

**Sunset City Corporation
City Council Minutes
January 17, 2012
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Minutes of a regular meeting held January 17, 2012 at Sunset City Hall, 200 West 1300 North, Sunset, Utah; Mayor Bangerter presiding.

Mayor and Council Present:

Chad Bangerter	Mayor
Brent Andrews	Council Member
Ricky Carlson	Council Member
Ryan Furniss	Council Member
Jake Peterson	Council Member
Kevin Snow	Council Member

City Employees Present:

Susan R. Hale	Recorder
Linda Youngdell	Treasurer/Office Manager
Ken Eborn	Police Chief
Neil Coker	Fire Chief
Corey Wilson	Public Works
Joe Maylin	Public Works

Fire Fighters: James Weston, Travis Carter, Amy Kippen, Tyler & Michelle Argyle, Cindy Meffert, Jennifer Moore

Excused:

Mickey Hennessee	Public Works Director
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Others Present:

Terry Avondet	Citizen Corps
Jon Ellsworth	Planning Commission
Sherry Bailey	Marian Mullins

The meeting was called to order at 6:30 p.m. by Mayor Bangerter.

Boy Scout Troop #302 led the Pledge of Allegiance and Pastor Lonnie Campbell gave the invocation.

Approval of Minutes: Council Member Furniss made a motion to approve the minutes of January 3, 2012 and January 10, 2012 as presented. Council Member Andrews seconded the motion. The motion passed unanimously.

Citizen Comments: Terry Avondet said after reviewing the audio minutes of the last two Council meetings she is utterly ashamed at what took place. Behaving like spoiled children and behaving unspeakably toward others is inexcusable. Council Member Furniss, as a member in good standing of the LDS Church, being so disrespectful to his fellow man shows he needs to do some self reflection. He may not like or agree with the Mayor, but he should show respect for his position. He also disrespected other Council Members. She said if she acted like he did at her place of employment she would have been fired. She has reviewed the City ordinances regarding these events, which is another reason she feels some of those events in the prior

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meeting were very improper. The whole meeting was an embarrassing introduction for the two new Council Members.

Sherry Bailey asked who sets the rate on property taxes. She has heard there are a lot of homes in Sunset that are in foreclosure and wondered if the homes are losing value why the property tax is increasing. Mayor Bangerter said there are several entities that are paid through property tax. Recorder Hale explained the property tax system is set up so the entities are revenue neutral. If an entity receives \$100,000 per year in property tax, the rate is based so that \$100,000 does not increase or decrease. Therefore when home values increase, tax rates decrease and when home values decrease, tax rates increase. Mrs. Bailey wondered what the City could do to keep the property taxes down and what they may be able to do to help people keep their homes. It scares her to see so many people moving out of Sunset and the homes not being kept up. She wonders what that is doing to the value of her home. Mayor Bangerter said they are aware of the problem and there are multiple issues involved. One is the state of the economy. The City used to run economically on a \$4.2 million budget and now has to run on about \$3.8 million, while still trying to provide the same services to its residents. He and the Council Members do not like to raise taxes; they live here, too. They have also had the Police Department cracking down on the weed and junk ordinance to help people with their home values. Mrs. Bailey said she also feels the residents are not getting as much news on what is going on in the City as they used to. Mayor Bangerter said the quarterly newsletter is one way they have cut costs. The newsletter is still done quarterly, but it is only posted on the website and sent out to those who have requested it. Council Member Snow advised if she thinks the County Assessors Office has put too high of a value on her home, she can request for it to be reassessed. Council Member Andrews read a section of City Code dealing with property tax and said he is over the Senior Program so he has fought against raising taxes.

- 1. Present the 2011 holiday lighting awards:** Council Member Snow explained one of the assignments he was given was beautification. The Beautification Committee gives awards in the summer for the best kept yards and in the winter for the best holiday lighting. He named the winners of this year's holiday lighting and presented them with a certificate and a \$50 check. The winners were Steve & Marian Mullins, John & Dora Mae Pollock and Mel & Susan Mason. Only Marian Mullins was present to receive their award. They were all congratulated by the Mayor and Council Members.
- 2. Elect a Mayor Pro-Tempore for 2012:** Mayor Bangerter said a Mayor Pro-Tempore is elected at the beginning of each year to perform the duties of Mayor in his absence and asked for nominations.

Council Member Furniss made a motion to nominate Council Member Snow as the Mayor Pro-Tempore for 2012. Council Member Andrews read the City Code regarding the election of the Mayor Pro-Tempore, then seconded the motion. The motion passed unanimously.

- 3. Re-Appoint Board of Adjustment Member Paul Melling:** Mayor Bangerter explained Paul Melling has been on the Board of Adjustment for 13 years and was serving as the Chair at the end of his term.

Council Member Andrews made a motion to reappoint Paul Melling to the Board of Adjustment. Council Member Carlson seconded the motion. The motion passed unanimously.

Council Member Carlson stated there presently only three members on the Board of Adjustment and the ordinance calls for five members and two alternate members. He encouraged anyone who would like the opportunity to serve their community to apply for membership to the Board of Adjustment. He explained they meet the first Thursday of the month only as needed for a variance request. The last time they met was in June of 2010.

4. **Discussion and possible ratification of Council assignments:** Mayor Bangerter read a few paragraphs of a presentation by David Church called Separation of Powers in Municipal Governments, “The concept of governing body creates confusion about who runs the day to day affairs of the city or town. This confusion is compounded by the references to a legislative body in the Utah code. In a traditional form city or town the legislative body is the city council of which the mayor is a member and should in most instances be considered synonymous with the term governing body. The administrative powers and duties in a city or town, by state statute, belong to the mayor. They are not part of the powers of the governing body as a whole. However, the governing body may establish rules and procedures for the administration of the city or town including the powers and duties of all officers and employees of the city or town. In the traditional forms the mayor, as an individual, is given the position of chief executive officer to whom all employees are to report and is to carry out the policy of the governing body. The mayor has the authority to run the day to day operations of the municipality within the general operating guidelines established by the governing body. Many mayors do not have the time, inclination, or talent to administer the city or town by them. There are options to solve this problem and that take two general forms. First the mayor may voluntarily give some of the administrative powers to members of the council. No one can require the mayor to make these assignments. It is an option available to the mayor. If the mayor does wish to assign council members to administrative positions the mayor must do so with the advice and consent of the council and the mayor cannot change the administrative assignment without a the concurrence of the majority of the council. The general administrative powers of these council members and the system of administration changes from municipality to municipality. It is usually established by tradition and is not written down in any ordinance or resolution. This method of administering cities and towns is still the most common method in the smallest cities and towns which lack staff and employees. A more difficult problem arises when the mayor either does not want to delegate the administration to the council members or the council members refuses to become administrators. If the council feels that the mayor has the ability to administer the municipality there will be no problem. If the council does not trust the mayor to be able to do the job it has options. It can create and budget for the position of administrative assistant to the mayor and thus enable the mayor to have a professional city administrator’s help. If they do this the mayor has sole authority to appoint the administrator.” Mayor Bangerter said when the assignments were discussed at the last meeting there was a comment made that the descriptions were just guidelines. He would like the Council Members to understand that if they accept the assignments he will expect them to follow the descriptions. He read his proposed assignments: Administration - Mayor

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Bangerter, Beautification - Council Member Snow, Court - Council Member Andrews, Development Review Committee - Council Member Carlson, Donations - Council Member Furniss, Economic Development - Council Member Peterson, Emergency Preparedness - Council Member Snow, Fire - Council Member Snow, Housing - Council Member Andrews, MIDA Board Representative - Council Member Carlson, Mosquito Abatement - Council Member Carlson, North Davis Sewer Board - Council Member Furniss, Planning Commission Liaison - Council Member Peterson, Police - Mayor Bangerter, Property Management - Council Member Furniss, Public Works - Council Member Peterson, Recreation - Council Member Furniss, Senior Program - Council Member Andrews, Wasatch Integrated Systems Board - Mayor Bangerter and Youth City Council - Council Member Snow. He asked if there was any discussion on these assignments.

Council Member Peterson questioned Council Member Furniss retaining his position on the North Davis Sewer Board. Mayor Bangerter replied, with the advice of legal counsel, yes. Council Member Peterson said he was very disappointed in how the last two meetings went. He saw Council Member Furniss act that way with the Auditor during the ambulance discussion also and wondered when it was going to stop. He does not appreciate it and does not believe anyone else does either. He asked Council Member Furniss why he believes there would be a conflict of interest if he was over Public Works. Council Member Furniss said he believed there were some certifications Council Member Peterson may have that could make him liable, such as on water tests. He and Public Works Director Hennessee are still talking about it and he wants to make sure there aren't any. He asked Council Member Peterson if he had the ability to test water. Council Member Peterson replied he has a grade 3 in culinary water distribution and a grade 2 in waste water collection. Mayor Bangerter asked if Council Member Furniss was concerned Council Member Peterson maybe giving directive or instruction to Public Works or what he was concerned with. Council Member Furniss said he wondered about his licensure and if there was something in conflict, but he believes they can resolve that. Council Member Peterson said he does not know if Council Member Furniss coached the other two Council Members to receive their vote to be on the sewer board, but he feels it was not done properly and if Council Member Furniss is left on the board, he will be against it.

Council Member Furniss said he appreciated Council Member Peterson's comments, but the things he said were not personal attacks. When he is talking about something he is passionate about it. His opinion about the Auditor came as he talked with other Auditors who said the study was flawed. He has since talked to City Attorney King and he is okay with it. They need to be able to ask the City Attorney the tough questions. He is their legal counsel, not the all knowing legal expert. Some attorneys give good advice and some don't. He felt it was his duty to ask the questions that were not answered. He told Attorney King he wanted to publicly apologize, so he is doing that tonight. He is passionate and he tends to raise his voice, but that is him and he is not going to change. He is sorry if Council Member Peterson was offended or embarrassed by it, but he will never apologize for asking the tough questions. He feels those questions were not adequately answered that night, but they have since been answered and he has come to grips with the Attorney and what he has told them.

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Council Member Andrews said he believes it was legal and they had the majority of three to two. He believes the threes win and asked if Mayor Bangerter could count to three. Mayor Bangerter said Council Member Andrews was being disrespectful. Council Member Andrews believes Mayor Bangerter went to the Standard Examiner with the issue because there was an article in the newspaper about the three who voted in favor. When Mayor Bangerter said he was not the one who went to the newspaper, Council Member Andrews said he talked to Bryon Saxton, the author of the article, but then said he did not say Mr. Saxon told him Mayor Bangerter went to him. He then read some of the article and said that is negative press for him when he is planning to run for Davis County Commissioner or a Senate or Representative seat. Whoever was responsible for giving this information to the newspaper should retract it because it is wrong. He, Council Member Snow and Council Member Furniss are going to go to the newspaper and set the matter straight that they acted legally and did not overstep their legal bounds. They also have a lawyer who will back them up.

Council Member Furniss made a motion to withdraw Resolutions 2012-02 and 2012-03 and to accept the assignments given tonight. Council Member Snow seconded the motion. Council Member Carlson said this is the first time he or the City staff knows of that Council Members have had a real problem with the Mayor's assignments. As they have read in the State Code, these are the Mayor's assignments, not the Council's. The Mayor is sharing his administrative duties with the Council Members. Generally the Council Members accept the Mayor's assignments out of respect for the office of the Mayor. He is disappointed that this is the way Sunset has made history. They need to improve their civility and respect the Mayor. He puts endless hours in for this City, to the detriment of his own business. He stated Council Member Furniss has already completed his four-year term on the North Davis Sewer District Board. He believes two years ago Council Member Furniss promised the Mayor he would complete his term and be done, so he is disappointed he didn't stick to his promise, although he does believe Council Member Furniss is doing a good job there. He will accept what the Mayor has assigned. The motion passed unanimously.

Council Member Snow made a motion to approve Resolution 2012-14 appointing Mayor Bangerter to the Wasatch Integrated Waste Management District Board for the remainder of his four year term, which ends on December 31, 2013. Council Member Furniss seconded the motion. The motion passed unanimously with a roll call vote. Council Member Carlson – yes, Council Member Snow – yes, Council Member Peterson – yes, Council Member Furniss – yes, Council Member Andrews – yay.

Council Member Snow made a motion to approve Resolution 2012-05 appointing Council Member Carlson to the Davis County Mosquito Abatement District Board for the remainder of his four year term, which ends on December 31, 2013. Council Member Carlson seconded the motion. The motion passed unanimously with a roll call vote. Council Member Carlson – yes, Council Member Snow – yes, Council Member Peterson – yes, Council Member Furniss – yes, Council Member Andrews – same as my last vote, Mayor Bangerter asked Council Member Andrews if that was a yes and Council Member Andrews nodded in the affirmative.

Mayor Bangerter said the resolution approved at the last meeting appointing Council Member Furniss to the North Davis Sewer District Board is deemed binding by legal counsel so that one will stand.

5. **Discuss continuing the City's membership in the Davis Chamber of Commerce:** Mayor Bangerter said the membership is up for renewal and his opinion is that it is important to remain a member of the Chamber. He attends as many of their events as possible to represent the City. Council Member Snow asked what the benefit was to being a member. Mayor Bangerter replied the Chamber is involved in a lot of political and economical issues throughout the County and by being a member the City is informed of what is happening in the community. He believes it is a great value at \$550 per year. Council Member Furniss said he is impressed by the monthly or sometimes weekly letters they receive regarding businesses looking for places to locate, so he is in favor of continuing the City's membership. Council Member Carlson agreed with Mayor Bangerter and Council Member Furniss. He was able to become a member of the Military Affairs Committee through the Chamber and that is a way to support HAFB. Council Member Andrews said about a year ago he suggested starting their own Chamber of Commerce, but they didn't want to do it. He wants to cancel the City's membership because he doesn't believe the benefits equal the cost.

Council Member Carlson made a motion to renew Sunset City's membership to the Davis Chamber of Commerce. Council Member Furniss seconded the motion. The motion passed 4 to 1 with Council Member Andrews voting no.

6. **Council Member Reports and General Information:** Police Chief Eborn updated the Council on the open Lieutenant and Sergeant positions. The positions have been posted and he received two applications for Sergeant and one for Lieutenant. He would like approval to give the Lieutenant position to the applicant, Sgt. Bruce Arbogast, because he meets all the qualifications. He is preparing a process for interviewing the two applicants Corporal Brett Jamison and Corporal Doug Garcia, for the Sergeant position. There was no opposition. Chief Eborn reported he has received a grant for an in-car video camera system and two portable breath testers. The grant does not require any matching funds. He was unable to go, but he sent Sgt. Arbogast to the funeral services of fallen Ogden Officer Jared Francom. Sgt. Arbogast was overwhelmed at the show of support there.

Fire Chief Coker reported the Citizen Corps will be holding a Murder Mystery themed dinner for a fund raiser on February 13th and 14th and passed out flyers on it. He also invited everyone to attend the Guns and Hoses hockey game on January 28th. Three Sunset firefighters will be playing and the proceeds will be split between the Shriners Hospital and the families of the Officers shot in Ogden.

Public Works employee Corey Wilson advised the Sunset Sam Winterfest will be on February 2nd with a chili cook off and a 2K fun run, among other activities.

Terry Avondet welcomed Council Member Snow's assignment over the Citizen Corps and stated they only meet once a month now. She advised the quilt project netted 19 quilts, which were donated to the domestic violence shelter in Layton.

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Council Member Andrews read part of Sunset Code 1-7-2, "Upon its own motion, the city council may review or consider the compensation of any officer of the city or a salary schedule applicable to any officer of the city, for the purpose of determining whether or not it should be adopted, changed or amended. In the event the city council decides that said compensation or salary schedules should be adopted, changed or amended, said proposed changes may be heard at the next regularly scheduled city council meeting." He said he read it because he will be proposing the Council's salary be increased in a certain way. He thanked Troop #302 for conducting the flag ceremony, Pastor Ronnie Campbell for saying the prayer and the City employees for their hard work. He felt bad for Officer Francom's death and said the Sunset Officers face that danger every day also.

Council Member Furniss is very grateful for Officer Francom's sacrifice. He attended the service and was very moved by it. He said his brother-in-law was one of the EMTs who had to treat the shooter and it was very hard knowing what he had just done, but they have to treat everyone the same. He said he appreciated Mrs. Avondet's comments. He looks in the mirror every day and judges himself about whether his actions were appropriate or not. There was no ill intent; merely clarification of the law. It has helped him understand that they need to clarify things as a Council by adopting rules of procedure and he believes Robert's Rules of Order is a good place to start. He believes they ran into some gray areas with appointments and perhaps the Legislature will resolve them. A Scout brought up to him the protocol the Council uses to open the meetings. The Scout said in their training, it is God then Country and the Council always does the Pledge of Allegiance then the invocation. He doesn't know if there is an expert on that. Mayor Bangerter asked Council Member Furniss to look into that and also the Robert's Rules of Order. Council Member Furniss believes there may be an advantage if they have a work session before the regular meetings so they could resolve their problems before the open meetings. Mayor Bangerter said he would check into it.

Council Member Peterson said, as he was appointed to economic development, he attended his first luncheon today on a business resource center and there is help out there for businesses.

Council Member Snow said the Citizen Corps are looking for 20 couples per night for their Murder Mystery dinner and the flyers that were handed out are their only advertisement, so he asked that the information be spread around. CERT classes will start on February 11th and will end on March 17th. They will be held 8:00 am to noon for six Saturdays. The Council needs to get their NIMS certification and wanted to know when would be good for them to meet and receive the training. A work meeting after a regular Council meeting with a light agenda was suggested. The Youth City Council would like to know how they can help during the Sunset Sam Winterfest and Public Works Director Hennessee will be asked. Council Member Snow had a form passed to the Council about the Youth Council Leadership Institute award and asked if they could each write a letter of recommendation for them by January 31st to submit with their application for the award. He said the Youth City Council doesn't always feel they are supported so he asked the Council to show their support.

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Council Member Carlson said he is thankful the assignments are behind them and hope they can move forward. He saw Sgt. Arbogast at the funeral of Officer Francom and he was also very impressed with the service. There were about 200 police motorcycles and 500 other police vehicles in the procession to the cemetery.

Mayor Bangerter reported Norma Earl who had been a member of the City's Board of Adjustment has passed away and extended his condolences to her family and friends. There had been a graffiti incident at the skate park a few weeks ago and on Sunday he received notification the suspect was in the area, he called the police who responded promptly and the 16 year old suspect was apprehended. He hopes the Council can put the prior argument behind them and that everything is now set forth in proper order so they can rightfully sit on their boards.

Council Member Furniss made a motion to adjourn. Council Member Andrews seconded the motion. The motion passed unanimously.

The meeting adjourned at 8:05 p.m.

These minutes have been read and approved at the regular City Council meeting held **February 7, 2012.**

Chad Bangerter, Mayor

Susan R. Hale, Recorder