

Sunset City Corporation
City Council Minutes
April 2, 2013
Page 1 of 6

Minutes of a regular meeting held April 2, 2013 at Sunset City Hall, 200 West 1300 North, Sunset, Utah; Mayor Bangerter presiding.

5:30 PM - WORK SESSION

Mayor and Council Present: Mayor Chad Bangerter, Council Member Andrews, Council Member Furniss, Council Member Peterson, Council Member Snow, Council Member Carlson

City Employees Present: Susan R. Hale, Recorder; Linda Youngdell, Treasurer/Office Manager; Ken Eborn, Police Chief; Neil Coker, Fire Chief; Norm Noyes, Public Works Director

Others Present: David Church, ULCT Legal Counsel

Ethics training from the Utah League of Cities and Towns: David church, Legal Counsel for the Utah League of Cities and Towns, stated what he is about to impart applies not only to the Council, but to Appointed Officials, employees, board or committee members and to volunteers to some extent. However, the public will hold the Mayor and Council Members to a higher standard just because they are elected. He emphasized portions of the Municipal Officers' and Employees' Ethics Act, 10-3-1301 through 1312 in the Utah State Code. The State Procurement code and State Ethics Act currently does not apply to municipalities, but would apply to any Council Member, etc., who are appointed to any service district board when they are functioning as a board member. Most of the focus is on the conflict of interest portion of the Ethics Act, so he wanted to talk more about the crimes because there has been a lot of publicity lately on the State level and in some cities. These are crimes that are outside of the normal criminal code. These are crimes they can commit because they have chosen to be an officer or an employee of a municipality. It is a crime to disclose or improperly use private, controlled or protected information acquired by reason of their office or in the course of their official duties in order to further substantially their personal economic interest or to secure special privileges or exemptions for their self or others. Private information includes such things as social security numbers, personal medical information or what books people check out of public libraries. Controlled information may be information they receive from a medical care provider due to fitness for duty evaluations, etc. A protected document is one they agreed to keep secret under their internal rules such as the minutes of a closed meeting. It is a crime if they disclose any of those three types of information for the purpose of lining their own pocket somehow. That's pretty clear, but it is also a crime to disclose that information to secure a special privilege or exemption for their self or for someone else. The law does not define what a special privilege or exemption is, but one example is using protected knowledge of a big box store coming into their town and telling someone their property will be going up in value or telling someone who may be in the business of locating businesses in the area. That would be giving someone a special privilege that is not available to the rest of the public. It is also a crime to use or attempt to use, meaning even if you're not successful in doing it, their official position to further substantially their personal economic interest. It is a crime to use their official position to secure a special privilege or exemption for their self or for someone else. It is a crime to knowingly receive, accept, take, seek, or solicit, directly or indirectly, for the officer or employee or for another, a gift of substantial value or a substantial economic benefit tantamount to a gift that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties or the person knows, or that a reasonable person in that position should know, under the circumstances is primarily for the purpose of rewarding the person for official action taken. A gift of substantial value is one that is worth

Sunset City Corporation
City Council Minutes
April 2, 2013
Page 2 of 6

more than \$50 and is not a public award or a campaign contribution. In accordance with Utah State Code 10-3-1310 if an officer or employee violates one of those items, it is a 2nd degree felony if the total value exceeds \$1,000, a 3rd degree felony if the total value is more than \$250 but less than \$1,000, a class A misdemeanor if the value was more than \$100, but less than \$250 and a class B misdemeanor if the value was \$100 or less. In addition to that, if convicted they would be removed from office or terminated from employment. It is easier to accuse people of these items than it is to convict someone on them. However, a colorful accusation that is investigated by the Attorney General's Office or the County Attorney will be publicized in the newspaper and it will be difficult for them to defend and not be convicted. The Attorney General's Office will keep their investigation private until they decide if a crime has actually been committed, but nothing stops the person who accused them of telling the press they're being investigated. In small towns and cities, if an Official owns or works for a business that does a lot of work with the City, it is difficult not to be accused of these things. A conflict of interest is required to be disclosed if an official's business is regulated by the City or if the business does business with City. The disclosure needs to be made when they first take office, in writing to the Mayor, the Mayor is supposed to disclose that to the Council within 30 days and the disclosure is to be kept on file. It is not against the law to have a business that does business with the City or is regulated by the City, it just needs to be disclosed and permitted by City. It is very rare, but it is not against the law to enter into a contract with someone to help them with the City as long as it is disclosed and permitted by the Council. Any personal interest or investment that creates a conflict between the person's personal interests and his public duties shall be disclosed. A personal interest is easy to be accused of but it is not always true. The ethics act is enforced by a complaint to an independent ethics commission or committee. If the City does not have an ethics committee established, the complaint will go to the State Ethics Review Commission. The Commission will investigate the complaint in private and it gives the accused due process and a chance to respond. It will only be revealed publicly if they find there has been a violation. Misuse of public funds is a felony no matter what the amount is and misuse of equipment applies as well.

Council Member Furniss asked how they could form an ethics committee. Attorney Church recommended not forming one and using the State's because there are not enough complaints to warrant a committee.

Attorney Church said it is sad when the Council Members accuse each other or the Mayor of ethical violations. However, it is important to have a seriously legitimate complaint appropriately investigated. He asked them to presume the Member is doing things ethically until proven guilty, not the other way around. A good way to avoid the first issue of disclosing protected information is not holding too many closed sessions just to hold them so they don't learn things they don't need to know; don't get involved in employees' personnel files and learn about any of their health issues unless there is a specific need. If something is not known, it can't be improperly disclosed. The other items they will know if they do it.

Council Member Furniss made a motion to adjourn from the work session and return to the regular session at 6:30 p.m. Council Member Andrews seconded the motion. The motion passed unanimously. The work meeting adjourned at 6:25 p.m.

6:30 PM - REGULAR SESSION

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
Norm Noyes	Public Works Director
Fire fighters: Jeremy Kaufman, Anthony Bott, Steven Dotson	

Others Present:

Terry Avondet	Citizen Corps
Adam Hughes	Better Cities
Pamela Manson	Salt Lake Tribune
Clifton Jensen	

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

Council Member Snow gave the invocation and led the Pledge of Allegiance.

Approval of Minutes: Council Member Andrews made a motion to approve the minutes of March 19, 2013 as presented. Council Member Furniss seconded the motion. The motion passed unanimously.

Public Comments: Terry Avondet thanked Mayor Bangerter for trying to be a hands-on Mayor and helping the City. She said the disrespect and accusations he has had to tolerate is disgusting. The Council Members were voted into office to do what the citizens wanted them to do. The usual question she now gets from citizens is, "Are all the Council meetings so full of the type of disgusting behavior that was exhibited at the last Council meeting?" The Council should be pleased to know they are now not only an embarrassment to the City of Sunset and Davis County, their reputation has spread to other areas in the State of Utah. She used to be so proud of this City, but now she hates it when someone says to her, "Oh, you live in Sunset?"

- 1. Discussion and possible approval of Ordinance 2013-02 adding Chapter 10 "Rental Dwelling License" to Title 3 "Business and License Regulations" of the Sunset City Code:** Mayor Bangerter introduced the item and asked if there was any discussion. Adam Hughes, from Better Cities, said this ordinance is a compilation of best practices from other cities that have adopted this type of ordinance. Council Member Snow asked who would be

the investigator when there is a complaint of a violation of the ordinance. Mayor Bangerter replied the Police Department would handle that. Council Member Snow suggested adding “and Council” after “Mayor” in 3-10-13 “The license officer may adopt rules and regulations, approved by the Mayor, to implement the provisions of this chapter.” The suggestion was accepted by the Council. Council Member Snow questioned the availability of classes so the landlords will be able to complete their class within the two month time frame. The class is available on-line, as well as on location.

Council Member Snow made a motion to approve Ordinance 2013-02 with the suggested amendment. Council Member Furniss seconded the motion. The motion passed unanimously with a roll call vote. Council Member Andrews – yes, Council Member Furniss – yes, Council Member Peterson – yes, Council Member Snow – yes, Council Member Carlson – yes.

2. **Discussion and possible approval of Ordinance 2013-03 adding Chapter 11 “Better Landlord Program” to Title 3 “Business and License Regulations” of the Sunset City Code:** Mayor Bangerter introduced this ordinance and asked if there was any discussion. There was no discussion.

Council Member Snow made a motion to approve Ordinance 2013-03. Council Member Furniss seconded the motion. The motion passed unanimously with a roll call vote. Council Member Andrews – yes, Council Member Furniss – yes, Council Member Peterson – yes, Council Member Snow – yes, Council Member Carlson – yes.

3. **Discussion and possible approval of Resolution 2013-03 amending the per diem rates in the Personnel Policies and Procedures:** Council Member Furniss said he talked with a Council Member from another City, who asked what Sunset’s per diem was. Upon asking Treasurer/Office Manager Youngdell, he learned the per diem was last set in 1994. He found that the North Davis Sewer District uses the standard set yearly by the U.S. General Service Administration (GSA). He believes Sunset’s rate is not adequate.

Mayor Bangerter clarified Sunset’s mileage rate is as set by the IRS and they are not changing that. They are discussing the per diem for meals and lodging. Wasatch Integrated follows the GSA as well. There are other entities that set their own. He is concerned the GSA rate for lodging would limit them to \$77 per night and he saw the rooms booked for the ULCT Conference in St. George are about \$110 per night. They discussed submitting receipts for reimbursement for certain items relating to City business. The GSA rates were discussed. The table gives a total amount per day and breaks it out into breakfast, lunch, dinner and incidentals. If the conference provides any meals that portion of the per diem would not be paid to the person attending the conference. Mayor Bangerter suggested tabling the resolution, going over it and discussing it more with splitting the sections into reimbursable items and per diem rates.

Council Member Furniss made a motion to table this item. Council Member Peterson seconded the motion. The motion passed unanimously. Voting yes – Council Members Andrews, Carlson, Furniss, Peterson and Snow. Voting no – none.

4. **Discussion and possible approval of Resolution 2013-04 supporting the right to keep and bear arms by uploading the 2nd Amendment of the Constitution of the United States of America:** Mayor Bangerter explained he had seen other entities adopt this and he believes Sunset should do the same. There was no other discussion.

Council Member Andrews made a motion to approve Resolution 2013-04. Council Member Carlson seconded the motion. The motion passed unanimously with a roll call vote. Council Member Andrews – yes, Council Member Furniss – yes, Council Member Peterson – yes, Council Member Snow – yes, Council Member Carlson – yes.

5. **Council Member reports and general information:** Council Member Snow said he noticed the City website shows a few items like the budget, request for records, etc. that have said “coming soon” for about a year now and wondered when it would be updated. Mayor Bangerter said they would check on it and make the updates as soon as possible; however since it is close to budget time they may wait for the upcoming budget to be passed before doing that portion. Council Member Snow attended a Davis Economic Development meeting and where they met with a USTAR representative. USTAR is funded through grants from the State. They take companies who are having problems with making a new product and consult with them to modify the product until it works. They wanted to get the word out in the communities that they are there to help struggling companies. USTAR helps to create jobs and keep them in the country.

Council Member Peterson asked if the Planning Commission work session with the Council would still be taking place on the 18th. It was stated that it was. Council Member Peterson said he will not be here for the next council meeting.

Council Member Furniss said he has been having a lot of communication with residents about by-mail voting. He was also contacted by a lady in Box Elder County who also has concerns about it. A bill was passed allowing municipalities to do all by-mail voting, but she pointed out that the Utah Constitution states that all elections are to be by secret ballot. He cannot see how by-mail voting can be secret. He worries about the Elections Clerk being able to see how a person voted. He said he talked to a person who works for the County Elections during a soccer game and he was told the County would only be spot checking signatures. He believes the potential for voter fraud is alarming. Sunset’s last Election was decided by four votes and Syracuse’s was by one vote. He believes someone could go to an apartment complex and get their ballots out of the mail boxes and forge the voters’ signatures. He wants to slow down and think about this. He talked to a constituent who is talking about going to the Lt. Governor’s Office because she believes they took an illegal vote on the item because the agenda only said discussion. The City of Corinne rescinded their vote by-mail due to cost. With all by mail voting he wondered how poll watchers will be able to watch and if there will be checks and balances. He hopes the Council Members will talk to their constituents. He is opposed to it and believes most of their constituents are,

Sunset City Corporation
City Council Minutes
April 2, 2013
Page 6 of 6

too. The North Davis Sewer District now has same credit rating as state of Utah and have sent out their bonds at near 2% interest.

Council Member Andrews thanked everyone who attended the meeting tonight and for anything they do for the City. He takes criticism from the residents very seriously and will try to improve his actions. He thanked Treasurer/Office Manager Youngdell for helping him this week.

Treasurer/Office Manager Youngdell reminded everyone about the recycling opt-out deadline being May 20th. They have advertised that on the utility bills, on the marquee and by telling everyone as they come to the counter.

Fire Chief Coker said the Easter Egg Hunt went well Saturday. It was a lot of fun and there were a lot of kids. On May 23rd, The Citizen Corps has asked a speaker to talk about animals in a disaster on May 23rd. This will take place in the Sunset Room. The Fire Department and Emergency Preparedness open house will be September 28th.

Mayor Bangerter said he appreciates the hard work of the City employees. He reported the Sunset fire fighters helped with the Clearfield church fire. Chief Coker said during that time the fire truck was called to Layton and the ambulance went on call for transport from the North Davis Hospital to the Pioneer Hospital. Mayor Bangerter asked the Council Members to find the positive aspects on the by-mail voting issue to go along with Council Member Furniss' negative aspects. He may ask Davis County to come in and talk with them again so they will have both sides of the issue before making any decisions. Council Member Furniss said there are some positive aspects included in the packet. He left the packet with City staff so it could be scanned and emailed to the rest of the Council Members and Mayor.

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

The meeting adjourned at 7:25 p.m.

Approved – April 16, 2013.

Chad Bangerter, Mayor

Susan R. Hale, Recorder