

Minutes of the **Work Session** of the **City Council** held Tuesday, **February 1, 2011**, at 4:07 p.m. at the Lehi City Administration Building, 153 North 100 East, Lehi, Utah.

Members Present: Bert Wilson, Mayor
Kaye Collins, Council Member
James Dixon, Council Member
Steve Holbrook, Council Member
Mark Johnson, Council Member
Johnny Revill, Council Member

Others Present: Jamie Davidson, City Administrator; Ron Foggin, Assistant City Administrator; Ken Rushton, City Attorney; Kim Struthers, Planning Director; Lorin Powell, City Engineer; Travis Ball, Power Director; Jim Hewitson, Public Works Director; Dave Sanderson, Finance Director; Chad Skinner, IT Manager; Doug Meldrum, Economic Development Manager; Brenn Bybee, Assistant to the Administrator; Jody Burnett, Attorney; Marilyn Banasky, City Recorder; and 7 citizens.

1. Welcome and Opening Comment

Mayor Wilson welcomed everyone and noted that all Council members were present. Lorin Powell gave an opening comment.

2. a. Consideration of adjourning into a Closed Executive Session to discuss pending or reasonably imminent litigation as per UCC 52-4-205(c).

A discussion was held as to whether or not to hold the Closed Executive Session at this point or after item 3 in order to accommodate the citizens who were in attendance. Jamie Davidson reported that Jody Burnett has another meeting that he needs to attend in Draper and recommended holding the Closed Executive Session now.

Motion: Councilor Dixon moved to adjourn into a Closed Executive Session. Councilor Johnson seconded the motion.

Roll Call Vote: Councilor Revill, Yes; Councilor Collins, No; Councilor Dixon, Yes; Councilor Johnson, Yes; and Councilor Holbrook, Yes. The motion passed with four in favor and one opposed.

The meeting adjourned into a Closed Executive Session at 4:12 p.m.
The meeting reconvened at 5:25 p.m.

b. Consideration of action from Closed Executive Session

No action was taken.

3. Discussion of residency/response time requirements for City employees.

Mayor Wilson reported that this item was discussed at the last City Council meeting and the proposed policy and ordinance were denied. He inquired if there were any feelings or thoughts toward making any changes. Councilor Collins stated that it bothers her that they are in this situation as she thinks they have a code and that they should follow it. She stated that she and Councilor Revill came up with a middle-of-the-road proposal and distributed it.

The proposal outlined the following:

- 1) Administration and Department Heads/Managers should live within the City Boundaries within 12 months of beginning their position unless an extension is authorized by the Mayor and City Council;
- 2) Sworn officers, certified, professional EMS positions, essential public works positions, essential power workers should live within a 20 minute response time of the city office complex based on the city's GIS system;
- 3) The City Attorney and deputy attorney need not live within the city;
- 4) Those positions not listed in this policy are not required to live within the boundaries or within a response time area.
- 5) Changes must be made to the code AND in the policy handbook so they match as of the date of adoption and that they require a vote of the City Council to be changed.
- 6) All city employees who currently work for the city will be grandfathered into the positions to which they are currently assigned as of the date of adoption. If that employee chooses to apply for and receives an offer for an administrative or managerial position, at that time they will be subject to the residency or response requirements.
- 7) If we can agree on this policy, we need to give it a head nod and then wait. In the event that the citizen initiative that has been presented to us receives enough signatures to be placed on a ballot, then we are able to place a competing question on the ballot. We could place our policy on the ballot and let the citizens decide what they want. If the citizen initiative does not get enough signatures to go on the ballot, then we can move to approve the policy.

Councilor Collins feels they need to have some flexibility as a City Council to grant relief for the Administration/Department Heads to live within Lehi in 12 months, as she doesn't want to impose a hardship on employees. She stated that she has always wanted key personnel to have response time but not everyone. She feels that waiting for the initiative process to be completed is important because if they grandfather current employees and the Citizen Initiative passes, she thinks there are people who would lose their jobs. Councilor Revill stated that he wants to establish who the Department Heads/Managers are and who is considered Administration. A discussion was held regarding which employees fall into the above mentioned categories and who should have a 20 minute response time. Jamie Davidson stated that he and the Assistant City Administrator currently serve under the Mayor as Administration and there are eight specific Department Heads that are as follows: 1) City Engineer; 2) Planning Director; 3) Power Director; 4) Finance Director; 5) Police Chief; 6) Fire Chief; 7) Public Works Director; and 8) Judge. He reported that all the others are division managers. He recommended that the Judge be excluded from the residency requirement as that position is regulated by state law and the City has no jurisdiction to impose a residency requirement. He suggested that the policy only apply to full-time

employees as there are part-time positions that a response time could affect such as paramedics who may work part-time in multiple jurisdictions.

A discussion was held regarding the Citizen Initiative petition process. Ken Rushton reported that the City Council has choices once the petition is completed. He explained that if the required number of signatures are obtained then the petition is presented to the City Council. He stated that the Mayor and City Council can then reject it; pass it as an Ordinance without going to ballot; or sent it to the ballot with or without a competing ordinance, which would provide two alternatives on the ballot. He explained that if the initiative is passed by the voters, the City Council can accept the ordinance as written or can make changes to it. Councilor Dixon stated that he has yet to see any evidence that proves that residency makes for a more qualified employee. He believes employees should be hired based on their education, qualifications, experience, and performance. He questions if requiring Department Heads to live in the City is defensible and whether or not it is discriminatory. He feels they need to acknowledge study of 36 cities and their hiring policies with regard to residency. He thinks the idea of grandfathering employees is a touchy-feely way of solving the problem. He stated that he wants to see the best, most qualified people hired, and residency is the last thing he feels qualifies an employee to work for the City. He stated that he would have approved the proposed ordinance that was offered at the last Council Meeting and feels that employees should be invited to live within the City boundaries and give preference to a Lehi residence if the qualifications are equal between two candidates. He suggested that they accept the verbiage, with regard to residency as proposed to them at the last Council meeting, and then separate out response time from the policy and put those requirements in the hands of the Department Heads to make a judgment on response time.

Mayor Wilson stated that he has done a lot of thinking since last Tuesday and still goes back to the fact that 36 cities have a response time requirement or feel that residency/response times don't matter. He feels that if the Department Head needs a response time it should be their prerogative to put that into a policy. He thinks the City Administrator, Fire Chief and Police Chief should be the only employees required to live in Lehi.

Ken Greenwood stated that he feels the decision makers and Department Heads should live in the City limits. He thinks they are talking about what is good for the employees and not good for the City.

James Roberts reported that he has lived in multiple states and chose to live in Lehi. He stated that there was a lot of resentment from his family in his home town as it changed due to the employees not being from there and gambling was allowed because of that. He feels that they can find someone to fill positions from the 50,000 residents, even though they may not be the best candidate, but could do the job. He feels they will be part of the neighborhood and have more pride in the community. He stated that he is representing 8-10 neighbors who feel there is a law on the books and it was sidestepped.

Councilor Johnson reported that it is difficult for some employees that may want to live in Lehi but can't due to various reasons. He stated concern with allowing the Mayor and

Council to authorize extensions past the 12 months to move to Lehi as he feels that could be discriminatory. He wondered what the extension would be based on and how it would be determined. He expressed concern that extensions could become political issues and not be handled fairly for all employees. He thinks that whatever is passed needs to be written with exactness. He thinks it is appropriate to grandfather people in as they may not have known there was a residency requirement. He stated that as far as the initiative is concerned, he feels they should let it run its course and he is not sure why it is part of this discussion. He stated that they were elected to establish the legislative laws they feel are best for the community and that they need to decide what is appropriate for their community. He stated that more than anything else they need a law on the books that is fair to the employees and residents. Councilor Holbrook stated that it is easy to see both sides and that he is in the middle on this issue.

Jim Hewitson reported that he moved to Lehi when he was hired, but feels it is easy to meet a residency requirement when moving 500 miles instead of 15 miles. He suggested that the City provide compensation for moving expenses, etc. if they require an employee to live within the City limits.

Mayor Wilson inquired if the Council is in favor of grandfathering in current employees in their existing positions, and when hiring new employees in supervisory or administrative positions that they must be willing to relocate to Lehi within 12 months and the positions would be advertised as such. Councilor Revill stated that they are talking about nine positions that would have a residency requirement. He suggested having the ordinance address the residency requirement and the response time requirement would be addressed in the employee handbook and set by departments. Mayor Wilson suggested having Mr. Rushton draft an ordinance addressing residency and stating that response times would be addressed in the employee handbook. Councilor Revill stated that he liked the idea of helping with moving and relocation expenses and would like to offer that to current employees as well. Mr. Rushton stated that he wouldn't recommend that they legislate that but suggested that could be handled on a case by case basis through an employment agreement. Councilor Johnson stated that they should adjust the policy manual to match the ordinance and that individual department response time policies be approved by the City Council. Mr. Rushton stated that they need to have an ordinance that provides for the enablement of policy to be established and that the current ordinance either needs to be amended or repealed. He recommended that the essential residency framework, with a flexibility provision, be put in the ordinance and a provision that response times be determined by departments with the policy approved by the City Council.

Councilor Collins inquired if there is wisdom in holding off with the ordinance/policy until the Citizen's Initiative petition works through the process and getting a head nod from the Council to move forward with the ordinance/policy then. Mr. Rushton stated that he doesn't think it will make any difference in terms of liability. He thinks there is tons of liability if the Citizen's Initiative passes. He feels it would be a positive thing if they pass an ordinance that addresses the current deficiencies. Councilor Collins stated that she is not willing to vote against the Citizen's Initiative if it is voted in and wonders if it is strategically better to hold back. Councilor Johnson stated that this is the Council's proposal and feels they should

move forward with it. Mr. Rushton stated that the City can show that they have addressed this issue and that they believe the new policy is workable and recommends it to the citizens.

A discussion was held regarding letting the employees know what the Council is considering in order to ease their concerns. **Mayor Wilson asked for consensus to let the employees know what the Council is considering. Consensus was reached.** It was decided that Mr. Rushton will have a draft ordinance to hand out at the February 8, 2011, Pre Council Meeting for the Council to look over. The ordinance would then be placed on the February 22, 2011, agenda for consideration.

4. Discussion of Capital Outlay Items for Outdoor Swimming Pool 2011

This item was withdrawn from the agenda.

5. Discussion of implementing a Consent Agenda

Jamie Davidson reported that this was discussed in January and information about a consent agenda was included in their packet. He stated that a consent agenda item is one that generally doesn't require discussion or debate. He explained that all the information related to the item would be included in their packets and that any item placed on the Consent Agenda can be removed and discussed. A discussion was held regarding the pros and cons of a consent agenda. **Mayor Wilson asked for consensus to implement a Consent Agenda. Consensus was reached.**

6. City Business

None

7. Mayor/Council Round Table

Mayor Wilson reported that Flatiron Construction talked to Streets Manager, Wade Allred, yesterday and stated that they need to work 24 hours a day for a period of time on SR-92. He stated that Flatiron is backfilling and the ground is freezing so it is taking them 5 hours to do a 2 hour job. He reported that this work is going to be in the Triumph Boulevard area and that they have an April 30th deadline. **Mayor Wilson asked for consensus to allow Flatiron Construction to work 24 hours a day in the Triumph Boulevard area until April 30, 2011. Consensus was reached.**

Councilor Holbrook reminded the Mayor and Council that the Green Eggs and Ham event will be held on February 21, 2011.

Councilor Revill reported that he got a phone call from a soccer group who is asking about improvements to soccer fields. He inquired as to the progress on the Thanksgiving Point drainage. Lorin Powell stated that it will be ready the following year and that the Ivory one might be ready this year. Councilor Revill stated that the soccer group wants to make a proposal to help with the City's soccer leagues.

9. Adjournment

With no further business to come before the City Council at this time, Councilor Collins moved to adjourn the meeting. Councilor Johnson seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 7:29 p.m.

Approved February 22, 2011

Attest:

Bert Wilson, Mayor

Marilyn Banasky, City Recorder