

Minutes of the Work Session meeting of the Syracuse City Council held on January 31, 2012, at 6:00 p.m., in the Council Work Session Room, 1979 West 1900 South, Syracuse City, Davis County, Utah.

Present: Councilmembers: Craig A. Johnson
D. Matthew Kimmel
Karianne Lisonbee
Douglas Peterson
Larry D. Shingleton

Mayor Jamie Nagle
City Administrator Robert Rice
City Recorder Cassie Z. Brown

City Employees Present:
Finance Director Steve Marshall
City Attorney Will Carlson

The purpose of the Work Session was for the Governing Body to receive public comment; receive a presentation regarding the potential refinance of 2008 Fire House Bond; receive elected officials training; discuss Resolution R12-02 adopted on January 10, 2012; and discuss Council Business.

Public comment

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Ryan Chandler stated he has been a resident of Syracuse since 1998 and he wanted to comment regarding the development going on near Syracuse High School. He stated that sometimes in an effort to find a solution to a problem it is surprising that some details can be missed; it is certain the same thing is happening with the development of the land near the High School. He stated he has found some substantial oversights related to this project; the actual benefit from this project will bring far less to the City's budget than "we" realize. He stated that it will employ very few of the City's citizens, bring aesthetically unattractive structures, provide the potential for physical harm from the industries doing business there, bring noise pollution, and create a venue that will promote drug trafficking and crime. He stated that he realizes the need for more revenue for a growing City, but the location for this type of development is inappropriate. He stated that it does not belong next to homes and high schools, even the developer himself admitted he would not want this development in front of his own home. He asked why that is. He then asked the Council to ask themselves if they would want it in their front yard. He noted Syracuse City will have many more opportunities to develop this land appropriately and he advised to never, ever take the first offer. He stated the City should be choosing the development plan that meets the City's zoning requirements, not conform to a developer to quickly strike a deal and move on. He noted the citizens of Syracuse have chosen the Council to represent them and he is very glad they are in office. He asked them to represent the citizens wants and listen to what they are asking for; he encouraged them to put themselves in the shoes of the residents, especially those living on 700 South.

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Christy Whitman, 1648 W. Heritage Parkway, stated she would read for the record a letter she sent to the Mayor this morning. "Dear City Councilmembers and Mayor: I am aware of the decisions you will be making in the upcoming weeks regarding the zoning and development of the land next to Syracuse High School. I have some concerns I would like to share with each of you. First of all, we met with Ninigret and spoke directly with the President of the company and as she has researched more about light industrial parks throughout the State she has found that none of them are next to or near any schools or homes. I am wondering what you as a committee are thinking in allowing this to go in so close to the High School. It will potentially increase crime, which will in turn increase taxes and have nothing but negative results as far as I can tell. Also, I would like to further understand what tax revenue you see will bring into the community. Has there been a study done of what the amount will be and how it will affect our EMS services and road repairs. We cannot as a City maintain our roads now and yet we are considering increasing the traffic on 1000 West and 700 South and the surrounding areas. Second of all, I cannot understand what purpose an apartment complex or high density housing would serve. As far as I can tell, all it is going to do is lower my property values, increase classroom sizes dramatically (which are already too large for schools to handle), and increase crime in my neighborhood. I would much rather see homes and/or a park built on the land which would greatly help the families that already live in this area. I was at the meeting with the Ninigret Corporation at the High School a couple of weeks ago. They clearly said they are not even considering anything except their proposed plan, which greatly concerns me. We as citizens of this community have the right to say what goes in next to our homes and our schools; that is the point of the zoning laws. I understand the land is currently zoned for commercial and mixed land use;

however, I cannot see any benefit to our City if Ninigret's plan goes into effect." She then stated she wanted to echo Mr. Chandler's comments that the citizens elected them to represent them and they do not want this near their homes or schools.

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Lisa Chandler, 1555 W. 700 S., stated she has heard many comments and has done her homework; she took a tour of the Ninigret property in Salt Lake and in the 18 years that those structures have been standing they still look very nice, but what those living on 700 South will see are all the semi trucks because they have to have south facing buildings. She stated she will be listing to semis that will run all night long. She stated that in her research she found that even the State of California will not allow any type of industrial park within a certain distance from schools. She stated that for Syracuse to lower its standards and allow the development around the High School is humorous. She stated that relative to the apartment complex, the City has already talked about it and voted on it and the thought that the City will lower its standards just to get this developer in the community. . .she wondered if "we" would ever recommend that our children lower their standards because this might be the best they can get. She stated that she would ask the Council to listen to what the citizens are saying; it is interesting how many people are unaware of this project and the fact it is being pushed through so quickly. She stated it would be nice if the citizens were more aware because all those she has talked to are appalled that this is happening in the City. She stated the City has been around for over 75 years and she does not understand the sudden panic to try to figure this out immediately. She suggested taking a step back to figure out what the City wants and then move from there.

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Brian Duncan, 902 S. 1875 W., stated that he has looked at some of the studies and he does not understand it all, but he finds some disturbing trends and he wants to talk specifically about light industrial land use. He stated that he looked at some comprehensive studies that have considered what happens to property values around commercial or residential areas and he found that those areas can be significantly impacted by light industrial land use nearby. He stated that the impact on housing is significant when the type of housing is not considered congruous with the type of development surrounding it. He stated that what the City needs to ask is if the industrial area will actually be supported by the surrounding neighborhoods. He stated that in looking at the area he can see that the houses are \$200,000 to \$400,000 houses and they are not congruous with an industrial area. He stated that what the City is going to do is take the citizens of the City that have built homes in that area with the theory that they would be living in a quiet neighborhood and drive down their property values, which means they are going to lose and the City will lose as a result of driving down the tax base. He stated that the problem will just be shifted. He stated the reason why "we" want an industrial area here is because it is more expensive to redevelop the industrial area in Clearfield. He referenced the Freeport Center and stated it is not completely full and no one has taken the time to redevelop it. He stated that the houses that were around the Center are gone because no one wants to live there anymore. He stated that "we" are taking a problem that has developed over the years in Clearfield that has driven down the value of the property there, and shifting it to Syracuse and what "we" will see 20 or 30 years down the road is that no one will want to live here either because of the development of a light industrial area. He stated that once the value of the development is no longer present they businesses will move somewhere else and ruin another neighborhood. He stated that in other words, someone has an opportunity to develop and make money off the backs of the people of Syracuse and then leave when they are done doing that, just like they have done with the Freeport Center in Clearfield.

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Bob VanVelkinburgh, 2081 W. Craig Lane, asked when the homes were built, was the land around the Syracuse High School zoned for residential and later changed. Mayor Nagle stated the City will be having open house meetings about this issue and the public can come forward with their concerns at this time. She stated that she wants to be clear that this project came to the City and the City has been trying to facilitate a smooth process to balance everything that is happening and coming at the City very quickly. She stated that part of the land in question is zoned for industrial use and has been for quite some time, but she would like to invite the public to attend the open houses. She stated the developer has not even presented a site plan to the City at this point, so there is a lot of speculation that is taking place. She stated there have been discussions about general concepts, but no specifics. She stated that the project is still in the embryonic stage. She stated she looks forward to meeting with the residents and getting their input and feedback as the process moves forward. She stated she appreciates everyone coming to the meeting and she recognizes there is a concern. She stated that "we" all want to move forward cautiously. She stated that "we" all moved to Syracuse for the same reason and they all enjoy living in the City. She stated that she does not want to see the City destroyed and she wants to build sustainability into everything that is done.

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Presentation regarding potential refinance of 2008 Fire House Bond.

A staff memo from the Finance Director explained the City has an opportunity to refinance its 2008 MBA Lease Revenue Bonds. Typically the industry standard for moving ahead with a bond refinance is 3% meaning the savings we recognize from the refinance should exceed 3% of the refunded principal. In this case, we exceed this industry standard because our projected savings is 3.83% of the refunded principal. We are at historic low interest rates. Another important note is that the savings are computed after all the issuance costs have been paid. This means that the city would not have to pay anything at the close of the refinance. We would wrap up the closing costs and costs of issuance into the repayment schedule. This refinance would not extend the term of the bond; it simply keeps the same repayment schedule (in terms of years) and saves about \$15,700 per year for over the life of the bonds. The memo closed with Mr. Marshall recommending the City take advantage of the current environment and refinance these bonds.

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Mr. Marshall reviewed his staff memo, with some input from City Manager Rice.

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Council discussion regarding the issue ensued.

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After a short discussion the Council came to the consensus to move forward with the refinance.

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Elected Officials training.

A staff memo from the City Recorder explained that historically the City has provided some form of Elected Officials Training soon after newly Elected Officials are sworn into office. Staff has arranged for Gary Crane, Counsel for the Utah League of Cities and Towns, to attend the work session meeting scheduled for January 31, 2012 to provide training on several important topics that are vital to the success of an Elected Official. Some of the topics that Mr. Crane will cover include the Municipal Officers Ethics Act, Open and Public Meetings Act, and the Government Records Access and Management Act. Councilmembers Johnson and Lisonbee have been provided with a current copy of the Elected Officials Handbook from the ULCT. Please bring these books to the meeting with you as Mr. Crane will be referencing the book frequently. I will order a new copy of the book for the rest of the Governing Body members and I will bring the books to the meeting.

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Gary Crane then commenced his training. Throughout the training there were questions from Councilmembers that led to various discussions. The training concluded at 7:16 p.m. ([1:33:11 PM](#))

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Discussion regarding Resolution R12-02 adopted on January 10, 2012.

A staff memo from the City Recorder explained that on Monday, January 23, 2012, she received an email from Councilmember Lisonbee stating that she and Councilmember Johnson were requesting that an item be added to the work session and business meeting agendas to discuss Resolution R12-02 adopted by the Council on January 10, 2012. The Resolution included several appointments and assignments, including the appointment of Councilmember Shingleton to be the City's representative on the North Davis Sewer District (NDSD) Board. Following the January 10 meeting there were several discussions regarding the legality of that appointment. The entire Council was copied on emails sent by City Attorney William Carlson regarding the issue. For this agenda item Ms. Brown provided the January 23 email sent by Councilmember Lisonbee as well as the responses to that email as well as a copy of Resolution R12-02 that was adopted on January 10 and a new Resolution R12-02 including the changes recommended by Mr. Carlson. Staff will be available to answer any questions regarding this issue.

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Mr. Carlson led the discussion regarding this item and provided a summary of the legal opinion he sent to the Council relative to the appointment to the NDSD.

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Councilmember Lisonbee then stated that she has some information that she feels could provide some clarification on this issue. She stated that she has conducted a lot of research on this issue; she got in touch with the Utah Association of Local Districts and talked with their attorney, Mark Anderson. She reviewed the legal opinion from Mr. Anderson, who wrote the Section of the Utah Code dealing with special districts, as follows:

Section 17B-2A-405(g) does not apply to the NDSB, which means that the City must look to Section 17B-2A-404, which says the Legislative Body makes appointments to sewer improvement districts. That means the City Council makes the appointment rather than give advice and consent on the Mayor's appointment. The Council may choose not to appoint. The Mayor appears to have been given conflicting counsel regarding how to handle to these appointments and the City must look further back to rectify any misapplication of the law that has occurred, so that the Council may appoint lawful representation for the citizens to the NDSB. At the May 31 Council meeting, Councilmember Peterson was appointed by Resolution to the NDSB and on January 10, 2012 Councilmember Shingleton was appointed to fill that position, but City Attorney Carlson gave his opinion that instead of a Council vote on the Resolution it is the Mayor's signature that is the act of appointment and that therefore she was the appointing authority. Since 17B-2A-405 does not apply to the City's appointment to the NDSB, it would appear that the appointment of Councilmember Peterson is not valid. Either way, 20A-1-512 was not followed as referred to in 17B-1-303 governing mid-term vacancies; consequently Councilmember Peterson's appointment cannot be regarded as lawful. In addition the actions of the Council on January 10 were not lawful. For a vacancy at the end of a Boardmembers term of office, 17B-1-304 governs. For a mid-term vacancy 20A-1-512 governs as referred to by 17B-1-303. 17B-1-303 says that except as provided, each mid-term vacancy in a Board of Trustees position shall be filled as prescribed by Section 20A-1-512. 20A-1-512 says that whenever a vacancy occurs on any local district board for any reason, a replacement to serve out the unexpired term shall be appointed as provided in this section by . . .the appointing authority as defined in 17B-1-1-2, which says that it is the Governing Body that is authorized to appoint, if the person vacating the position was appointed. The City is required to give two week notice, which includes the date, time, and place of the meeting where the vacancy will be filled and the person to whom a person interested in being appointed may submit his name for consideration.

Mr. Carlson noted he has not had the chance to opportunity Mr. Anderson's opinion so he cannot respond at this time.

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Mayor Nagle suggested that this item be tabled until the entire Council has the opportunity to review the legal opinion Councilmember Lisonbee is referencing. She noted Mr. Carlson needs the opportunity to review this opinion in addition to the other two legal opinions the City already has.

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Councilmember Lisonbee stated she would like to complete her presentation of the information she has worked so hard to find. She stated it is new information and it is applicable. She continued her review of Mr. Anderson's legal opinion as follows:

20A-1-512 covers midterm vacancies that need to be filled and since the resolution listed Councilmember Kimmel's removal on the same night that Councilmember Peterson was appointed it is impossible that a two week vacancy was publicly noticed as required. Consequently since Utah Code was not followed, it appears that there is currently no duly appointed representative to the NDSB from Syracuse unless the City considers Councilmember Kimmel the last lawful appointee. The original appointment of Councilmember Kimmel was made according to 17B-1-304 and, according to Ivan Anderson at the NDSB, expires at the end of 2013. 17B-1-304 provides the procedures the Governing Body will follow in making appointments and the City may need to reclarify the appointment to the Wasatch Integrated waste Management District (WIWMD) to ensure that the law is followed.

Councilmember Lisonbee then stated that after a phone conversation she had with Mr. Anderson, she feels the appropriate way forward may be to see if Councilmember Kimmel would be willing to tender a resignation to the NDSB and the City can then follow the law to appoint a Councilmember to that position. She stated that Mr. Anderson agreed that would be the cleanest solution. She stated that if the Council agrees that Councilmember Kimmel was the last lawful appointee, they can proceed in that manner, but if not they can move forward with the understanding that Councilmember Peterson's appointment did not follow statute. She proposed that staff draft and publish a public notice advertising the two week vacancy prior to the next meeting; the position can be filled on February 14. The Council must provide the citizens of Syracuse with a fully vested representative by following the law.

Mr. Carlson stated that he called Mr. Anderson over 10 days ago and he has not responded to him, though it appears he has had time to respond to Councilmember Lisonbee.

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Mayor Nagle asked that Councilmember Lisonbee work with Mr. Carlson on this issue before determining how to bring this back to the Council for resolution. She then reported she has started lobbying to get compensation taken away from these types of positions because she finds it ironic that the only discussion the Council has is about this position. She

noted other cities are having the same issue, so the Council of Governments (COG) has talked about it wants to seek a way to solve the problem. Councilmember Lisonbee stated she has already conducted research and there are many different appointments she is concerned about. She stated she is doing this because she wants to follow the law and she does not care about the compensation and she is not trying to get appointed to any of those positions that receive pay. She stated that she thinks it is very important that the entire Governing Body understand the law and do their due diligence.

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Councilmember Kimmel asked Councilmember Lisonbee is Mr. Anderson charged a fee for his advice. Councilmember Lisonbee answered no. She added that she also talked with a couple of other attorneys and they concurred with Mr. Anderson's advice. Mr. Carlson stated that she is glad that Councilmember Lisonbee had time to talk to other attorney's about Mr. Anderson's opinion; he would have liked an opportunity to view that opinion prior to this evening so that he could have prepared a response. Councilmember Lisonbee stated that she has tried to communicate with Mr. Carlson that the law he was quoting did not seem right, but instead of responding to her communication it seemed that Mr. Carlson had already reached his conclusion. She stated that is why she sought other counsel; she was concerned the City was being exposed because the City is not following the law. Mr. Carlson stated that was not intentional.

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Mayor Nagle asked to conclude the discussion; she asked Councilmember Lisonbee to discuss the issue further with Mr. Carlson. Councilmember Shingleton suggested that the two do as much face to face conversation as possible regarding this issue.

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Public comments

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Brent Andrews, no address given, stated he is on the Sunset City Council and his city has shared newspaper articles, possibly written by the same reporter, with Syracuse City. He stated his city has an attorney who also disagrees with Mr. King (NDSB legal counsel). He stated that Sunset followed the law when they had three Councilmembers vote to appoint someone to the NDSB Board. He stated their attorney has said that they did not violate the law. He stated there will be a proposal at the next Sunset City Council meeting scheduled for February 7 to take all the money paid by the NDSB Board to the member serving as the City's representative, give the money to the city, and then equally divide it among the Councilmembers. He stated he will propose that the Mayor does not get any of that money because he already earns twice the amount paid to Councilmembers. He stated that his Mayor earns over \$700 per month and the Councilmembers earn \$300 per month. He asked how much the Councilmembers in Syracuse City are paid. He then stated that may be something the Syracuse City Council might want to consider doing as well rather than the Mayor donating the money she earns to Wasatch Integrated Waste Management District (WIWMD). Mayor Nagle stated that is not what she is doing. She stated she is taking the money paid to her by the WIWMD and donating it to the City's Recreation Department for them to use for sports scholarships for local youth. Mr. Andrews stated that instead of donating the money to a non-profit organization the council could give it to its members instead. Mayor Nagle asked Mr. Andrews if he is promoting putting more money in the "Councilmember's pockets", to which Mr. Andrews answered "oh, sure, we need the money. I am on Social Security."

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TJ Jensen, 3242 S. 1000 W., stated he wanted to commend Antone Clark, Standard-Examiner reporter, on his reporting on the City. He seems to be unbiased and less sensational in his articles. He noted however, that reporter Bryon Saxton does not share that reputation. He stated that there was a controversial decision made a couple weeks ago and he thought that Mr. Clark did a good job of reporting on both sides of that issue.

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Brian Duncan stated that he appreciates what Councilmember Lisonbee has brought to the attention of the Council; he is a little disappointed that some wanted to table that discussion. He stated there are some people present that are interested in those types of issues as well as open meetings and how they are conducted. He stated he does not see any acrimony; he commends Councilmember Lisonbee for finishing what she had to say.

The meeting adjourned at 7:45 p.m. ([1:59:59 PM](#)).

City Council Work Session
January 31, 2012

Jamie Nagle
Mayor

Cassie Z. Brown, CMC
City Recorder

Date approved: January 22, 2013