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

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
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4. Employee of the Year

Craig Kiitch presented Michael Eggert as West Bountiful City’s Employee of the Year. He served several years as an intern for the City before becoming a full member of the staff. He is the resident expert in zoning the west side of the City. He received a plaque.

Mayor Michael Madsen introduced this topic by stating that a few weeks ago, the City received word that the Utah Division of Air Quality was entertaining a Notice of Intent to Modify a Consent Decree with Holly Oil, which would increase emissions, instead of meeting the limits as the Consent Decree had required. This special meeting was called because the Council needed to determine what action to take regarding this and other legal issues that the City may have to address in the future. Mayor Madsen said he has been working to develop a process by which council and the City can handle the many legal issues that arise before the City. The process would be similar to the engineering projects. He wants to try to use as much in-house services as possible, then contract out for additional services when needed.

The City Council members includes a memorandum from Steve Docey, the attorney for the City, and Craig wants to centralize all legal issues with him. The packet contains the City Council that during the discussion they should stay away from discussing matters of current litigation. If a matter is necessary to discuss, they may call a closed session.

Craig Kiitch, who works closely with Steve Docey, has just been appointed to the position. Craig Kiitch commented he has met with City Administration regarding the process. The process will provide for better communication with Council regarding legal fees and the status of legal issues on an ongoing basis. Having Steve as counsel for the City is analogous to in-house general counsel in the private sector, where the City attorney would help in contracting these issues when necessary.
Cheryl asked Craig if there is a total of such matters. Craig responded by listening to the invocations, proposed fee by piece. Kevin Murray, who works with fixed firms, sets milestones can assign a matter number to each fee time to keep the City split the billing among the different parts of all the legal issues, implement this procedure, and Craig by developing a list of the different projects the same level of care in government and engineering.

Valerie Shaw expressed concern that expertise in the first place, projects before it takes place.

Kevin Murray, environmental counsel to date on all invoices, regarding the procedure they are engaged in meeting two DAQ. He has read through the criticality’s insurance carrier. He has a chance to analyze them yet, so anything them. The insurance Council are just his first impression. He is busy to him, and he has the City should submit formal communication. Craig can cut costs. Approve. If an applicant wants to do something motion, etc.

Consent Decree, they file a Notice of DAQ reviews all documents, and they will. Valerie Shaw met with the Division and applicant until the file had always been Intent to Approve. The Intent to Approve was actually the case, comments. The comment period is before it is informed before a case. Holly Oil wants standing in the process the staff get billing the administrative remedies that pass when the budget gets close, wholesale submitted the Notice of Intent make adjustments. They filed an amendment in December, delay in billing and of Intent to Approve. The DAQ will also be said he has f billings with all special.

This Intent to Approve will result in a council that has been spent on what have not been split up yet, indicated that firms get and that way they can get. Steve said he could be another that started they.

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Addressed the Council to an outside firm by assisting in real in with Holly Oil and the structures, etc. The City attorney took over, but has not had and control expenditures, and at the time he addresses to the Council informed on strategy and be critical is whether regarding the Intent to Mayor Behunin – Going forward, he is going to meet with the DAQ. The projects. This requires getting the right back and forth between and getting good feedback from Stimson decides to issue an 4 so they have to go out for public.

Steve asked the City staff to keep it important legally because if it is by how this is beneficial, they have to exhaust all matters currently being handled by the legal rights for the City. is not actively involved, but he is. September 16, 2008, and carrier has been making all invoices. This is the first in a series that is how to find and what to do individually, such as questioning the necessity of:

Cheryl Searle remarked that when spaced to reduce emissions. Steve, they were under the impression pieces, and although more involved in these legal matters. She wanted to know how Council can go over budget. Steve suggested e information to Council ahead of time; then he can meet with outside counsel.

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-Hulsh 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 McKeen 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 McKeen – 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 McKeen – Absent