

MINUTES
EAGLE MOUNTAIN CITY COUNCIL SPECIAL MEETING

September 25, 2006

Eagle Mountain City Council Chambers, 1650 East Stagecoach Run, Eagle Mountain, Utah 84005

7:00 P.M. SPECIAL SESSION – CITY COUNCIL CHAMBERS

Minutes reported verbatim.

Mayor Brian B. Olsen called the special meeting to order at 6:10 pm. Councilmember David Lifferth led the Pledge of Allegiance.

CONDUCTING: Mayor Brian B. Olsen

ELECTED OFFICIALS PRESENT: Councilmembers David Blackburn (arrived at 7:13 p.m.), Heather Jackson, David Lifferth, Vincent Liddiard, and Linn Strouse.

CITY STAFF PRESENT: Gerald Kinghorn, City Attorney; Gina Peterson, City Recorder; Peter Quittner, Deputy; Jerry Monsen, Lieutenant; Mark Binks, Sergeant.

ADJOURN TO A CLOSED EXECUTIVE SESSION – Potential Litigation

Councilmember Lifferth **moved** to adjourn to a closed executive session for the purpose of discussing potential litigation, pursuant to Section 52-4-5(1)(a) of the Utah State Code Annotated. Councilmember Jackson **seconded** the motion. Those voting aye: David Blackburn, Heather Jackson, and David Lifferth. Those voting nay: Vincent Liddiard and Linn Strouse. The motion **passed** with a majority vote of 3:2.

The meeting adjourned at 7:14 p.m.

CLOSED-DOOR SESSION – Potential Litigation

A closed-door session was held at 7:14 p.m. for the purpose of discussing potential litigation, pursuant to Section 52-4-5(1)(a) of the Utah State Code Annotated. Those in attendance were: Mayor Brian B. Olsen; Councilmembers David Blackburn, Heather Jackson, David Lifferth, Vincent Liddiard, Linn Strouse; staff members Jerry Kinghorn, Gina Peterson, Sergeant Mark Binks, Lt. Jerry Monsen.

The closed-door session adjourned at 7:24 p.m.

Mayor Olsen reconvened the special session at 7:24 p.m.

ORDINANCE – Consideration and adoption of an ordinance regarding Policy Session Meeting of the City Council.

Mayor Olsen: Why don't I turn the time to the two Council members who called this special meeting, Councilmember Blackburn and Councilmember Strouse?

Councilmember Blackburn: Mr. Mayor, Councilmember Strouse and I requested this item to be on the agenda. We felt it would be a beneficial action to facilitate the process and items coming to the agenda that we felt would be of importance to, ideally, the Council and to the residents, as well as the Mayor at any point in time. And so to clarify and allow for items to be brought to the agenda on a regular basis, we are making a motion, or as part of this ordinance, that the Mayor shall add items to the general agenda when requested by at least two Council members. The requested items shall appear on the agenda for the next scheduled City Council meeting. In addition, we are asking that the order of general session events be the following: That there be a call of order, Pledge of Allegiance, information items, public comments, Council comment, consent agenda, any items as selected by at least two Council members, any items as selected by the Mayor, and then adjournment. We feel that, also, declarations of conflict of interest may be made at any time, as appropriate, that they do not need to appear as an agenda item, that questions to staff and applicants on the agenda item being considered are permissible by Council, as well as response from those questions, if they so desire, and that items for the budget shall be submitted no later than close of business on the Wednesday prior to this general session. That's actually a slight typo, that's items for the agenda shall be submitted no later than close of business.

Mayor Olsen: Is there a second?

?: I'll second that.

Mayor Olsen: Thank you. Any comment? Councilmember?

Councilmember Blackburn: Yes. I actually found out today that the city of Cedar Hills actually passed this same ordinance earlier this year. Their council was also having some slight confusion in scheduling or being able to have items placed on the schedule, so we're not the first city to have this in the county.

Councilmember Strouse: And I would . . .

Mayor Olsen: Hold on. Is there an opposing view? Since we have the motion, is there any opposing views from the Council, so we just keep it back and forth, fair. Anybody else?

Councilmember Jackson: Mr. Mayor.

Mayor Olsen: Councilmember Jackson.

Councilmember Jackson: I have an opposing view in the fact that it seems to me that we are taking away some checks and balances that we've had set up in our system. Currently, the Mayor, according to Code 10-3-1213, talks about the fact that the Mayor is currently the chairperson of the Council, therefore he sets the agenda. And, while I believe that it's important for us all to have impact in input on the agenda, if we as Council members are the ones that are constantly setting the agenda, then what power does our Mayor have? And with that also being said, again referring back to the same as the Council, the Mayor being the chairperson of our Council, we seem to have removed the Mayor's items from the agenda, and we're allowing comment from all Council members, and not coming from our Mayor, who is a part of the Council and an elected person in our city. And I think it is appropriate and important that we hear from all members of our elected officials. And to censor the Mayor would be inappropriate. So I am wondering if the sub item here of information items, is that what you're intending to be Mayor's items or are you just intending that the Mayor shouldn't speak at all during the meeting?

Councilmember Blackburn: Very good point. Mr. Mayor, can I address that?

Mayor Olsen: Yes. Councilmember Blackburn.

Councilmember Blackburn: We intended that the Mayor's comments would be also included as part of the Council comments, seeing as how in this form of government, he's actually seen as City Council, per se. Could I ask you to repeat that Code number that you referred?

Councilmember Jackson: 10-3-1213.

Councilmember Blackburn: Thank you.

Mayor Olsen: Let's see. Now the current motion doesn't have that in there. Would we need to amend that motion, then, or . . . Councilmember Strouse did say she wanted to talk, but just so that we recognize the current motion on the table doesn't include . . .

Councilmember Strouse: It looks like Vince is going next, so he can go ahead.

Mayor Olsen: OK. Councilmember Lifferth, or Liddiard. I get you guys confused with the Ls.

Councilmember Liddiard: I think she brings up an important point. It's not intended to remove the Mayor at all from being the chairperson. The State Code 1-3502 indicates that a special session can be held and agenda items to be conducted by the Mayor, essentially, when two Council members request a special session so that they can have something considered. This is, in my perspective, an opportunity to have a more efficient government, so that we don't have to have continual special sessions, but rather during a regular general session items of interest to the Council can be discussed. The Mayor would still have the authority to put agenda items on the agenda that he wants, and still he would be conducting the meeting, but as Councilmember Jackson points out, if there's a unclear wording, that the Mayor would not have an opportunity to discuss, I would be fine with the information items being changed to information/Mayor's or Mayor's items, or that it would be included that Council comment and Mayor comments be at that point. I don't think there's a desire here to, as Councilmember Jackson pointed out, to censor the Mayor. I don't think that that would be appropriate, nor is that, in my view, intended by this. So, if you want to propose an amendment, I would be interested in what you would like to propose.

Mayor Olsen: Is there any other discussion before someone decides to do that? Councilmember Jackson.

Councilmember Jackson: Thank you. I really think we need to have quite a bit of discussion. A few things, too. As I have been a person over the last year that has come from being a citizen to an elected member of the Council, I've sat in the chairs there where the audience is sitting for at least six months' worth of meetings, and during those six months, we followed a format that is more similar to the format that is here on the agenda to be voted on and the motion has been made. Where the Council comments have been moved to directly after public comment, we have adopted a current agenda where we have those Council comments at the end of our meetings. And sitting in the audience over the last, like I say, those six months while I was running for office, I found very often that Council comments would wind up taking about the first 45 minutes of the meeting, and that the people that had come to discuss business would have to wait for a very long time before they had an opportunity to discuss those things. It did seem to me that Council members would come with statements, typed statements, of things they wanted to say that took an exorbitant amount of time. I understand that we all have things that we need to say, we all have agendas or items that need to be taken care of, moved forward, but it seems to me that it is a

waste of time if we are allowing that amount of time for that type of comment. And I would, if it seems necessary to you all to have the Council comment behind the public comment, then I would like us to limit that to three minutes apiece, just like we limit the public to three minutes apiece. Because otherwise we are allowing the meeting to go on incessantly and allowing our public to, frankly, sit there feeling like they're not getting out of the meeting what they necessarily need to get out of the meeting. I frankly found that sitting there listening many times I would get lost in what was being said, and it would lose the point that was trying to be made. So that's just another thought I wanted to throw out there as part of discussion and hear some more feedback.

Mayor Olsen: Is there any opposing views? Councilmember Strouse.

Councilmember Strouse: I would like to add what would be I think something that would add to the meeting would be to have the Council comments where we have them on this list, right in the beginning and at the end, and have a time limit on it, and if anything goes over the three minutes, then it can be put in public record for the public to see. I totally agree that there, you know, we need to have more efficiency of time and respect the citizens' time. The citizens need representation. I was looking at web sites in some other cities and one of them just really impressed me. It was just so nice and so organized, and it actually had a little section that said, "What do residents want to see on the agenda?" Well, I've spent the last nine months trying to get certain things on the agenda, to try to represent my constituents. I cannot continue another month, let alone another nine months, with the kind of road blocks. The residents have a right to be represented, and unfortunately, we do have, according to State statute, the ability to hold special meetings and time things are, you know, the Mayor refuses to put something on the agenda, we can have a special meeting, but that takes a lot of time, it takes money, it takes energy, and I don't want to spend time, personally this Council position has become a full-time job the last year. And I don't think that's, I don't think that's fair to me, I don't think it's fair to the residents. The citizens deserve to be represented. And so I would like to, I've given this a lot of thought, I've been on the phone or been deliberating with this since 8:30 this morning, and I really believe that, in order for this city to move forward and to be, properly represent its citizens, that we do need to, ad lib isn't quite the word, but make our government more efficient rather than . . . I don't want to continue having special meetings. Let's see, web site . . .

Mayor Olsen: Can I have a turn?

Councilmember Strouse: Sure.

Mayor Olsen: Councilmember Strouse, you stated twice that the Mayor has prohibited you or denied you to get things on the agenda. Would you please list those items for us?

Councilmember Strouse: I'm still in the middle of gathering all my information that will substantiate those claims.

Mayor Olsen: OK. I guess what I was going to say was, from the month of December, 2005, December 5, when I took office, 'til today, you stated twice in your comments that I have denied you from putting things on the agenda and I'd like to know what those items are.

Councilmember Strouse: One in particular is, for example, change in the form of government. I have had a lot of residents that have asked me about this. My duty, even things that I don't necessarily like or agree with, if a large number of residents want these things on the agenda, it's my job to bring it to the Mayor and Council and see that it does get on the agenda so we can have a discussion.

Mayor Olsen: Thank you. Anything else?

Councilmember Strouse: I have more, but not now.

Mayor Olsen: OK. I would like to refute the information that Councilmember Strouse has stated. For the record, she has stated twice that I have refused, on several items, to place on the agenda and she's only listed one.

Councilmember Strouse: So far.

Mayor Olsen: Well, all I'm trying to bring to the Council's attention is that, from December 5, 2005, to this date, you stated twice, just now, that I've refused you several items on the agenda. I've asked what those items are, and you've said one item: changing the form of government, and so I just want to make sure that I understand what those items are so that it's just clear for the record.

Councilmember Liddiard: Can I propose an amendment to the ordinance, Mr. Blackburn, Mr. Mayor?

Mayor Olsen: To this motion?

Councilmember Liddiard: Yes.

Mayor Olsen: Yes, sir, go ahead, unless Councilmember Strouse would like the time. I don't want to take, you know, but go ahead.

Councilmember Liddiard: My apologies, Ms. Strouse.

Councilmember Strouse: No, you go right ahead.

Mayor Olsen: Go ahead. Councilmember Liddiard.

Councilmember Liddiard: In deference to Councilmember Jackson's comments, if we could, if Mr. Blackburn, you would be willing to accept an amendment to change 'Council comment' so it would read 'Mayor and Council comment, Council limited to three minutes' and also, to add 'Council and Mayor comment' as another bulletin item to appear right before adjournment, with no time limitation signified there, I think it would just read 'Council and Mayor comment.'

Councilmember Blackburn: I'd accept that motion, or amendment.

Mayor Olsen: Any discussion on the motion that's now on the table before us?

Councilmember Liddiard: I'd like to call the question.

Mayor Olsen: OK.

Councilmember Lifferth: I still have an opposing viewpoint. Some disagreement.

Mayor Olsen: Help me out, Jerry. I want to make sure that if the question is called . . . I want to be careful, I want to give everybody an opportunity, but at the same time, if the question's called . . .

Mr. Kinghorn: Did Mr. Lifferth have a chance to . . . ?

Mayor Olsen: On the new motion? No.

Mr. Lifferth: I have not spoken on the new motion.

Mr. Kinghorn: I would suggest that he be given a chance to do that before the question is called.

Mayor Olsen: Just recognizing that there is a new motion and there has not been debate, I will give Councilmember Lifferth an opportunity to respond.

Councilmember Lifferth: OK, I do have a number of items that I would like to discuss, specifically about the proposed amendment tonight. But first of all, I would like to express my disappointment at the scheduling of the meeting for a Monday evening. We on the Council have a great deal of power to do, in effect many things in the City: the ability to call special sessions and I just would like to express my great discomfort at the choice of the time and place for this meeting, for the time to be on a Monday evening. I would like to read two quotes here before I get into my discussion of the actual amendments. The first one comes from the LDS First Presidency letter, 11 February 1999. It states that "Monday nights are reserved throughout the church for Family Home Evenings. We encourage members to set aside this time to strengthen family ties and teach the gospel in their homes. Church buildings and facilities should be closed on Monday evenings. No ward or stake activities should be planned and other interruptions to Family Home Evenings should be avoided." And then the "Proclamation to the World on the Family," dated September 23rd, 1995, is very important tonight because it addresses what we are doing here in government. The quote is, "We call upon responsible citizens and officers of government everywhere to promote those measures designed to maintain and strengthen the family as a fundamental unit of society." I have no problem with special sessions, I have no problem with us on the Council using the authority granted to us by our elected positions, to call special sessions, but we need to be extremely cautious with how we use the time of both ourselves and our residents, and let's not abuse this power that has been given to us. It costs a lot of money when we hold these things after hours and I just want to make sure that we are doing our jobs in the most prudent, responsible manner as possible.

As we can tell, there's quite a bit of concern in our community about some of the agenda items that we have placed before us tonight and in previous meetings and in future meetings. And I would like to encourage the Council to take a longer-range view of what we are doing. I know there's a lot of frustration right now with our Mayor. I know there's a lot of anger and hatred being expressed towards our Mayor, but Brian will only be Mayor for a finite amount of time. Prior to Brian being the Mayor and after Brian is the Mayor, we've had standard ways of doing things, and we need to make sure if we are doing something right now just to punish Mayor Olsen or retaliate against Mayor Olsen that we recognize what we are doing and we may be punishing and binding the hands of future Mayors. As has been brought up tonight, the discussion of the balance of power, and there are reasons why we have done what we've done for ten years and there are reasons it has worked for us for almost ten years. My concern is, and it's the quote I gave to the paper earlier this evening, is that if we grant executive powers to the Council without granting corresponding checks and balances we run the risk of creating a monopoly of power at the Council level. And so, before we go and make any drastic changes to our procedures on the Council, we need to make sure that we have discussed the consequences of the long term. I remember recently we had a situation where information was brought to the Council toward the end of a discussion and there was what I consider a rush to pass an ordinance to approve a development, even though residents had come before us and expressed their concerns. I had raised concerns about this development, and yet there were members on the Council that were very quick to rush and approve this

development. And since that day, we have had week after week after week of headache brought to both our law enforcement officials, our code enforcement officials, our city engineers, because we did not listen to the residents and we were quick to do what the Council had planned. And so that is just one example of not taking the time to understand what consequences are and, quickly, in a matter of 48 to 72 hours, rushing an agenda item here to the Council to be voted on without giving proper time to consult legal opinion with the Attorney General, with the League of Cities and Towns, and my concern is that if we rush something through without getting proper discussion, that maybe next year when three Council members are no longer in office, we will have to undo that damage that's done tonight.

I'd also like to express concern about, as a Council member, I would enjoy the opportunity to speak freely and more open at different times in the Council meeting. I know we've rules that govern that, but I do express concerns about what I consider abuses of Council comments, where allegations of wrongdoing and illegal activities have been presented by Council members, with or without any supporting documentation, only to have those allegations to be later proven false. And my concern is, if we have Council members that abuse their opportunity to speak, and misuse that to level baseless allegations, that we are all on the Council harmed, and the community at large is harmed, by irresponsible uses of that opportunity to speak.

There has been a lot of discussion in the paper as of late, about the rift between the Mayor and the Council and I still don't think that anyone has accurately portrayed that actual situation that is occurring now, but I would like to report that, in my history of Eagle Mountain, I have never initiated a phone call to the press to draw any negative press to our city. By the same token, I've never called the press to draw attention to Eagle Mountain in a positive way. I have responded when questions have been asked of me by the press as to my position on issues, and I just think it's very inappropriate for any member of the Council especially, but any member of the community, to intentionally tarnish the image of our city. We do have problems, every community has problems, but I would appreciate it if everyone would use their First Amendment rights in a very responsible manner.

Councilmember Blackburn: Councilmember Lifferth, can I just ask how that relates to the topic at hand?

Councilmember Lifferth: Yes, you can. Because there's been a discussion in the press about the meeting tonight. I gave a quote earlier to the press. They were here to cover this. There's a lot of excitement in the press because of the conflict that we currently have on our Council, and I would just like to advise everyone possible to help our community, build up our community, and not attempt to tarnish the image of our community for political interests.

Councilmember Strouse: I would just . . .

Mayor Olsen: Hold on. Is that the end of your statement?

Councilmember Lifferth: It was my complete statement, yes.

Mayor Olsen: Is there an opposing view?

Councilmember Strouse: Yes.

Mayor Olsen: Councilmember Strouse.

Councilmember Strouse: OK. First of all, I've not called the newspaper about anything. I did not even, you know, the fact that we had so much attention last time was because there was somebody, according to the newspaper lady, that did call the press and she said it was the Mayor. So, answering your

question, the Mayor used the term 'emergency session' when we started this meeting. So, none of us wants to have things on a Monday night. None of us wants to have things on other nights that are inconvenient for people. We'd like to get all this stuff done in regular sessions. This is an emergency session, and if you read Doctrine and Covenants 134, as long as you're bringing this up, there's quite a bit of information in there on the proper role of government. In a case like that, if I were the person in the audience, I would take it as an opportunity to have that information shared with my family so they could learn information and the procedures consistent with the teachings in that area. Now as far as, you're talking about retaliation and punishment and you use the words 'anger' and 'hatred,' the only place I have seen that is on your website against three of these Council people, to my extreme disappointment. So, I would agree with you that there's no place for that, that we need to keep things more edified and take the high road. I'm a second term Council person. That doesn't mean that I know everything, it doesn't mean that I automatically have political capital, but it does mean that I do have a little bit of experience and that I've learned a lot along the way in working with numerous staff, numerous Council people, at least two or three mayors; and as one of the gentlemen last Friday aptly pointed out, our form of government does tend to be an adversarial one. I certainly think we should keep things as peaceful as possible, but to say that we all just gotta get along and we can't have any disagreements is a bit much. And I was thinking about Neville Chamberlain today, who said, "Just give (them?) the Rhineland." Sometimes you need to take a stand, and you need to say, "Wait a minute--we need to rethink this. Is this a hill we want to die on? Or how important is this? How important is our freedom? How important is our form of government?" These things are very important. There has always been rifts on the Council, there's always been rifts with somebody or the Mayor. I mean, that's part of the ball game in politics. And I certainly, at least can speak for myself, that I strive very hard to avoid those rifts, and that's why I've been extremely patient these last nine months or so. But my patience is wearing thin, because I have a duty, a fiduciary duty, to my constituents and the citizens in this community. And I will do my duty.

Councilmember Jackson: Mr. Mayor.

Mayor Olsen: Since there was just a statement and then the opposing view, I'd like to make a statement. Councilmember Strouse, in your statement in taking the high road and keeping things peaceable, you accused the Mayor of contacting the press.

Councilmember Strouse: I said that's what I heard.

Mayor Olsen: OK. Let's make sure that that is a rumor that you are stating to the Council.

Councilmember Strouse: Cathy Allred told me personally that it was the, Mayor Olsen called, was the one that asked to talk to her and so she talked to you on the telephone. And that's when you mentioned the two Councilmen that refused to turn over their computers to be checked for pornography. So, that is what I heard from Cathy Allred.

Mayor Olsen: And I will address that on October 3rd that she's bringing up, because it is a half-truth that was spoken. At the same time, I think that if we're gonna talk about that, Council, I, you know, you mentioned talking about the press, Linn says that the Mayor calls the press, if we need to, we can call in Channel 5 and find out the two Councilmembers and the Councilwoman that called, because the reporter told me to my face and to others that were in the room, that it was two Councilmen and one Councilwoman that called Channel 5, so if we're gonna make these accusations, let's make sure that we stand behind what we say . . .

Councilmember Strouse: May I shed light on that statement?

Mayor Olsen: . . . that doesn't sound peaceable.

Councilmember Strouse: May I shed light?

Mayor Olsen: Go ahead.

Councilmember Strouse: The reporter called my home, left a message on the answering machine, I returned the call because she called me, and nobody was there . . .

Mayor Olsen: So it could be a misunderstanding, just as the press was camped out here at City Hall, waiting to see if the Council members turned in their laptops, and they wanted to speak to the Mayor, who was not here, and did speak to them by the phone. Anyway, just so that there might be some miscommunication there. Is there any discussion . . .

Councilmember Jackson: Mr. Mayor, I do have other discussion.

Mayor Olsen: Go ahead.

Councilmember Jackson: Thank you. My discussion really lies in the fact that we're here tonight to make a decision, a decision that has been set that is representative of the public that we have here. I have a problem with that in the fact that on our meeting agenda, we're not allowing the public to speak to the decision we are making tonight. We have plenty of people here that have prepared, you know, spent much time also studying and trying to make some decisions on their own, and then trying to advise their Council people, as well, and they've shown up to speak. I know at least one of them actually prepared a statement, which she had copied and I know it was placed on every one of our spots. It frustrates me . . . Linn, I appreciate you want to talk, but I really would like you to not interrupt.

Mayor Olsen: Make sure you address me, because we're all debating.

Councilmember Strouse: I wasn't trying to interrupt. I was just letting you know that I'm willing, if you want to make a motion to let them talk, I'm fine with that.

Mayor Olsen: We've got to continue on this motion or we're gonna be way off, so . . . And Councilmember Jackson, I don't have that on the agenda.

Councilmember Jackson: I understand that, and that's part of my problem here, is I'm finding that we're sitting here, we're debating this and discussing this, and all of us have our own valid points, while we have citizenry that is also sitting here that has valid points that I think we should be hearing, and you know, now we're stuck in a little situation where we have a motion on the table that we have to either choose to approve or deny without even having heard comments from the audience that has shown up to talk. I'm sure that you all didn't come just to sit and listen. It just seems silly to me that you would spend that amount of time, you know, just to sit and listen, you know, on a night when you might be spending time with your families. I'm really not sure how to go about that, since we currently have a motion on the table that we either need to approve or deny, and really can't move forward when I would really prefer to hear comment from the public before I make a decision on that.

Councilmember Strouse: Was there some reason why you didn't bring it up before?

Councilmember Jackson: I wasn't given a opportunity. The meeting started and it was turned directly over to you all, so, you know, immediately a motion was made. When was my opportunity to do that?

Councilmember Liddiard: Mr. Mayor.

Mayor Olsen: Councilmember Liddiard.

Councilmember Liddiard: I'll be succinct. There was a question as to whether or not anybody had contacted any outside help and it's my understanding that, in fact, I participated in asking some questions about this very thing from sources that would be able to support us in giving us some guidance towards this very thing. And since it had been brought up in this discussion about laptops, I have given a copy of this form, where I had taken my laptop as soon as I had an opportunity to a company and let them scan for viruses, adware, spyware and all of the other pornography and things and I have the results of that that I left with our City Recorder, and would like to also then call the question at this point.

Mayor Olsen: All right. Just for the record, that is something completely off from the subject, which could come up at another time, but thank you for bringing it to the Council's attention. We have a call for the questions. Is there any more debate that has not been heard by the Council members.

Councilmember Jackson: I just have . . .

Mayor Olsen: Councilmember Jackson.

Councilmember Jackson: Sorry. I do have a question. I realize we have a motion on the floor here. My question is, is there any way we can table the motion in order, then, to hear from the public and then bring it back up in discussion? I don't know. I'm just asking.

Mayor Olsen: I don't think so. Jerry, can you help this Council out? I don't think we can table it.

Councilmember Strouse: May I make a comment?

Mr. Kinghorn: Well, the question's been called and everyone's had a chance to speak. You need to . . .

Mayor Olsen: Call the question.

Mr. Kinghorn: . . . call the question.

Mayor Olsen: All right. I apologize. Is it . . .

Councilmember Strouse: Yeah, I was just going to say that I think today I've talked with just about everybody in this room, so . . .

Mayor Olsen: Except me.

Councilmember Jackson: And not me.

Mayor Olsen: We have a call for the question. All those in favor of the motion as it is currently on the table, please say yes.

Councilmembers Blackburn, Liddiard, and Strouse.

Councilmember Lifferth: No.

Councilmember Jackson: And I'd like to abstain because I would like to have heard from the public prior to making any decision.

Mayor Olsen: Thank you. The motion passes. Is there any other items of business for the Council at this time? Councilmember Blackburn.

Councilmember Blackburn: Yes, we also had on the agenda item number 4. From time to time, excuse me, let me read it as it is on the agenda:

Consideration and enactment by ordinance or resolution to provide the ability for the Council to seek and retain legal counsel separate from the Mayor to advise and protect the Council and its interests.

From time to time, I'm not saying it's going to be enacted at any specific date, but, from time to time I think it's possible and advisable for the Council to retain its own legal services separate from that of the services already provided by our current legal counsel agreements or contracts. In order for the Council to be able to have this ability, both to fund and seek legal advice and assistance, we need to have this type of ordinance or resolution on the record, because it then allows the Council to use some of their funds or appropriate funds accordingly.

Mayor Olsen: Thank you. That was the presentation. Is there a motion?

Councilmember Liddiard: I move that we approve . . . now, as a point of clarification, Mr. Kinghorn, would this be an ordinance or would it be a resolution?

Mr. Kinghorn: I think it's just a matter of amending the budget to set up the funds you need. I talked to Dave Church today about how other communities have done this, and he said they just set up a budget item for legal counsel for the city council. They don't have any separate documentation behind it, but it would probably be a resolution, because it's not something that has any effect on third parties. It's simply an internal administrative mechanism.

Councilmember Liddiard: I move that we enact a resolution to provide the ability for the Council to seek and retain legal counsel separate from the Mayor to advise and protect the Council and its interests.

Mayor Olsen: There's the motion. Is there a second?

Councilmember Strouse: I'll second that.

Mayor Olsen: Councilmember Liddiard, you have the floor.

Councilmember Liddiard: Actually, I participated in a conversation and part of that led to my participation and discussion about this. I had talked with Mr. Blackburn in regards to this, where it

seemed advisable, in things that may be a conflict between Mayor and Council, so that the City Councilman that is advising both parties does not feel, I guess, between a rock and a hard place, to allow him to fully function in his advice. As Mr. Blackburn said, it's not necessarily a requirement that this be enacted, but allows the potential for Council members to seek outside legal counsel should they feel it warranted.

Councilmember Jackson: Mr. Mayor.

Mayor Olsen: Councilmember Jackson.

Councilmember Jackson: How are we to vote on a resolution that has not been placed before us? We don't have anything in writing that's the specific resolution. It seems to me that in every other Council meeting we have ever had, when we are voting to approve, whether it be an ordinance or a resolution, it is a typed-up document that is before us. There is not one here.

Councilmember Strouse: May I speak?

Mayor Olsen: Councilmember Strouse.

Councilmember Strouse: I talked to the attorney that's, many conversations with the attorney at the League of Cities and Towns. I've been spending much of my week talking to people at the Attorney General's Office for legal advice. Also, another attorney that was referred to me, and one of the things that they said is, before they could continue and actually talk any more about the situation, we would need to make a resolution simply that, if we choose to retain legal counsel, that we can. So if we decide to actually pick out an attorney and actually set it up as to when this is gonna start and all that, then we would need the resolution. That's my understanding. Now it's just a simple, are we gonna do it or not? And that's as simple as it is.

Councilmember Jackson: Mr. Mayor.

Mayor Olsen: Councilmember Jackson.

Councilmember Jackson: With that being said, what is being said is that it feels as though the Council needs separate representation from the Mayor. I would like to know, if the Council has two opposing opinions, then how do we handle that? How does an attorney represent the Council if they are not completely representing all of the Council?

Mayor Olsen: Let me state that it's always been my understanding that the City Attorney, Mr. Kinghorn, does not represent the Mayor exclusively or the Council exclusively. He is the City Attorney. He represents the citizens of the city and their interests, not the interests of the Mayor or each of you individually or collectively. Jerry, you can correct me if I'm wrong, but my understanding is, you are the City Attorney representing all the interests of Eagle Mountain. So, if that is correct, then my question would be, for the motion, if the Council does entertain to have a attorney whenever they need it, should the Mayor also have his attorney, as well, to represent his interests? That would seem like overkill for three attorneys in the city. Councilmember Liddiard.

Councilmember Liddiard: Mr. Mayor, I had a brief conversation, well, actually, it wasn't brief. I talked with our Attorney and a concern that I had is, I had asked him specific questions which were difficult for him to answer. I put him, I guess, in a difficult position in the questions I was asking him, and he felt

that he could not give me legal advice because of the questions I had asked. So, part of my interest in seeing this take place is not in anything other than the ability to have questions answered and that the City Attorney would still represent the Council and the Mayor, but if there be an issue where he is not able to answer questions, that there be the possibility of seeking outside help.

Mayor Olsen: Could that also apply to the Mayor's Office? Because it's two different governmental entities, so to speak, other than we are combined together as a governing body.

Councilmember Liddiard: I believe that in that situation, he would be your legal counsel.

Mayor Olsen: So you would propose that we make the City Attorney become the Mayor's attorney, and the Council would have their own.

Councilmember Liddiard: No.

Mayor Olsen: So, if the Council, in their motion, does a, if they choose the option of retaining an attorney separate from the City Attorney, then where's the check and balance for the Mayor to have his own attorney?

Councilmember Liddiard: You would still have our City Council's attorney. The attorney appointed for you.

Mayor Olsen: OK, I just want to make sure, because that insinuates that the City Attorney would then work for my interests. I just want to make sure I understand.

Councilmember Liddiard: I believe that it's entering into a legal foray for which I am not fully prepared, however, I guess that would be most likely the case, is that if the Council retains its own legal advice, and it is adversarial in nature to the Mayor's, then Mr. Kinghorn would serve as the Mayor's attorney in that case. But again, I'm not a legal authority on the matter.

Mayor Olsen: And I, too, am not, and that's why I just pose the question. If the Council chooses to obtain its own attorney . . .

Councilmember Liddiard: Then it would be fair that the Mayor have his own attorney, as well, and should not be declined from having such representation.

Mayor Olsen: OK, thanks.

Councilmember Jackson: Mr. Mayor.

Mayor Olsen: Council . . . now let's see, did we have . . .

Councilmember Strouse: I was hoping that we could hear from the attorney in this, since Vince said he didn't, he was into an area he wasn't prepared for. Because my understanding was, what Vincent first said, Councilmember Liddiard first said, was that Jerry Kinghorn is our City Attorney, for the Council and the Mayor, but in rare exceptions where there could be kind of a conflict of interest or things where, as Vincent explained, could be problematic, there would be rare exceptions where the Council would have a right to retain your own representation, so Jerry Kinghorn . . .

Mayor Olsen: You're correct, and let me make sure. I think that Councilmember Liddiard and I agreed that if the Council did do that, in the rare cases or case that the Mayor might be in an adversarial situation, I . . .

Councilmember Strouse: Can take one at a time, though?

Mayor Olsen: Can I finish? I haven't interrupted. That's what I'm . . .

Councilmember Strouse: I thought you did. I was wait, I asked Jerry Kinghorn to answer.

Mayor Olsen: No, I just, I'm chair. I just want to make sure before, it's our debate. The point being, if this Council, if this Council chooses to retain their own attorney, in an adversarial situation as you've suggested, is there not the opportunity, then, in the future, for a future mayor to be placed in an adversarial situation with the Council, and then the Mayor doesn't have his rare exception to have his own attorney? Because that attorney is representing the entire city, and not one, specific entity or body, and then, in fairness to Linn, do you want to make a comment, or . . .

Councilmember Strouse: I'm requesting a comment on the first question I had, which was . . .

Mr. Kinghorn: What was the first question?

Councilmember Strouse: The first question was, restating what Vincent said, you are the city's attorney, the Mayor's and the Council's, and what we're asking is the rare exception when there may be a conflict or something, that, like you stated the other night, that you were a little uncomfortable in answering because it wasn't your area of expertise in that particular area of the law, so would, you know, we could have an attorney in those rare occasions. So, what is your thoughts on that?

Mr. Kinghorn: It's not common for a City Council to have separate legal counsel, but it has happened. And it's happened, it's happening, I believe, right now in Bluffdale, for example. It happens on and off when the Mayor and the City Council have differences of opinion about the executive power and the administration of city government, because sitting up there as a Mayor and Council, you're a combined legislative/executive power, but the Mayor is vested with the responsibility of the administration of the city. So you can see how there's some differences of opinion and conflicts can occur. I have been in situations before where a representative of the city and the Mayor didn't like the advice that I was giving. He went out and got separate legal counsel and that eventually, you know, worked itself out. So there have been situations where either the Council or the Mayor feel that they're not getting objective advice, or feel that the City Attorney's taking sides, and they want to get another view from another lawyer. It's perfectly fine, it's perfectly appropriate to do that. You need to be comfortable about the law that governs these situations, and if you need to go get a second opinion, or if the Council needs to seek legal advice from someone else, they could do that. And the same way with the Mayor. If he feels that, for some reason, he's not getting the advice he needs from the City Attorney, he can go seek legal counsel elsewhere. It's very unusual but it does happen.

Mayor Olsen: And that's my point. If this Council chooses to pass this resolution, then they're choosing to retain, in those rare circumstances, an attorney for the Council, but I don't see anything included for the Mayor in those rare circumstances where the Mayor may need to do that, as well. That would create an equal balance of power. Otherwise, I think we're spending a lot of money on several attorneys for the City. Councilmember Lifferth, you have a comment.

Councilmember Lifferth: I'd like to make a couple of comments on this. First of all, we've got an agenda item before us that definitely, I think, impacts our budget. We have not had any budget amendments to address this, we've not had any public hearing to see if, to get feedback from our constituents as to if they think it's an appropriate use of funds. And even going to, you know, a stronger detail on that, we have two current Councilmembers who have not authorized a single penny to be spent on City business so far to date in this fiscal year. They did not approve the budget the rest of the Council approved, and then in our December, excuse me, our September 5 meeting, where we had seven budget amendment items that were brought before us, with things I considered to be essential city services, full time head count increases, changes, matching grants, and then we had three members of the Council that would not approve budgets to be spent on that, and yet they're coming before us tonight asking the city to spend money on the Council. I think that's extremely selfish and I think that the fiscal irresponsibility of that is going to be historic in nature in Eagle Mountain, that we cannot approve a budget to address what the City has to do, and now because of this rift and the animosity that exists on the Council, they want to hire a city attorney without estimating any cost, specifying that we go out to bid on this. I just, I personally have sought legal advice in the past for things that have happened here in the city before I was here on the Council, and I paid for it myself. And I think if we authorize this without any budget to be available, I could tolerate that, because it would be financially responsible not to spend the residents' money on something like this. But if this is going to require and allow budget money, tax money, to be spent, we've clearly gone through this process in an inaccurate way.

Mayor Olsen: Is there an opposing view?

Councilmember Strouse: Oh, I would like to say that some of the major reasons for not passing the last amendments to the budget was because of the difficulties that we've had trying to get proper information, getting, in some cases, absurd explanations for financial questions, and because we were not able to pass these things because we've been burned in the past, I'm not going to take people's word for it. We have to have writing, we have to have documentation, we have to have supporting evidence, and because that didn't happen, neither could we pass those things with good conscience. We also feel compelled to occasionally get legal opinion. And those are some of the reasons why we need to do this. I guess that's all for now.

Councilmember Jackson: Mr. Mayor.

Mayor Olsen: Councilmember Jackson.

Councilmember Jackson: With the comment regarding documentation, this is my one piece of paper talking about what we're dealing with tonight. Where's my documentation?

Councilmember Blackburn: Yes, Mr. Mayor.

Mayor Olsen: Councilmember Blackburn.

Councilmember Blackburn: Yes. In reviewing the ordinance tonight, I do see, and I was going to bring this up, as well, as soon as we were into discussion, that I do see that the Council requesting separate counsel would be a budget item, and so this would likely be something that would need to come under a separate meeting, as we have proper notifications, we're talking about the budget. As we have been dealing with the budget and working with the budget, I think one item to point out to the entire Council is that we have been informed that we can only have, were previously informed, that we could only have one item per special meeting. As soon as that was found to not be, and so we've scheduled multiple

meetings to cover one topic per meeting. In the course of the last week, we've actually found that that law has been changed and we can have more than one item per special meeting. So, I do want to point . . .

Mayor Olsen: That's my understanding also.

Councilmember Blackburn: Right. So I want to point out to Council that, you know, Jerry does a great job, he's got a lot going through his mind at any time. He's got to couch what he says in absolutes and sometimes we get the wrong information. And that's regrettable both for him and for us, but that's one item wherein we can see that separate counsel, the ability to talk to counsel whether they're on retainer, I'm not saying we're gonna have two lawyers sitting over there, but the ability to have separate counsel, the ability to pay them for services and opinions, in some cases I would hope that these, that our separate legal counsel would actually be free through our association with Utah League of Cities and Towns, but if we're talking about having accurate information, or being able to voice an opinion, get the, get some legal support or ideas and concepts behind it, I think we need to have that information available.

Mayor Olsen: Councilmember, I would support that, as long as we make sure that, if the Council retains its own attorney for those rare circumstances, that that balance of power that's been spoken of is also protected in the Mayor's Office, so that in those rare circumstances where the Mayor is in a situation, that the Mayor could retain his own or her own attorney. Under the circumstances, if this motion were to go through, then I would propose that it be shown that the City Attorney works for the interests of the Mayor, then, because that doesn't equal out, and I'm not in favor of that, either. But if we're going, if this is the process we go, I would like to keep that balance, in that the Council should provide an attorney, the option for an attorney, for the Mayor's Office.

Councilmember Jackson: Mr. Mayor.

Mayor Olsen: Councilmember Jackson.

Councilmember Jackson: This, you know, sitting here and rereading, rethinking, and literally what this says on this piece of paper, it says, "Consider and enact, by ordinance or resolution, to provide the ability for the Council to seek and retain legal counsel separate from the Mayor, to advise and protect the Council and its interests." So in that case, I suppose, it's implying that, then, Jerry represents the Mayor, even though that's kind of what I thought the conversation was, where you were asking Mr. Liddiard the legal foray that was going on, yet never seemed to have been cleared up. So, is our attorney indeed the city's attorney, the mayor's attorney, the city council's attorney. I mean, what is his title and then . . .

Mayor Olsen: I'll allow him to speak. I would like to comment that my personal opinion of our City Attorney, there have been times when, of course, we as a Council and a Mayor, you know, there's, I have opinions and we all share different opinions, there have been times when I wish the City Attorney would favor me in cases where it's adversarial, but I've never had that. I haven't even seen it on the opposite end, from the Council. So that's why I get concerned as a Mayor if the Council says, "Well, we want to retain an attorney for us, when we already have a City Attorney representing all the interests of the City, including the Mayor and Council, then shouldn't there be a balance? Mr. Kinghorn, you can go ahead and state what your job role is. I think it's understood, but I think, for the record, it's important for the Council to know, who do you represent?"

Mr. Kinghorn: The city is a corporation, and I represent the corporation. Now, the corporation has to be guided by some individual and the mayor is the Chief Executive Officer of the corporation, and so I take my directions on day-to-day matters from the Mayor. When it comes to legislative matters, drafting ordinances and that sort of thing, I take my instructions from the actions of the City Council at City Council meetings.

Mayor Olsen: May I ask you a question that I think is on the mind, at least it's on my mind, based on the conversation, have we ever placed you in a position that you needed to be adversarial either towards me or to the Council? And if we have, maybe that would be the rationale for asking the Council to have their own attorney or even the Mayor, if that was to happen, or do you keep balanced?

Mr. Kinghorn: Well, I think what Mr. Liddiard said is correct. There are times when I'm asked questions about, and this isn't the exact, this isn't the example. This isn't even close to an example, this is just an extreme example, but it's like being the mechanic that keeps the bus going and having someone come up and ask you, "How can I put a bomb in the bus? You know, how can I stop the bus from going the direction it's going?" Mr. Liddiard's questions to me weren't that kind of questions, but they're questions about, the Mayor has, he has a way he wants the administration of the city to go. He's given instructions to the department heads about, you know, the way we are to behave, the way we are to perform our services, the way we're to do things. He's given some instructions, we got into this over the budget. He have some instructions to the City Treasurer and they did some consulting. I think they thought they were right. Now, their interpretation, I'm not the only one that interprets the rules around here. The City Recorder interprets the rules. The City Treasurer interprets the rules. And so sometimes they ask me and sometimes they're comfortable with the interpretation they have just from the books and they don't ask me, but the point I'm trying to make is that, in the Mayor's administration, he's called upon to answer questions from day to day, or to take actions from day to day, and he calls up and says, "Look, I want to do this, I think this is the right thing to do. Does the law allow me to do it?" And I say, "Well, the law gives you this much room. As long as you work within those two boundaries, you can do what you're proposing to do. Personnel matters comes to mind. So, yeah, there are times when a Council member might call up and say, ask me a question that, that in my judgment gets close to undermining some instructions I've been given by the Mayor, then I'd say, "You know what, I can't really help you strategize about that or give you any information about that, because I think it undermines the instructions I've been given as far as the direction the Mayor wants to take the City.

Mayor Olsen: That could go both ways, couldn't it? I mean, a mayor could come in and try to put you in a position that would be adversarial towards the Council, as well.

Mr. Kinghorn: Well, we've had those situations where a mayor says, "I want to do that." And I have to say, "No, you can't. That's no legal. That's not proper. You can't do that." And I've had that with every single mayor of Eagle Mountain so far. It's not a big thing.

Councilmember Blackburn: I missed that. Can you say that again? [Laughter]

Mayor Olsen: Including this one? I mean, that's a big statement.

Mr. Kinghorn: On a couple of real minor things, I think, yeah. I think you've said, "How about this?" I'd say, "No, I think you'd better do it this way." But that's just a judgment call.

Mayor Olsen: I appreciate you bringing that up, because I think it's relevant for the discussion. If this Council does choose to retain legal counsel for their, to protect the Council and its interests, then I

would also suggest that the Council should seriously maintain a balance of power. So if I'm ever in a position, or a future mayor's in a position, they would be able to retain the same. Otherwise, I think we should just keep it with the City Attorney. I'm confident that adversarial relationship doesn't exist with our City Attorney. Councilmember Strouse:

Councilmember Strouse: Jerry, you already mentioned that there has been several occasions in other cities that you're aware of where the Council does, on occasion, retain its own attorney. So are you aware of other cities where that happens with the Mayor retaining their own attorney?

Mr. Kinghorn: It happened in Holladay a few years ago. It's pretty rare, but it happens once in a while. Like I say, it's very rare. Usually, when these situations come up, the lawyers wind up sitting down and working it out, because none of us wants to spend a whole bunch of money litigating some issue that we can resolve.

Mayor Olsen: With the taxpayers' money, going with three attorneys.

Councilmember Lifferth: Mr. Mayor.

Mayor Olsen: Councilmember Lifferth.

Councilmember Lifferth: In reviewing this one more time, going through the implications of what's being proposed here tonight, and potential budget implications, this by no means is abiding by the guidelines of the State of Utah in allocating budget money and allowing something to occur. I think this needs to be declared illegal and sent back to the drawing board for it to come back as a budget item, to allow this item to occur.

Mayor Olsen: Now, when you say illegal, are you referring to, there's no resolution in front of us?

Councilmember Lifferth: Budget amendments have to go through a certain number of notifications, we have to have a public hearing. If we were to approve this tonight, we'd be violating a number of known State statutes governing city budgets.

Mayor Olsen: My only concern, Council, is if it passes, what exactly does the Mayor sign on paper, that would be my question. Once this legislative body chooses to, to do this, what am I signing to make it enforced?

Councilmember Strouse: I would like to hear Jerry Kinghorn's response to Councilmember Lifferth.

Mr. Kinghorn: If you had a specific amount of dollars that you were going to move from something to something, you know, create a new budget item, and you were trying to do that tonight, he'd be dead-on right, because it wasn't part of a tentative budget that was before the, in the City Recorder's office ten days before adoption and there wasn't a seven-day public notice. I assumed when I saw this that this was kind of a sense of the Council that you were, you wanted to consider this, you wanted to get approved as a sense of the Council and wanted to go in the direction of establishing a budget item, not necessarily establishing one tonight. I didn't prepare a resolution for you. I didn't know exactly what you had in mind. I didn't think you had a specific amount of money in mind or anything of that kind, or certainly it didn't comply with the rules Mr. Lifferth mentions on amending a budget, but I had assumed that this was just going to be a motion of the Council to go in the direction of amending the budget and

have this very discussion we're having now, about whether it's something that deserves further consideration and budget amendment or not, or further vote on a budget amendment.

Councilmember Strouse: So is this problematic? The request that we vote to approve, or vote on a resolution to approve seeking to retain an attorney upon occasion. So is this problematic?

Mr. Kinghorn: Well, I'm not sure what it means. That's what I'm struggling with here. I think that if you were to . . .

Councilmember Strouse: It's sort of permission.

Mr. Kinghorn: Yeah, what I was thinking, if I were trying to structure this for you, what I would probably do is say that you ought to work with the budget to find the dollars to set into a line item to create a line item for outside counsel and put that through the tentative budget and budget amendment process. I'm not sure what this means tonight. I understand what you're saying. When I talked to Dave Church, I said, you know, is there some specific ordinance or resolution we ought to be passing, and he says, no, it's just a budget item, as far as he's concerned. It's just been handling as a budget item in the past, where the Council would set up a budget item to go retain outside counsel if they wanted to, and then, you know, I didn't get into the fine details about who selects the lawyer and how do they vote on what their position is going to be, because you have five people, technically six with the Mayor on the Council. The question becomes, does he get to sit in on those negotiations? Well, probably not, because he's the party that's adversary to the rest of the Council, but certainly all the rest of the Council members, you know, should have recourse to that attorney. I think it puts the attorney in a very tough spot, because he doesn't have any entity with a specific person who's the last word in giving him guidance on what he ought to do. So, if the five of you, say, went to see this attorney and sat there and had a big discussion about some subject and you didn't come to a consensus, he'd have a; what you may just be looking for information. You know, you may just be looking for information, and he could probably give you information that you could all agree is, "Yeah, this makes sense. This is the right information."

Councilmember Strouse: So a resolution that would just establish that the majority of the Council feels we need to go in this direction, is that adequate?

Mr. Kinghorn: I think you need to do it as a budget item, Ms. Strouse. I don't think . . .

Councilmember Strouse: OK, that answers my question. So how do we do that?

Mr. Kinghorn: I think having this discussion and voting to establish a budget for that puts you in the direction of going through the formal process that Mr. Lifferth's talking about.

Councilmember Lifferth: Mr. Kinghorn, may I ask a follow-up question to that? Is there anything now keeping anyone on the Council seeking legal counsel?

Mr. Kinghorn: No.

Councilmember Lifferth: If I wanted to go out and hire some high-priced attorney to get whatever I wanted . . .

Mayor Olsen: Order, please, we've got two council members discussing over here and we need to listen, please. Go ahead.

Councilmember Lifferth: So there's nothing currently prohibiting me from seeking and retaining counsel, as long as I do it on my dime.

Mr. Kinghorn: No there's nothing like that.

Councilmember Lifferth: The only concern here is that, if there is money that could potentially be used to retain an attorney. That's what retaining means, you've got someone on your dime.

Mr. Kinghorn: That has happened in Eagle Mountain before, that they have, members of the Council have gone out on their own dime and retained lawyers who've called me up and said, "What are you talking about." "Well, this is what I'm talking about." We wind up getting the right information.

Councilmember Lifferth: And we can do that right now. There's nothing prohibiting us from doing that, if we so desire.

Mr. Kinghorn: No.

Councilmember Lifferth: OK, so the only reason we would pass something like this, Mr. Mayor, is if we're wanting to spend the taxpayer's dollars on an additional attorney. I think it's an illegal ordinance or resolution that's being proposed tonight, and needs to be declared that way, and we need to go home.

Mayor Olsen: There is a motion on the table . . .

Councilmember Blackburn: Mr. Mayor, instead of calling it illegal, should we call it, maybe, inappropriate at this time? Rather than illegal, because it's not law yet, so it can't be . . .

Councilmember Lifferth: The attempt tonight is to spend money that has not been budgeted for. The word 'retain' means we are keeping someone working for us and money is implied. This is an illegal act and this will go down in history in Eagle Mountain.

Councilmember Strouse: Is this an illegal act, Jerry?

Mr. Kinghorn: I don't think you're appropriating any money tonight. I don't think you're changing the budget tonight, so I disagree with Mr. Lifferth, in that it's an illegal act, because you're not amending the budget. But I don't know what you're doing. I don't know what the legal effect of this is, because you already have the ability to go through the process and amend the budget to create a budget item for yourselves for legal counsel. I hate to disagree with anybody on the Council, but I don't . . .

Councilmember Strouse: But it's not an attempt to wantonly disregard the taxpayers' money. The intent, as I stated earlier, is to make sure that we can better do our job of representing our constituents, and more efficiently and, therefore, actually be saving the taxpayers money.

Councilmember Jackson: Mr. Mayor.

Mayor Olsen: Councilmember Jackson.

Councilmember Jackson: I'm still just stuck on language, here, and so, you know, I apologize for being stuck on language, but, the way this looks, it looks to me that it's saying that, you know, the Council has the ability to retain legal counsel separate from the Mayor, which implies that the Mayor has counsel. My confusion is, what is that counsel? And we've still, you know, I mean, Mr. Kinghorn has said that he represents the City. And so I guess I'm just still kind of confused, which is, again, why I said in the first place, if we're going to have an ordinance or a resolution, I think we should have it in its entirety with all of its wording, and not a sentence as to what it is we're enacting.

Councilmember Strouse: Well, since Jerry Kinghorn already explained that to us and, you know, I don't think anybody here is pursuing this at this time, because he already explained it needed to be restated in a different manner, as a budget item.

Mayor Olsen: So we do have a motion . . .

Councilmember Lifferth: Based on Jerry Kinghorn's statement and Linn Strouse's statement, I move to adjourn the meeting. There's nothing to do.

Mayor Olsen: Well, we have a motion . . .

[Several speaking at once]

Councilmember Blackburn: Our attorney has told us it's not an illegal motion. We need to consider the motion, and then we can move to adjourn.

Mayor Olsen: Let's make sure we all understand that, if the, you as a Council have the opportunity to pass the motion, and what I understand is there's consequences that will follow with that motion if enacted. What those consequences are may be . . .

Mr. Kinghorn: You know what, I think the way to resolve this is for the proponents of this to sit down and kind of write out a few sentences of how you would go about selecting legal counsel and how you would go about having some way to consult privately with that counsel and take a vote among yourselves, not as Council members but in terms of, you know, if you get in there and you've got a disagreement about what to instruct counsel to do, or what you want him to research, for example, or something of that kind, that you have some mechanism in that resolution for resolving it. Majority rules is probably what you would wind up saying. But I think it would be wise to have something kind of written out, and I would be happy to help you try to find the right words for that. I think that that's not an inappropriate thing to do. Obviously, you're struggling here with some policy that you're trying to develop and three of you are in favor of it. So, if you'll accept that recommendation, I would recommend that you withdraw the motion. I would work with whoever wants to propose something in writing like that and we bring back a formal resolution that can be placed on the agenda under the terms of this new ordinance that you just passed, allowing you to place matters on the agenda. Anyway, that's my suggestion.

Councilmember Blackburn: Mr. Mayor.

Mayor Olsen: Councilmember Blackburn.

Councilmember Blackburn: As having made the original motion for, I'm sorry, I don't remember if I read it or if I just. . . Who made the motion? Was it Vincent? OK

Councilmember Liddiard: But go ahead. I will follow in suit and you simply beat me to it. Based on the recommendation of our City Attorney, I think it would be fine to withdraw the motion and to allow Mr. Blackburn and Ms. Strouse to complete a dialog with the City Attorney as they see fit.

Mayor Olsen: All right. So I recognize that the motion has been withdrawn. That then concludes the items on our agenda this evening. Our next meeting is scheduled for September 30th, I believe, at . . . Gina what time was that? The September 30th meeting?

Ms. Peterson: The 30th. One at 12:30 and one at 1:00.

Mayor Olsen: So there's two meetings, 12:30 and 1:00.

Ms. Peterson: Right.

Mayor Olsen: Do I have a motion to adjourn?

ADJOURNMENT

Councilmember Blackburn **moved** to adjourn the meeting at 8:35 pm.