongoing basis. Having Steve as counsel for the
Steve I be analogous to in-house general counsel in the private
regardi City gets the benefit of a lower in-house rate for
commu ces which would come out of the normal legal budget.
legal m l expertise is needed and outside counsel becomes
City wo e City attorney would help in contracting these issues
sector.
routine
When s
necessa

she would like to see that tightened t
had conversations regarding timelinc
counsel.

Cheryl asked Craig if there is a total
each matter. Craig responded the in mendations, proposed fee
by matter. Kevin Murray, who was help firms set milestones
can assign a matter number to each pe time keep the City
split the billing among the different pt of all the legal issues.
implement this procedure, and Craig
by developing a list of the different pects the same level of care
ction and engineering
Valerie Shaw expressed concern that xpertise in the first place,
projects before it takes place.

Kevin Murray, environmental counse to date on all invoices.
regarding the procedure they are enga teve mentioned two
DAQ. He has read through the critica ity's insurance carrier. He
a chance to analyze them yet, so any tring them. The insurance
Council are just his first impression. lable to him, and he has
the City should submit formal comma ttorney can cut costs,
Approve. If an applicant wants to do rticular motion, etc.
Consent Decree, they file a Notice of
DAQ reviews all documents, and the d Valerie Shaw met with
the Division and applicant until the Dat he had always been
Intent to Approve. The Intent to App was actually the case.
comments. The comment period is it informed before a case
Holly Oil wants standing in the proce he or the staff get billing
the administrative remedies that pres hen the budget gets close,
Holley submitted the Notice of Intent make adjustments.
they filed an amendment in Decembe nth delay in billing and
of Intents to Approve. The DAQ wil Craig Howe said he has
f billings with all special
This Intent to Approve will result in a
although in the Consent Decree they
Kevin believes the approvals will cor hat has been spent on
es have not been split up
ent, indicated that firms
ct and that way they can
ects. Steve said he could
l he would get that started
ects.

uncil approved work on

ddressed the Council
to an outside firm by assisting in reel in with Holly Oil and the
structures, etc. The City attorney coocuments, but has not had
and control expenditures, and at the g he addresses to the
Council informed on strategy and bu critical issue is whether
regarding the Intent to
Mayor Behunin – Going forward, he thing that differs from a
and oversight that is expected in conent with the DAQ. The
projects. This requires getting the ri back and forth between
and getting good feedback from Stevion decides to issue an
e has to go out for public
Steve asked the City staff to keep hirtant legally because if
For examples of how this is beneficithey have to exhaust all
matters currently being handled by th legal rights for the City.
is not actively involved, but he is mc September 16, 2008, and
carrier has been making all invoices This is the first in a series
suggested ways that the outside defeprove them individually.
such as questioning the necessity of
ncrease of emissions,
Cheryl Searle remarked that when sbosed to reduce emissions.
Steve, they were under the impression pieces, and although
more involved in these legal matters
She wanted to know how Council ca
goes over budget. Steve suggested e
information to Council ahead of time
then he can meet with outside counse
Cheryl said there is sometimes a two

there may not be reductions of emissions in each individual action, there will be reductions overall.

He thinks there are some legal issues and inconsistencies. Holly is going through modifications in order to satisfy government and the Intent to Approve might not meet that goal. They need to protect citizens and protect legal remedies. A consultant will likely be needed to work with the City on this. Determining reduction will require mathematical modeling, and that will require an engineer. They will also need help in preparing the comments.

Mayor Behunin asked Craig if there was money available for special counsel on this topic. Craig said expenditures would be handled like with the water fund.

Kevin has requested a 30-day extension because it will be difficult to prepare formal comments in the twelve days that remain before the deadline. He is sure DAQ will grant it.

Mayor Behunin suggested developing a project summary sheet with a budget describing the progress of the project and amounts expended. This sheet would have to be confidential because of attorney-client privilege.

Mayor Behunin noted there were other parties involved in this action, and invited those present in the meeting to speak. Cecilee Price-Huish addressed the Council at this time. She is involved with a community group of South Davis citizens who are concerned with air quality issues. They became concerned with increases of output indicated in the Notice of Intent. They spoke with Holly official to try to clarify the issues. The officials said they had had independent testing done and the results were higher than anticipated due to the new heaters. Kevin does not think it is due to the heaters. They may be trying to bump up the required level before they get the new heaters. Mike Astin from Holly, who is over environmental quality issues, was out of town, but according to Fred Dunbar, the new heaters are already on line. This was not made clear in the Notice of Intent. The Consent Decree was as a result of a number of violations on the part of Holly, and all those concerned do not want to see Holly try to go on vague standards. Kevin pointed out this raises the issue of how they are reporting. Mayor Behunin asked if such questions could be included in the comments. Kevin indicated it was much more complicated than it sounds because of the mass of information. Cecily pointed out that Holly has a ceiling allowance to emit a certain amount of sulphur and NOx, and the EPA is saying in the Consent Decree that they need to bring it down.

An expert from Cecilee's group was introduced: John Veranth. He lives in Salt Lake County near Holladay. He has a vast background in environmental studies at the University of Utah in pharmacology, and is a mechanical and chemical engineer. He is also on an EPA peer review panel. He volunteers with a lot of environmental groups. He planned to go through the files from the DAQ. He thinks that overall there has been bad communication. He was previously involved with an incinerator in Tooele. The strategy was that they were open with the public, they invited environmental groups for tours, etc. He indicated the Consent Decree in this case is a done deal, but the first Approval portion of the process is confusing. There is no basis of reduction. The DAQ should have done a public release before they went ahead. John

will write technical comments for the City to use, along with the environmental groups.

Cheryl – how can they reduce when they don't know what the level is now? John said on a lot of process equipment, they do not do measurements because the equipment has a standard of emission as a default in the equipment. That is assuming the equipment is working properly.

Mayor Behunin asked what is the default remedy. John said either make them change the equipment or make a variance. He suggests the City should make a list of comments by elected officials, because elected officials pull weight. Mayor Behunin said he spoke with Cheryl Heying, Division Director of the DAQ. She says the City is limited by state statutes and the EPA. She offered to send one of her inspectors to answer questions from the Council.

The question to the Council is if they can approve Kevin going ahead and reviewing the material. Kent Bond asked if other cities in the area who are affected by Holly can contribute funds toward West Bountiful's attorney fees. The other cities have refineries as well, but the mayor has made a pitch to them, as well as other groups who are concerned.

Ken Romney said the Council needs to determine the course to take to know what is ahead because there will be a number of filings. Communication needs to increase and the unknowns will take a long time to resolve.

Craig Howe said he appreciates all the groups that are showing interest because personal concern is a focused, directed response. They may not be able to make a response that covers every comment, but they do need to establish firm expectations.

Kevin agreed with Craig in that they should not try to answer every issue, but they need to go to the heart of the matter, which is that the Notice of Intent is inconsistent with the Consent Decree.

Cecilee said that her group met with Holly officials after the petco incident. They told the group that often they do not hear anything from the citizens, then suddenly there is an explosion of interest. This Intent might be a molehill instead of a mountain, but Holly needs to know that everyone is watching them with a critical eye. She said it is important for everyone to stay on board and to get people to the public meetings.

Valerie was very concerned that the citizens of West Bountiful did not seem to be aware of the Consent Decree and Intent to Approve. Cheryl said there was nothing in the paper about this meeting. Mayor Behunin said a problem with trying to inform the public is that the City does not have many details. The legal documents have been listed in the legal notices in the paper. Kevin felt nothing should go on the website until the City had enough information to know what they are dealing with. When Kevin hears of a public hearing, then the City could inform the citizens.

Valerie said the City should not make people nervous, but the people have expressed a wish for better communication, so if something turns into a bigger deal than expected, they won't have residents wondering how come they didn't know anything.

Craig Howe said that submitting comments would be good because they will be ahead of the curve and it will save them later.

Cheryl indicated she would want to know the cost before she approved any plan.

At this point, Debbie McKean was excused from the meeting.

A motion was needed to decide if Kevin should go ahead and let his engineers start reading the information.

MOTION: Ken Romney moved to open a project for Public Comment on Holly Oil's application, to be paid for from the budget for special counsel for the preliminary investigation, not to exceed $3,000.

SECOND: James Bruhn seconded the Motion.

PASSED: Voting was as follows:
Ken Romney – Aye
Valerie Shaw – Aye
James Bruhn – Aye
Cheryl Searle – Aye
Debbie McKean – Absent

6.Adjournment

MOTION: James Bruhn moved to adjourn.

SECOND: Cheryl Searle seconded the Motion.

PASSED: Voting was as follows:
Ken Romney – Aye
Valerie Shaw – Aye
James Bruhn – Aye
Cheryl Searle – Aye
Debbie McKean – Absent

MAYOR JAMES BRUNIN

BEVERLY HASLAM (CITY RECORDER)

NATHALIE ELLINGSON (SECRETARY)

WEST BOUNTIFUL CITY CORPORATE SEAL DAVIS COUNTY UTAH