

Minutes of the Work Session meeting of the Syracuse City Council held on April 24, 2012, at 6:00 p.m., in the Council Chambers, 1979 West 1900 South, Syracuse City, Davis County, Utah.

Present: Councilmembers: Brian Duncan
Craig A. Johnson
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
IT Director TJ Peace
City Attorney Will Carlson
Community Development Director Michael Eggett
City Planner Kent Andersen

The purpose of the Work Session was for the Governing Body to review agenda for Special Council Meeting to begin after the work session; hear public comments; receive the annual report from Justice Court Judge Bean; discussion secondary water agreements; receive a report from Councilmember Peterson regarding his attendance at the ULCT Mid-Year Conference; review City Council Rules of Order and Procedure; review the draft rewrite of Title Four of the City Code; review and discussion Title Two of the City Code; have a budget discussion; and discuss Council Business.

Agenda review

[12:31:05 PM](#)

Councilmember Lisonbee asked if there will be someone present to answer questions regarding the proposed grant. City Manager Rice answered yes.

Annual Report from Justice Court Judge Bean

[12:31:55 PM](#)

Judge Bean used the aid of a PowerPoint presentation to provide his annual presentation to the City Council.

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Councilmember Peterson asked if there is the potential to hold Justice Court more than one day per week. Judge Bean stated that one day is sufficient at this point in time, but if the City were to consider entering into interlocal agreements with other cities to handle their local citations, it may be necessary to hold more than one court session a week.

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Councilmember Peterson stated that he has appeared in front of Judge Bean as an attorney and Judge Bean enjoys a very good reputation and the City is lucky to have him on the bench.

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Mayor Nagle asked how much interaction the Justice Court has with the Youth Court. Judge Bean stated that once a year he addresses the Youth Court. He stated that he wrote the charter for the Youth Court many years ago. Mayor Nagle stated she is a firm believer in the Youth Court program, but she was curious as to whether Judge Bean had an opinion regarding the purpose that the program serves. Judge Bean stated that he has asked that same question of other judges and they all unanimously agree that the program is wonderful and it takes some of the lesser offenses out of the Juvenile Court. He stated that he feels the City's Youth Court is doing a great job and there are some cases where remediation has occurred.

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Mayor Nagle stated she would echo Councilmember Duncan's comments; she has heard nothing but good about Judge Bean and she is glad he is the judge for Syracuse City. Judge Bean thanked the Council for the opportunity to present.

Discuss secondary water agreements

[12:57:20 PM](#)

A staff memo from the City Recorder explained this item was been added to the agenda at the request of Councilmember Lisonbee. The memo also explained that Ms. Brown conducted research into the claim of agreements between the City and property owners regarding secondary water rates and she was unable to find any documents wherein the City has committed that secondary water rates will never increase. Ms. Brown explained she spoke with the previous Public Works Director about this issue as well and he concurred that the City did not enter into any agreements of this nature.

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Ms. Brown summarized her staff memo.

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Resident LaVell Sackett stated that the reason that he was asked to make a presentation is that he is the Vice-President of the West Branch Irrigation Company and he can provide a brief history of the Company as well as explain how the City gets its secondary water. He then provided a presentation to the City Council regarding his understanding of this issue.

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Council discussion regarding Mr. Sackett's presentation began. Mayor Nagle stated she would like for Mr. Sackett to meet with City Administration to discuss his ideas and proposals.

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Resident Val Cook approached the Council and provided his presentation regarding this issue. He stated he is also involved with the West Branch Irrigation Company.

[1:20:47 PM](#)

Council discussion regarding Mr. Cook's presentation began.

[1:29:31 PM](#)

Resident Lurlen Knight then provided a brief presentation explaining his understanding of the issue based on his experience as a City Councilmember in the past.

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Council discussion regarding Mr. Knight's presentation commenced.

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Planning Commissioner TJ Jensen asked to provide some information based on his experience as a member of the Board of Directors for the Layton Canal Company.

Councilmember Peterson's report on his attendance of the ULCT Mid-Year Conference

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Councilmember Peterson stated that he appreciated the opportunity to attend the conference and he provided a brief report of the information he learned at the sessions he attended. He concluded by stating he feels these kinds of conferences are very important and feels it would be valuable to budget enough money to send each Councilmember to one of the conferences that the ULCT provides, whether it be the Mid-Year Conference in St. George or the Annual Conference in Salt Lake.

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Councilmember Shingleton thanked Councilmember Peterson for his report and stated he feels the information is very helpful. He stated Councilmember Peterson will be able to use the information he gathered to educate the Council on issues in the future.

Review City Council Rules of Order and Procedure

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This item was added to the agenda at the request of Councilmember Lisonbee. The Council packet included a version of the Rules of Order and Procedure document with comments from Councilmember Lisonbee and City Attorney Carlson.

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Councilmember Duncan stated he has had a very difficult time following the edits in the document. Mayor Nagle agreed and suggested that Mr. Carlson come up with a brief one page document based on some of the recommended edits that can be used as a starting point for the Council to review. She reiterated she is having a hard time following all of the changes. Councilmember Shingleton agreed and stated that he has had some concerns about some of the items that are included in the document. Mr. Rice suggested the editing may be muddled because there have been several people editing the document. Mayor Nagle asked if any member of the Council has a problem with Mr. Carlson condensing the edits into one

document for further consideration by the Council. Councilmember Duncan stated that he is comfortable with that, but he would also like Mr. Carlson to check with other cities to find out how their Rules of Order and Procedure read. Ms. Brown stated that is the same process she followed in 2011. Councilmember Lisonbee stated that she has a clean copy that she brought to the meeting tonight, but she is comfortable continuing the discussion to the next meeting. Councilmember Duncan agreed and stated that the document has been overdone and it can now be simplified. The final direction was for Mr. Carlson to come up with a clean document based on the edits in the current document as well as come up with an additional document with other changes he may deem necessary.

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Council discussion regarding the item continued. The direction to staff did not change.

Review draft rewrite of Title Four of the City Code

[2:09:25 PM](#)

A memo from the City Recorder explained the draft rewrite of Title Four was provided to the Council at the first of the year for a second reading. The document has been reviewed at various Council meetings, but most recently during the April 10, 2012 work session. Staff is desirous of receiving feedback in order to schedule a public hearing regarding the rewrite.

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Public Works Director Whiteley approached the Council and explained the reasons for proceeding with the rewrite of Title Four.

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Council discussion regarding the document then commenced; the Council recommended minor amendments to the document, which staff took note of in order to update the document for future discussions. The final direction was for staff to make changes to the document where necessary, including the addition of a table that specifies which decisions made according to the Title are appealable to the City Council. Council determined it would be appropriate to add an item to the next work session agenda to allow a final review prior to a public hearing being held during the business meeting on the same night.

Review and discuss Title Two of the City Code

[2:34:32 PM](#)

A staff memo from City Attorney Carlson explained that approximately 18 months ago, the Syracuse City Council, on a 3-2 vote, passed "Title II: Administrative and Personnel" as a rewrite to "Title I: Administrative Ordinance." In recent City Council meetings, members of the public have alleged that the vote for Title II did not comply with statutory requirements because the mayor's ability to hire and fire changed and the mayor did not vote on the passage of Title II. In response to concerns recently raised by members of the public, Council members Duncan and Lisonbee directed the City Attorney to perform a comparison of the two titles to evaluate whether the powers of the mayor had been increased or decreased. While the areas of concern raised by the public were not changed, there are multiple changes in the delineated powers of the mayor. Based on my research, this offers the Mayor and City Council the option to reconsider Title II. This memorandum is a summary of my findings. There are fourteen enumerated mayoral powers, duties, and functions that are in either the old or new version of Syracuse Title II, but not in both. Some powers can be given or taken away from the mayor without the mayor's vote, but state code has special requirements for changing specific mayoral powers. According to State Code §10-3b-303, "adopting an ordinance removing or reinstating to the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative vote of: (a) the mayor and a majority of all other council members; or (b) all council members except the mayor." Comparing the fourteen areas of change to the powers listed in §10-3b-104 results in four arguably changed mayoral powers, duties, and functions. Since these four changes in Title II passed with a majority of the Council but not with the Mayor's vote, the vote did not comply with state law. The four changes are:

1. The power to inspect City documents. In the old version, "all records, books, papers, and documents belonging to any office of the City [were to] be open at any time to inspection by the Mayor or any member of the Council." §1-7-9. In the new Title II, "The City Manager shall, as needed, examine the books, records, and official papers of the City's departments and offices." §2.04.050.13
2. The power to pardon. In the old version, "The mayor [could] remit fines and forfeitures and release any person imprisoned for violation of any City ordinance, but he [was required to] report any such remission or release with the reasons therefor (sic) to the City Council at its next season.(sic)" §1-8-5. This mayoral power is not included in the new Title II.

3. The power to keep the peace. In the old version, “the Mayor [could] exercise within City limits the power to suppress disorder and keep the peace.” §1-8-6. This mayoral power is not included in the new Title II.
4. The power to call on adult women to enforce the law. In the old version, “the Mayor [could] when necessary call upon every male inhabitant of the City over the age of 21 years to aid in enforcing the laws and ordinances and in suppressing riots and other disorderly conduct.” §1-8-7. In the new Title II, the Mayor has the power to “when necessary, call on the residents of the city over the age of twenty one (21) years to assist in enforcing the laws...” §2.03.010.9

Perhaps most significantly, the old version included a catch all provision that provided to both “the Mayor and City Council...all the rights, powers, privileges, and authority conferred by the laws of the State of Utah upon cities of the third class...” 1-9-2. The new Title II limits the catch all provision to just the City Council. 2.02.010(f). Had the Mayor been included in the new Title II’s catch all provision, then the powers granted by 10-3b-104 would have remained with the Mayor and none of the above changes, except possibly number 4, would have changed the Mayor’s powers. While none of these powers are frequently exercised by mayors in Utah, they are each on the state’s enumerated list of those powers that require the vote of either the Mayor and a Council majority or a unanimous Council without the Mayor to change. Accordingly, the passage of Title II did not comply with state voting requirements. The City is and has been operating under the new Title II, however if anyone were to challenge a city action under Title II, a court would have to consider how the action was addressed in the old title. This would result in three possibilities:

1. If there was no change in how the issue is addressed between the old and new title, the City would likely prevail under such a challenge.
2. If there was a change in how the issue is addressed between the old and new title and the old title’s standard benefited the challenger, the challenger would likely prevail in a request to apply the old standard.
3. If there was a change in how the issue is addressed between the old and new title and the new title’s standard benefits the challenger, a court could determine that the challenger reasonably relied on the new standard.

Accordingly, the changes to Title II are subject to challenge and Title II may be appropriately reconsidered by the Mayor and Council.

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Mr. Carlson then reviewed his staff memo.

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Council discussion regarding the item then began. Mayor Nagle recommended that the Council be provided with the original Title One and the updated Title Two and when certain Councilmembers are ready to move forward with a recommendation they can bring it back to the entire Council. She stated that she feels it appropriate for the Council to take an action during their next business meeting to address the four issues that Mr. Carlson has found are a problem for the City.

Budget discussion

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A staff memo from the City Recorder explained this item was added to the agenda at the request Finance Director Steve Marshall to allow the Council the opportunity to ask questions and have open discussion regarding the FY2012-2013 budget request.

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Mr. Marshall approached the Council and provided a summary of the information that was included in the Council packet for this meeting, mainly focusing on the changes to the costs associated with employee insurance benefits.

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Council discussion regarding the item then began and ultimately concluded at [3:09:19 PM](#)

The meeting adjourned at [3:09:21 PM](#) p.m.

City Council Work Session
April 24, 2012

Mayor

City Recorder

Date approved: February 12, 2013