

Minutes of the Work Session meeting of the Syracuse City Council held on October 13, 2009, at 6:00 p.m., in the Council Work Session Room, 1979 West 1900 South, Syracuse City, Davis County, Utah.

Present: Councilmembers: Alan Clark
Doug Hammond
Lurlen A. Knight
Douglas Peterson
Larry D. Shingleton

Mayor Fred Panucci
City Administrator Rodger Worthen
City Recorder Cassie Z. Brown

City Employees Present:
Finance Director LaMar Holt
IT Director TJ Peace
Police Lieutenant Tracy Jensen
Detective Corey Bybee
GIS Technician Troy Moyes

The purpose of the Work Session was for the Governing Body to review the agenda for the Regular Council Meeting to begin at 7:00 p.m., review the City Council Calendar, review a recommendation from the Administration re: the culinary water overage rate multiplier recommendation; discuss potential changes to the personnel layoff policy; receive a budget update, and discuss Council Business.

Calendar

Councilmember Hammond reported that the next West Point Junior High Community Council meeting will be held January 12, 2010; the Community Council has decided to only meet once every three months. He stated that the meetings will be held at 3:30 p.m.

Mayor Panucci reported that on October 21 the Council of Governments (COG) will be meeting in the Community Center. He reported that his wife plans to prepare food for the event. Councilmember Shingleton asked how many people usually attend COG meetings, to which Mayor Panucci responded approximately 25.

City Recorder Brown reported that the League of Women Voters of Davis County will be hosting a Meet the Candidates event in the City Council Chambers on October 22 at 7:00 p.m. She stated that the group asked her if they would be permitted to place signs advertising the event on City property. After a short discussion the Council determined that no signs advertising the event should be placed on City property. Ms. Brown then asked if each candidate should be allowed to bring his or her signs and literature to the event to be distributed to attendees. Councilmember Knight stated that if each candidate is given the same opportunity he has no problem with allowing candidates to bring their signs and literature to the event. The Council agreed and direction was given to provide a table for each candidate to place their literature upon. Councilmember Clark asked if there is a plan for overflow seating if the room is filled to capacity. Ms. Brown stated that overflow seating could be set up in the lobby area with City Administrator Worthen adding that there are speakers in the lobby to allow people in the lobby to hear what is being said in the Council Chambers.

Councilmember Peterson reported that the Legacy Junior High Community Council will meet the first Thursday of every month at 4:00 p.m.

Mr. Worthen reported that the Wasatch Front Regional Council (WFRC) will also be meeting in the Community Center on October 21 from 4:30 to 6:00 p.m. in the classroom next to where the COG meeting will be held. Councilmember Knight asked if that meeting is open to the public, to which Mr. Worthen answered yes.

Councilmember Hammond asked if the volunteer day will still be held October 24. Mr. Worthen stated the volunteer day has been advertised as October 24 and he would send a list of projects to be completed to each member of the Governing Body for their review.

Mayor Panucci then read an email provided to him by a City staff member regarding a request for the Council to approve an indigent burial in the Syracuse City cemetery. Mayor Panucci explained that the deceased was not a resident of Syracuse, but her only family members are buried at the cemetery and her remaining sister would like for her to be buried there. Mayor Panucci inquired as to the fee normally charged for a non-resident burial, to which Finance Director Holt answered \$1,500. Mayor Panucci stated that he would be inclined to approve the request. Councilmember Clark agreed. Councilmember Knight asked if the author of the email, the deceased's sister, is a Syracuse resident. Mayor Panucci stated

he was not sure; that information was not included in the email. Mayor Panucci stated that the only cost incurred by the City by allowing the burial would be labor costs. Councilmember Knight asked how much the City charges residents for a burial plot. Mr. Holt stated that the plot is \$300 and the burial service is \$200 for a total of \$500. All Councilmembers agreed to approve the request. Mayor Panucci asked Mr. Worthen to contact the author of the email and inform her that her request has been approved.

Claim statement

Councilmember Peterson stated that the report includes election expenses for the Primary Election and he asked if that was the total amount that would be paid for the Primary Election. Ms. Brown stated the amount that has been expended to date is just a portion of the total amount that will be expended for the Primary Election. She stated that she has not yet received the invoice from Davis County for election programming.

Mayor Panucci stated that the report includes a payment to Rocky Mountain Power (RMP) for street lighting. He stated the City recently implemented a street lighting fee that is being charged to each utility customer and he asked if the amount of money being generated by that fee is covering the amount the City is being charged by RMP. Mr. Holt stated that the City is actually collecting a slightly higher amount than is being expended for street lighting. He stated that may change during the winter months when the street lights remain burning for a longer amount of time each day. Councilmember Clark stated he thought that the City had incorporated maintenance costs and costs to purchase a defined number of new street lights each year into the fee. Mr. Worthen stated that is correct; the amount generated by the fee will always be slightly higher than the amount the City expends for the service provided by RMP. Mayor Panucci added that the City has also begun charging developers for the street lights required in their developments, so that will save the City some money.

Councilmember Peterson stated page seven of the report includes a charge titled replacement check for a football official and he asked for an explanation of that charge. Mr. Worthen stated that an original check sent to a football official was intercepted by someone else and was cashed. He stated that the process to replace that check has been a lengthy one, but that is what the charge included in this report was for.

Recommendation re: culinary water overage rate multiplier

Mayor Panucci stated he has reviewed this issue in depth with Mr. Worthen and it appears that the change that was made in the City's fee schedule to reduce the base water usage from 10,000 gallons to 8,000 gallons will help to cover the amount of money that the City failed to collect for those that used more than 10,000 gallons per month during the past year. He stated it will take approximately three to five years to recoup the shortfall amount, but that is not a problem. He stated that given the current health of the culinary water fund he would recommend that the City decide against trying to recoup the shortfall amount, which means that it will not be necessary to impose a burden on local businesses and staff.

Councilmember Knight stated that if the reduction of the base water usage of 10,000 gallons to 8,000 gallons means that the City will recoup the shortfall amount, it is also true that after three to five years the fund balance will increase. Mayor Panucci stated that the culinary water fund is an enterprise fund and it can not be a revenue generating fund for the City. Councilmember Knight stated that is correct and is the reason for his statement. Mr. Worthen stated he understands Councilmember Knight's comment and he felt it would be appropriate to reevaluate the fund and the fees being charged for culinary water after five years when the shortfall amount has totally been recouped. Mayor Panucci stated that the bottom line is that by deciding against retroactively billing those that used more than 10,000 gallons of water in a given month, the City will not be imposing a burden on businesses, which is great because the City wants businesses to succeed and do well in this community. Mr. Worthen stated that the majority of the users that would be impacted by retroactive billing would be businesses. He stated he already received an inquiry from the Kroger Company questioning why their bill increased after the base usage amount was decreased from 10,000 gallons to 8,000 gallons. He stated that he spent a lengthy amount of time explaining the situation to them and they were concerned about the discussion the Council planned to have this evening about possibly trying to collect the shortfall amount. He reiterated that the culinary water fund is healthy and the City is accounting for depreciation of the water system and the lines that need to be replaced, which are mainly the older lines in the City. He stated the City has received grant funding assistance to make some upgrades to the system, which has been helpful. Mayor Panucci added that the City also received grant funding to assist with the culinary well project. Mr. Worthen agreed and reiterated that at this point the fund is healthy and he would recommend that the Council decide against trying to retroactively bill customers for their water usage.

Councilmember Knight asked how other businesses reacted when their bill increased due to the reduction in the base water usage amount. Mr. Worthen stated they were surprised and the companies that know that the Council is considering retroactively trying to collect the shortfall amount are very concerned. Councilmember Hammond asked Mr. Worthen if he told the businesses that they received more water than they paid for, to which Mr. Worthen answered no.

Mayor Panucci then stated that the Council can not vote on this issue during a work session, but if the Council decides against retroactively billing customers for the shortfall amount, no action of the Council is necessary.

Councilmember Peterson stated that aside from the issue regarding the shortfall in money, he is concerned about the public relations issues that would be caused if the Council decided to try to retroactively collect the shortfall amount. Councilmember Clark agreed and stated that he does not like the idea of making a decision that would cause City staff to be 'hammered' by residents and businesses alike. Mr. Worthen stated it would be possible to find out exactly which homeowners and businesses did not get charged the correct amount for their water usage and only bill those customers, but that would be very time consuming and tedious. He added that Questar Gas had a similar issue in the past and they spent a significant amount of money defending their decision to try to retroactively collect the unbilled charges for service. Councilmember Knight stated he believed Questar was ultimately unsuccessful in their efforts. Mr. Worthen stated that Questar was only allowed to collect a portion of their unbilled charges and that amount was spread over all customers rather than to just those that were improperly billed.

Mayor Panucci asked if the Council is comfortable putting this issue to rest, to which all Councilmembers answered yes.

Mayor Panucci then stated he has another item to report the Council. He stated he recently spoke with the City's lobbyist in Washington, D.C. and it appears that the City will be awarded \$350,000 in stimulus money to install a new water pipeline from Jensen Nature Park to the roundabout at 2000 West and 2700 South. Councilmember Clark asked if that amount will cover approximately half of the total cost of the project. Mr. Worthen stated it may be possible to pay for the entire project with the stimulus money. Mayor Panucci agreed. He added that the City will be required to provide matching funds in the amount of 25 percent of the total money awarded, which is a terrific deal; the City will end up with \$400,000 to complete the project. He stated if it is possible to begin the project soon and get it completed before next spring, that will eliminate the need to implement an odd/even watering schedule during the next watering season. He stated the lobbyist, Tim Stewart, told him that the City may receive the money within the next 90 days. He added that one thing that Mr. Stewart has been working on is setting up a water fund similar to the 595 Rural Water Fund that would provide money specifically for communities that are located adjacent to the Great Salt Lake. He stated this funding mechanism could put a significant amount of money – anywhere from \$20 to \$30 million – into Syracuse and surrounding communities for the next 10 years. He stated that a final decision regarding the new fund will be made by November of this year. Councilmember Knight asked if the money made available by that fund would be intended for secondary or culinary water projects. Mayor Panucci stated that he believed that the money would be used for secondary water projects, which is where the City needs the most help. He added that he believed that it could be used for land drains as well. He stated that the City is ready to make an application for \$1.2 million to fund a generator and a water tank refurbish project; if those two projects can be completed the City will be in a tremendous position relative to culinary water operations. Councilmember Knight asked if the money could be used to cover equipment purchases. Mayor Panucci stated it could be used for things like a generator, which could cost the City over \$400,000. He stated he is very excited about the news and if both funding sources come to fruition the City will be in great shape. He stated the confirmed award of \$350,000 will provide a huge benefit to the City by helping to improve the secondary water system, which is necessary. He reiterated that legislation to create the other water fund he mentioned will be acted upon in November and, if approved, will be administered by the Division of Natural Resources. Councilmember Hammond asked if a city's eligibility for funding from the new source will be based upon the number of miles of shoreline they have. Mayor Panucci stated that the criteria for cities to receive funding has not been established, but he is aware that the funding will only be available to communities that are located adjacent to the Great Salt Lake. He then stated that Mr. Stewart has been 'worth his weight in gold'; he has assisted the City in obtaining nearly \$9 million in federal funding.

Personnel Layoff Policy discussion

Mayor Panucci stated he wondered if it is appropriate to discuss this type of issue with no Human Resources (HR) staff available. He stated he would prefer to wait to discuss this issue until after the City has contracted with an HR outsourcing agency. Councilmember Knight stated he would prefer to discuss this issue and have a new policy in place before it is too late. He stated that he has been monitoring sales tax revenue received by the City and revenues decreased in July even though forecasters said that July was supposed to be a good month. He stated that if the City gets to a point where it is necessary to reduce staffing levels he would prefer that the City keep the best, most productive staff.

Councilmember Clark inquired as to the City's current policy regarding layoffs. Councilmember Knight stated that an employee's seniority is the determining factor for whether they will be laid off or retained by the City during a reduction in force. Councilmember Clark stated that concerns him and he agreed that whether an employee is retained should be based on performance. Councilmember Knight stated that he spoke with an HR employee at Ogden City, who provided him with a copy of their layoff policy. He stated that the Ogden City employee explained to him that their policy has evolved over the

years, but it is a policy that has been used and it works. Mayor Panucci stated there is a reason that the Davis School District and most municipalities determine layoffs based on seniority. Councilmember Knight argued that some municipalities are considering an alternate policy. Mayor Panucci stated there is a reason that people go to work for municipalities; they give up some things they could have if they worked for a private company, but they know they have stability when they work for a municipality. He stated that layoffs have not been a huge issue for the City and the policy being discussed is not an oft-used policy. He added that another thing that is a great concern to him is that politics could be 'thrown into the mix' and that adds the opportunity for subjective actions which could put the City at risk. He stated that laid off employees could argue that they are as punctual or reliable as the person that is being kept. He stated that someone that is laid off that maybe does have seniority could argue that they were laid off because they were older. He reiterated that layoffs do not take place very often in municipalities.

Councilmember Clark stated he would like to hear Mr. Worthen's opinion regarding the issue.

Councilmember Knight stated that Ogden City's policy includes the opportunity for due process for employees that are being laid off. Mayor Panucci stated that the policy being recommended by Councilmember Knight would increase the liability of the City. Councilmember Knight stated that this is really a discussion of how taxpayer money is going to be spent. He stated that some employees may rest easy believing they will not be laid off in tough times because they have been employed by the City for the longest amount of time. He stated that this type of policy would increase performance across the board. Mayor Panucci stated it is the job of supervisors to motivate employees to perform well. He stated he questioned the timing and the motives behind this recommendation. Councilmember Knight stated the timing of this recommendation is related to the budget struggles the City is facing. Mayor Panucci stated that this recommendation is politically motivated and Councilmember Knight is 'gunning' for certain employees. He stated that he thinks that the adoption of this type of policy would provide employees with increased opportunity to successfully sue the City; it would put the City at risk. Councilmember Knight stated there is no extra room in the City's budget. He stated that July was supposed to be a good month for sales tax revenues due to the federal government's "Cash for Clunkers" program, but sales tax dipped. He stated that the City may be facing the need to lay off employees next year and he feels it is imperative that the City keep the most efficient employees on staff. Mayor Panucci stated that the City will lose all efficiency if it is forced to defend a lawsuit.

Councilmember Clark reiterated that he would like to hear Mr. Worthen's opinion. Mr. Worthen stated that this type of policy would allow the City some benefit in that the City would be able to secure the best employees in any given position if layoffs were necessary. He stated the policy would basically afford the City some flexibility. Mayor Panucci argued that the policy would be subjective and would increase the City's liability. He stated that the current policy is 'cut and dry' and if there is any employee that is not doing a good job and they are still working for the City, then 'shame on the City'. Councilmember Clark asked how the City's liability would be increased if the employees are working in an at-will environment. Mayor Panucci answered that not all employees of the City are at-will; many are earning an hourly wage. He added that if, during a layoff, there is a 40 year old man and a 30 year old man competing for the same position and the 30 year old man is kept over the 40 year old man, the City could be sued for that action. Councilmember Clark stated that person does not belong to a protected class. Mayor Panucci stated that the example could be changed to include a 55 year old man. Councilmember Clark stated that person also would not belong to a protected class. He added that his concern is that during a reduction in force the City could lose valuable employees if their performance is not considered along with their seniority. Mayor Panucci asked Councilmember Clark if he feels that the City currently has bad employees. Councilmember Clark answered no and stated that his concern is that in a reduction in force the City may lose newly educated or certified employees because they may not have been here as long as some of their counterparts. He added that he does not see any political motivation behind this recommendation. Mayor Panucci stated that he does. Councilmember Clark stated that Mayor Panucci is entitled to his opinion. Mayor Panucci added that what Councilmember Clark just said was that he would prefer to keep all the newest employees during a reduction in force. Councilmember Clark clarified that is not what he said; he simply said that he would be afraid the City would lose good people during a reduction in force if that reduction were based solely on seniority. Mayor Panucci stated that he would be afraid the City would lose the people that know the most about the City if the decision were made to keep the newest employees.

Councilmember Knight stated that he learned of this type of policy from a Syracuse resident that works for Ogden City and he was involved in a situation related to this policy. He stated that the policy shall be referred to as "Ogden City Reduction in Force (RIF) Policy" and he asked that he policy be attached to the minutes of this meeting for easy reference. He then added that if two employees were subject to a reduction in force their performance would be compared and if everything were equal seniority would then be considered.

Councilmember Clark asked for the opinions of the remaining Councilmembers. Councilmember Peterson stated that he can understand the Mayor's argument and he asked if Councilmember Knight was recommending that the decision to layoff an employee would be based on personnel reviews. Councilmember Knight stated that would not be the only thing

considered; rather things like job performance, punctuality, reliability, licenses, certifications, disciplinary status and history, and other job related criteria could be considered as well. He stated that the employee's performance could be evaluated by the employee's department head and additional factors such as special skills, training, knowledge or education possessed by an individual and/or reasonably required to perform the duties of the retained position would be considered as well. He explained that if everything else is considered equal between positions and individuals, the people with the least time in service in a job would be the first affected by a layoff. Councilmember Peterson asked if each department head would be subjective or objective.

Councilmember Hammond stated he felt this recommendation sends the wrong message to the City employees. He stated the Council is not thinking about layoffs at this time and there are so many other important issues the Council should be working on. Councilmember Knight stated that sales tax revenues continue to plummet this will be one of the important issues the Council will be forced to deal with. He stated that he would prefer to be proactive rather than reactive and that the City could ask the legal staff at the Utah League of Cities and Towns to review any policy change recommendation. He stated the question the Councilmembers should be asking themselves is whether this is a good policy or not; if it is then it should be implemented. Councilmember Hammond stated that the current policy is a good policy and adopting a new policy would be sending the wrong message to the employees.

Councilmember Shingleton stated that he can see the good in both policies. He stated he would like to see what other municipalities similar in size to Syracuse are doing. He stated that Ogden City is much larger than Syracuse. He stated he would agree that the Council should look more closely at this issue. He stated that he can understand the concern that adopting a new policy may send a negative vibe to employees, but he still feels it is something the Council should review. He added that he felt that a legal opinion other than the opinion of the League of Cities and Towns would be necessary.

Councilmember Peterson stated that he is not opposed to reviewing any recommendation further; he would simply want to know how the City would prevent subjectivity. Councilmember Knight stated that the policy may need to be more specific to define necessary performance levels. He stated that he felt that employees that know about this policy change may be more motivated to do their job because the higher performing employee would be kept during a reduction in force. Mayor Panucci stated that Councilmember Knight is essentially saying that if there were no problems in the economy and the City were receiving sufficient sales tax revenue dollars he would not have a problem with keeping bad employees. Councilmember Knight stated that is not what he is saying. Mayor Panucci stated that Councilmember Knight is saying that during good times employees can "slack-off" because they will not need to worry about a reduction in force. Councilmember Knight stated there are sometimes people that do not worry about being laid off during a reduction in force because they have the most seniority. He stated a new policy would help to motivate all employees working for the City. He stated the policy he is recommending is a good policy in good times and in bad times. He stated that when he talked to employees from Ogden City about this policy they told him that it worked well.

Mr. Worthen stated there are projected classes of individuals that the City would need to be very cognizant of in writing a new policy. He stated that employees could potentially make claims of impartiality based on a policy being applied subjectively.

Councilmember Hammond stated the City has good managers and a good performance evaluation system in place and he would prefer that those tools be used. Mr. Worthen stated that performance evaluations can be deemed very subjective as well. He stated that evaluations deal with variables and biased attitudes toward employees. He stated there have been countless studies that prove the subjectivity of evaluations. He stated he prefers to conduct evaluations on a weekly or monthly basis in order to be very aware of an employee's performance.

Councilmember Knight stated the Council is discussing this issue as if it were being considered a disciplinary action or tool and it is not. Councilmember Shingleton reiterated Mr. Worthen's comment that evaluations are subjective. Councilmember Knight stated that he did not feel that Ogden City's policy is subjective. Mr. Worthen stated there are pros and cons to the policy.

Mayor Panucci stated that one thing he asked Mr. Worthen to do was provide him with a copy of the wage scale for Police Department Employees. He stated that the entry level wage for Police Officers is too low and the Council should consider increasing it. He stated that each time there is a Police Officer position to be filled the Department struggles doing so because the wage is too low and they end up hiring someone at a wage that is almost equal to that of a Police Officer that has been employed by the City for two to three years. Mr. Holt stated that is a result of the fact that there have been no cost of living adjustments (COLA) given to employees for the past three years; the entry level wage has not kept up with the market. Lieutenant Tracy Jensen added that several other entities have higher entry level wages than Syracuse City. Mayor Panucci stated that his point is that the people that have been working for the Police Department for a longer period of time need to be making more money than new hires. He stated that it is impossible to give wage increases to all City employees, but the wages for a few positions in the Police Department need to be increased.

Ms. Brown then asked if the layoff policy recommendation should be included on the agenda for the next work session meeting. She asked if the Council wanted staff to research the layoff policies of other cities in the area. Mayor Panucci stated he would prefer to wait until an HR outsourcing firm has been selected by the City.

Budget update

Mr. Holt stated that next month he will be able to provide the total expenses of the City for the first quarter of the current fiscal year; tonight he planned to review revenues for the first quarter. He stated that tools that were used in the past to predict revenues are becoming useless in projecting what will happen in this economy. He stated that the revenues for July were only \$5,000 short of the projection, but \$15,000 short of what the City collected last year. He stated that if that trend continues the City will be \$66,000 short of the projected revenue amount at the end of the fiscal year, but the City will be receiving much less than what was received over the past four years. He stated that the bottom line is that predictions are getting difficult. Mayor Panucci stated that predictions are still necessary. Mr. Holt asked why. Mayor Panucci stated that predictions are necessary in the budgeting process.

Councilmember Knight stated he is not surprised by the numbers, but he felt they are indicators of how the rest of the year will be. He stated that July was predicted to be a good month because of the "Cash for Clunkers" program and back to school shopping; if revenues were down that month he believes they will continue to be down throughout the rest of the fiscal year. He stated the next bright spot may not come until the Christmas shopping season. He stated that if revenues continue to lag the City will be in a bad position in the spring. Councilmember Knight stated that there are currently two vacant Department Head positions and the longer those positions remain vacant the more money the City will save in wage costs. Mr. Holt stated that the City has spent \$36,000 less on wages that was projected for the first three months of the fiscal year, so Councilmember Knight's statement is correct.

Mayor Panucci inquired as to when Wal-Mart opened. Mr. Holt stated that the City's sales tax returns are based on population rather than sales totals. Mayor Panucci stated he understands that, but he expected there would have been an increase in sales tax revenues during the fiscal year that Wal-Mart initially opened.

Councilmember Clark asked when the population numbers obtained during the upcoming 2010 census will be put to use. Mr. Worthen stated he believed the census numbers would take affect approximately a year after the census is completed.

The meeting adjourned at 6:55 p.m.

Fred Panucci
Mayor

Cassie Z. Brown, CMC
City Recorder

Date approved: October 27, 2009

Governing Body/Administration Assignment List

- Mayor Panucci and members of City Administration will attend a County Commission meeting to discuss sharing Senior Citizen Program resources. (01-08-08)
- City Administrator Worthen and Finance Director Holt will work on developing a proposal regarding a Fleet Replacement Program. (01-08-08)
- Administration will advertise the creation of an audit committee and solicit community involvement. Once a member of the community has been selected, a resolution will be drafted to create the committee and appoint the members. (02-26-08)
- Councilmember Clark suggested the creation of a distribution list that people could add their name to in order to receive electronic copies of agenda, newsletters, etc. City Administrator Worthen will work with staff on that issue. (02-26-08)
- Human Resources Director Alldredge will research the options for including a “commitment clause” in the City’s tuition reimbursement policy. (05-27-08)
- City Recorder Brown will research the rates that other cities are charging to allow businesses to advertise in their newsletter. (06-10-08) (10-28-08)
- Administration will research the contract between the LDS Church and the City regarding the donation of the Founders Park land. (06-10-08)
- Council will revisit the proposal to create the positions of HR Generalist and Treasurer after the implementation of the electronic time keeping system. (10-14-08)
- Mr. Worthen will research EPA guidelines to determine when the City will be required to install a de-silting station. (10-28-08)
- Councilmember Clark will gather information from the WIWMD regarding participation in pilot recycling programs and report back to the Council. (01-13-09)