



CITY OF WEST WENDOVER

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WEST WENDOVER CITY COUNCIL MINUTES OF THE REGULAR MEETING OF MARCH 3, 2009

The West Wendover City Council met for a regular meeting on March 3, 2009. The meeting was held at the West Wendover Library, Pilot Peak Room. Mayor Andersen presided.

Council Members Present: Bryant Blake, Roy Briggs, Emily Carter, Johnny Gorum and Alan Rowley II

Others Present: Dixie Melville, John Hanson, Howard Copelan, Arieh Copelan, Jim Carter, John Spillman, Kelly Porter, Leanna Briggs, Kris Andersen, April Prieto, Brandon Dew, Debbie Struhsacker, Mark Stock, Sandy Gorum, Jared Carter, Michael Gunter, Suzan Erickson, Gary Lewis, Sandy Kelsey, Seth Hillstead, Keri Hillstead, Ira Sly, Jack Greening, Scott Bangerter, Jeff Knudtson, Sondra Schmidt, Dawn Hagness, Ron Supp, Claude Fratto, Steve Weinstein, Sandra Gunter, LeRoy Bitton, Dave Wiskerchen, Jerry Malone, Brett Shelton, Mike Crawford, Sean Mowray, Aleta Kimber, Bryce Kimber, Scott Weyland, Mauricio Cuellar, Arby Stone, Ivan Brekke, Gary Di Grazia, Chris Melville and Anna Bartlome

The following proceedings were had.

1. **CALL TO ORDER AND ROLL CALL**
Mayor Andersen called the meeting to order at 7:00 p.m. All those present and excused are noted above.
2. **PLEDGE OF ALLEGIANCE**
Mayor Andersen led those present in the Pledge of Allegiance.
3. **COMMENTS FROM THE GENERAL PUBLIC:**
None offered or received.
4. ***APPROVAL OF THE MINUTES:**
Council Member Rowley II made the motion to forward the minutes of the regular meeting of February 17, 2009 to the next meeting. The motion was seconded by Council Member Carter and passed unanimously.
5. **CONSENT CALENDAR**
***a. Discussion and Decision to Adopt Resolution #2009-02; A Resolution Adopting an Identity Theft Policy**
Sondra Schmidt explained that this was a Federal requirement that must be adopted by May 1st and it involves any entity that has transaction accounts. Council Member Gorum made the motion to adopt Resolution #2009-02; a resolution adopting an Identity Theft Policy. The motion was seconded by Council Member Rowley II and passed unanimously.
6. **NEW BUSINESS**
***a. Discussion and Decision with Respect to the Approval or Disapproval of the Final Settlement Agreements and Related Documents Between the City of West Wendover and the City of Wendover Regarding the Johnson Springs Water System Claims and the State Line Claims Arising out of Case no. 2:03-cv-00523-TS-SA in the Utah Federal District Court**

Gary Di Grazia explained that we have been waiting for the final approval from the USDA. The only change that USDA wanted was to be first lien holder while the obligations are still owed. Gary Di Grazia explained that the State Line agreement calls for a \$200,000.00 from the insurance company to be paid in terms of attorney fees and \$100,000.00 from the City of West Wendover to be paid in damages. The water settlement agreement will dissolve the Administrative Authority with joint ownership of the system and the water rights. The City of West Wendover will become the managing agent with an enterprise fund to make the payments for the system. Any new system improvements will be owned equally, if one party cannot participate in the financing whoever can participate becomes the owner of the system until the financing is over and it is then owned equally again. The fees to be paid on an annual basis is \$100,000.00, \$25,000.00 each quarter arising out of the operation of the system with an excess water fee if more than half of the system is used. Gary Di Grazia stated that there will also be a stipulation for judgment entered into Utah Federal District Court. Council Member Briggs stated that he believes that this will be a major step forward in cooperation. Council Member Carter made the motion to approve the final settlement agreements and related documents between the City of West Wendover and the City of Wendover regarding the Johnson Springs water system claims and the State Line claims arising out of case no. 2:03-cv-00523-TS-SA in the Utah Federal District Court and authorize the mayor to execute all related documents. The motion was seconded by Council Member Briggs and passed unanimously.

***b. Discussion and Decision with Regard to Police Officer Association Grievance of January 13, 2009, in Relation to Article 13 of the Collective Bargaining Agreement, for the Employee's Requested Payment of Triple Time and One Half for Working Overtime on a Holiday (Holiday Pay at Straight Time in Addition to Double Time and One Half for Overtime); and any Offer of Compromise, Granting of the Grievance or Denying the Grievance and Other Matters Appropriately Related Thereto**

Chris Melville explained that the grievance had been filed with the department head and then forwarded to him under the contract. Chris further stated that since then he and the POA had been trying to come to some resolution. Chris explained that they believe that under Article 13 they are entitled to triple time and a half pay if working on a holiday on overtime. Chris stated that he had received written statements from the negotiators for the POA and City Management for both the 1999 and 2002 contracts. Both negotiators stated that the intent of the language was to insure double time and a half, and that the holiday provision was to insure that employees who either worked or did not work on the holiday received holiday pay. Brandon Dew, who is representing the Operating Engineers Local Union #3 (POA), read Article 13 C, which states *"Employees who work on a declared holiday shall be paid one and one half (1 ½) times their regular rate of pay for all hours worked on the holiday in addition to receiving the holiday pay. Overtime worked on a designated holiday shall be compensated at the rate of two and one half (2 ½) times the employee's regular rate of pay."* Brandon Dew stated that they are requesting to receive holiday pay as well as the two and one half times pay. Brandon Dew explained that the collective bargaining agreement does not reflect any difference between overtime worked after eight hours at the end of a holiday shift versus an employee who starts the shift on overtime. Brandon Dew stated that overtime pay and holiday pay are two separate issues and whether it is the City's intent to pay employees working a holiday on straight time to be compensated the same as an employee working the holiday on overtime. Gary Di Grazia stated that the sentence is clear as to what is paid on a designated holiday and overtime. Gary Di Grazia explained that if there is any ambiguity in the agreement you go back to what the drafters intended, which was explained that they never intended to pay three and one half times pay. General discussion was had regarding whether there were other entities that paid three and one half times pay and how the City pays on holidays with overtime. Council Member Gorum made the motion to deny the grievance of January 13, 2009, in relation to Article 13 of the Collective Bargaining Agreement for the employee's requested payment of triple time and one half for working overtime on a holiday (holiday pay at straight time in addition to double time and one half for overtime). The motion was seconded by Council Member Carter and passed. Council Member Rowley II voted nay.

***c. Discussion and Decision Regarding a Memorandum of Understanding Between the City of West Wendover, City of Wendover and Fronteer Development (USA) Inc., with Regard to the Cooperation and Development of Agreements and Related Requirements for Water Resource Development in the Northern Goshute Valley and Johnson Springs and Other Development Issues for the Long Canyon Mine**

Debra Struhsacker stated that Fronteer Development has been doing exploratory drilling for the potential of a mine at the Long Canyon site. Debra Struhsacker explained that under the Memorandum of Understanding Fronteer Development would drill a well as a safeguard for Johnson Springs. Discussion was had regarding the backup well. Council Member Briggs made the motion continue the discussion regarding the Memorandum of Understanding between the City of West Wendover, City of Wendover and Fronteer Development (USA) Inc., with regard to the cooperation and development of agreements and related requirements for water resource development in the Northern Goshute Valley and Johnson Springs and other development issues for the Long Canyon Mine. The motion was seconded by Council Member Carter and passed unanimously.

***d. Discussion and Decision Regarding a Proposed Change to City Code 3-5-4 (D) Non Restricted Gaming Licenses Concerning the Related Definition and Requirements for “Rural Resort Hotel” and Requirements for Granting Licenses to Permit Nonrestrictive Gaming Operations and Other Matters Appropriately Related Thereto**

Chris Melville read a letter received from the Peppermill Corporation in to the record (see attached).

Steve Weinstein explained that when he came to get initial approval he did understand the 150 room hotel and that the hotel was part of the design of the total project. Steve further stated that he has owned this property since the late 1990's, and to get financed the bank allowed him to put together what amounts to a strip mall center. Steve stated that he had people in line to open a restaurant and sports bar, and would then get a hotel developer for the second phase of the project. Steve stated that due to the economy the people that were going to rent the space have gone away but has continued to finish building. Steve explained that he is just asking for some help due to the situation of the economy. Steve stated that the room rule means that everyone has to start big and it needs to be decided what is best for the community. Steve stated that if he is allowed an unrestricted gaming license he could put around 150 people to work, with just the restaurant it would be around 47 people. Steve stated that there are other impacts to consider, one is the number of school enrollments. Steve stated that by allowing him to do this it would not open a floodgate of warehouse casinos. Steve did not see limits on other types of businesses and has even discussed paying the room tax even though there are no rooms at this time.

Council Member Gorum asked how Mr. Weinstein came up with the 150 employees with a 100 slots in proposed plan. Steve Weinstein stated that he got the number of employees from Bill Rodriguez who helped him determine what he would need for the size of the business. Council Member Blake asked what the plan was if the ordinance was not lifted. Steve stated that he would still run a restaurant and bar. Discussion was had regarding the effect of changing the city code could have on the Red Garter in their current situation. Steve Weinstein stated that he held a job fair in early February and has received approximately 110 applications. Steve stated that he has discussed a time limit of three years on when rooms would be built or be shut down and paying room tax during that time. Council Member Carter asked Mr. Weinstein if only a restaurant and bar were opened would there be a restricted gaming license. Steve stated that he would put in restricted gaming if only a restaurant and bar allowed. Council Member Carter asked who would apply for the license if the city code was rescinded and what type of time frame he is looking at. Steve stated that he would still need 3-4 months to finish building and gaming license would be applied for by his wife.

Mayor Andersen stated that he State Line trying to put in a 150 room requirement. Mayor Andersen applauds what the Peppermill has done for the community. Mayor Andersen stated that he was elected by the people because they believe in him.

Those making comments against the proposed change of the city code include John Spillman, Dawn Hagness, Kelly Porter, John Hanson, Suzan Erickson, Sean Mowray, Gary Lewis and Jerry Malone. The comments included leaving the code in place to insure proper growth, why the code was adopted and that other cities have similar codes, not changing law to benefit one person or business and the need to follow development standards. Mike Crawford, Councilman for Wendover Utah stated that you need to be careful in changing ordinances or making exceptions to codes; because once an exception is made it is hard to go back and try to correct an issue if it arises.

Those making comments for the proposed change of the city code include Jim Carter, Scott Bangerter, Mariah Miera and Jack Greening. The comments include changing the code due to the recent changes in the economy, that by changing the code Mr. Weinstein would be able to provide more jobs in the community, and there being no benefit to the community by restricting growth.

Council Member Briggs stated that he is opposed to any change in this ordinance. He further stated that other communities in throughout the State have similar ordinances, and have already had to deal with problems when exceptions to ordinances are made. He stated there is very little point in having ordinances and a City Manager if exceptions are constantly made.

Council Member Gorum stated that he took an oath to do what is best for the community. He further stated that if you make this change there will be others down the road wanting a change made for them.

Gary Di Grazia explained that there are three options, leave the ordinance as is, rescind it in its entirety or amend ordinance to have some provisions for discretion. Gary further stated that you cannot contractually agree with Mr. Weinstein to change the ordinance you have to conceptually have to believe that that is in the best interest of the City.

Council Member Blake stated that he has been pondering what the right approach is, wants to give businesses a fair chance. He further stated that he is concerned that if you allow Mr. Weinstein to come in with just a casino how do you know in three years can you enforce the change then. He stated that it has been brought up that you could pull his license but you then put all those people out of work.

Council Member Gorum made the motion that we do not change the City Code 3-5-4 (D) non restricted gaming licenses concerning the related definition and requirements for "Rural Resort Hotel" and requirements for granting licenses to permit nonrestrictive gaming operations. The motion was seconded by Council Member Briggs and passed. Council Member Blake voted nay.

Steve Weinstein thanked everyone for listening and appreciates the consideration. He also appreciates the interest on both sides of the issue.

***e. Discussion and Decision to Appoint the Financial Auditors for the City of West Wendover and Other Matters Appropriately Related Thereto**

Sondra Schmidt would recommend appointing Hansen, Barnett & Maxwell PC as the auditors for the next audit; the price will not exceed \$42,000.00. Council Member Carter made the motion to appoint Hansen, Barnett & Maxwell PC as the financial auditors for fiscal year 2009 annual audit. The motion was seconded by Council Member Briggs and passed unanimously.

***f. Discussion and Decision with Regard to a Contract for Contribution to the West Wendover Medical Clinic in Regards to the Potential Hiring Incentives for a Second Doctor and Other Matters Appropriately Related Thereto**

Council Member Carter explained that two potential doctors have been interviewed in the preceding weeks. Council Member Carter stated that no offer had been made to a doctor yet and this item was to potentially plan for it in the budget. The structure of the offer is different in that the first year would be \$12,000.00, second year \$12,805.00 and the final year would be \$23,617.00. General discussion was had regarding having three providers at the clinic, the clinic being understaffed with providers in the past few years and when the contribution would potentially start for the second doctor. Council Member Blake made the motion to approve a contract for contribution to the West Wendover Medical Clinic in regard to the potential hiring incentives for a second doctor. The motion was seconded by Council Member Briggs and passed unanimously.

7. DEPARTMENT UPDATES

Fire Chief – Jeff Knudtson stated that the only thing to add to the memo was the construction meeting on Friday, March 6, 2009 at 9:00 a.m. The memo stated that the roof on the Council chambers was currently being worked on. There is training taking place with Greymont concerning safety and first aid. The department is doing wild land training to prepare for summer and will then start firefighter training when that is completed.

Police Chief – Ron Supp had nothing to add to memo, which stated that the department made a major narcotics arrest within the past month.

The department responded to the following for the month of February.

Calls for Service	968
Adult Arrests	14
Warrants Served	11
Juvenile Arrests	3
Citations Issued	75
Transports	35
Field Interviews	4
Civil Papers Served	78

City Clerk/Records Officer – Anna Bartlome stated that the tentative dates for budget meetings are March 30th, 31st and April 1st starting at 5:30 p.m.

Chief Financial Officer – Sondra Schmidt stated that she received the first set of numbers from the State.

Public Works Director – Bryce Kimber stated that the only thing to add to the memo was that three people to the Nevada Rural Water Conference. The memo stated that the final walk through had been done on Needle Point Trailer Park. There had been a small leak at the Police Department but it is being fixed. CentraCom has been installing conduit for the new City Hall Complex. There had been a water leak in the reuse line going to the golf course on February 16th but it has been fixed. The department has been continuing the storm drain cleanup around town.

City Manager – Chris Melville reminded everyone of the grand opening on March 3rd at noon for the new terminal at the airport. Chris stated that progress is being made on the Air Force property, there are three phases to be completed before the conveyance can take place and two phases have been completed. Chris stated that he would be in Carson City from March 16-20 for CDBG. Chris stated that the REC District will be holding a meeting on March 5, 2009 at 5:30 p.m. at the golf course with their bond counsel to discuss the recreation center. The memo stated that the City Hall Complex is still on schedule with completion the end of June. The direct mail for the Logistics/Industrial Park have not been finished at this time due working on the submittal of grants. The memo further stated that all of the city departments have been reviewing current year budgets as well as preparing budgets for fiscal year 2009-2010

8. COMMUNICATIONS

Council Member Briggs thanked Gary Di Grazia for his work on the settlement with Wendover Utah. Council Member Briggs asked when the tree giveaway would be. Chris Melville stated that the tree giveaway is Thursday, April 23rd.

Council Member Gorum stated that the dedication for the new airport terminal is March 4th at noon. Council Member Gorum also thanked everyone for coming out to the meeting.

9. *APPROVAL OF THE CLAIMS:

Council Member Gorum made the motion to approve the claims for March 3, 2009. The motion was seconded by Council Member Carter and passed unanimously.

10. *NEXT MEETING DATE AND ADJOURNMENT

The next meeting dates are a joint meeting with the REC District on March 12, 2009 at 5:30 p.m. at the West Wendover Library, a special meeting on March 12, 2009 at 6:30 p.m. at the West Wendover City Offices, Conference Room. The next regular meeting is March 17, 2009 at 7:00 p.m. at the West Wendover Library, Pilot Peak Room. Council Member Carter made the motion to adjourn at 9:23 p.m. The motion was seconded by Council Member Gorum and passed unanimously.

ATTEST:

Anna E. Bartlome
City Clerk/Records Officer