

**Sunset City Corporation
City Council Minutes
November 18, 2014
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Minutes of a regular meeting held November 18, 2014 at Sunset City Hall, 200 West 1300 North, Sunset, Utah; Mayor Macfarlane presiding.

REGULAR SESSION

Mayor and Council Present:

Beverly Macfarlane	Mayor
Chris Hadley	Council Member
Ryan Furniss	Council Member
Trystal Peay	Council Member
Jake Peterson	Council Member
Kevin Snow	Council Member

City Employees Present:

Susan R. Hale	Recorder
Breen Lowman	Fire Chief
Norm Noyes	Public Works Director
Ken Eborn	Police Chief
Brett Jamison	Police Sgt.
Joe Maylin	Recreation Supervisor
Marcus Garcia	Public Works

Fire Fighters: Tom Caygle, Jacob Sobers, Marc Sacco, Joni Goodman, Kalub Lewis

Excused:

Linda J. Youngdell	Treasurer/Office Manager
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Others Present:

Scott Nelson	CEC Engineering
Rebekah Woods	Rebekah's Day Care
Terry Avondet	Sunset Citizen Corps
Peggy Stevenson	Sunset Youth Council Advisor
Sydney Furniss	Sunset Youth Mayor
Hanna Griffith	Sunset Youth Council
Bryan Saxton	Standard Examiner
Jenni Williams	Standard Examiner
Girl Scout Troop 337	Vernell Woods
Adam Scott	

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

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

Approval of Minutes: Recorder Hale advised the minutes of October 21, 2014 were not completed; therefore could not be approved. Council Member Snow made a motion to approve the minutes of October 7, 2014 as presented. Council Member Peterson seconded the motion. The motion passed unanimously with Council Members Hadley, Furniss, Peay, Peterson and Snow voting yes.

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Approval of Vouchers: Scott Nelson, CEC Engineering, passed out copies of a letter he had given to the owner of Braker Construction last week. It is his opinion the project will not be finished this year. There is landscaping and some repairs still to do. Most of the construction is done, but some of the sidewalks were damaged from people, animals and bicycles leaving prints in the wet concrete. The concrete work cannot be done correctly now that the weather has turned cold. All the topsoil, sprinklers and sleeves under the sidewalks are done, but with the cold weather the contractor cannot get sod. Mr. Nelson's recommendation is to allow Braker Construction to finish the things they can, put the project on suspension and set a date for them to come back and finish. Suspension does not terminate the damage fees due to the delay; it just suspends them until the date in the spring decided upon that he will begin finishing the project. Presently he has almost \$15,000 in delay charges. The City still holds \$15,600 in retained earnings that will not be paid until the work is complete. There is about \$86,000 worth of contract work still to do, but he does not believe it will cost the full amount. He believes it will only cost around \$25,000 to finish the project, so they'll come in at about \$40,000 under the contracted amount. He recommends paying Braker Construction for the contracted work completed up to November 10th. Council Member Furniss mentioned a roadway running east/west that is full of mud. Mr. Nelson said that is one of the items he is requiring him to finish before being done for the winter.

Council Member Snow made a motion to approve the voucher for Braker Construction in the amount of \$171,112.77. Council Member Peay seconded the motion. The motion passed unanimously with Council Members Hadley, Furniss, Peay, Peterson and Snow voting yes.

Public Comments: Adam Scott handed a list to Council Member Furniss. He said he saw the newspaper article about the alleged drug use in the Fire Department and said that is one of the reasons he left the Fire Department after 11 years. The list he handed Council Member Furniss contains 12 reasons he left the Department. He was the second highest ranked person there. The first item was morphine tampering. He went through the chain of command by addressing the Chief and then went to Council Members Hadley and Furniss when he left the department due to fear of life getting hard for him. There is no physical testing for new hires since Chief Lowman has taken over. That affects ISO ratings, which causes home owner insurance to go up. There were drugs being stored outside in ambulance 12 where degradation of the drugs was possible. Also he is not going to push IV solution that is frozen into a patient. It is things like that why he left the Department. When this went to the newspaper he believes a courtesy call to him would have been nice.

Youth Council Mayor Sydney Furniss reported the Youth Council amended their bylaws, which she passed out, and asked that they be approved during the next Council meeting.

Firefighter Kalub Lewis said he does not live in the City, but is a member of the Sunset Fire Department. He advised C-paths have been administered for new hires, the most recent one being held November 13th. The drug bag is being stored inside in a secured location since the onset of colder weather.

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Josh Hurst, a former Sunset Fire Fighter, is concerned that he was forced to resign, rules were bent, they help those they want to cater to and go the other way for the ones they don't. He grew up in this City and was proud to be a fire fighter here. He went through some hard times that set him back a bit and believes he was punished for it.

Jacob Sobers, a Sunset Fire Fighter, said some things were brought up about the Fire Department and are valid points to bring up. He was hired a year and two months ago and was required to pass a physical agility test. The testing has now been reinstated. In regards to Ambulance 12 he believes as a stipulation of getting the second ambulance, there would be a place to house it to help keep the IV and drug bags safe. He can confidently say ever since acquiring Ambulance 12, it has always been locked up. There was an issue once when he was on shift; they noticed the seal was broken on a bag of morphine. His shift starts at 0600 and the Chief was called at 0605. He and Kyle Wood, who was also on shift, stayed with the bag until Chief Lowman arrived from his residence. It was addressed and taken care of at that time. Chief Lowman has a signed document of their statements. In regards to Mr. Hurst, who said he was forced into resignation, he did have some family trials that came up and he was not showing up when he was scheduled for shifts for about three months. He, along with several other firefighters, were called in to work even if they were sick to cover those shifts so they could make sure the citizens were covered. He said that was a very big sacrifice on their part. He thanked the Council for hearing him out and said, as a Department, they back Chief Lowman and there is nothing that can happen that will stop them from serving the citizens of Sunset.

David Powers, EMS Captain of the Sunset Fire Department, stated he is over the C-path tests. They have continuously done the tests over the last two years. They had some growing pains when Chief Lowman came on and were short staffed about a year ago so they went through a spot when they hired people first, but everyone on the Sunset Fire Department has completed a C-path.

- 1. Consider revoking the child care business license of Rebekah Woods:** Recorder Hale explained in August she had received a complaint that Rebekah Woods had been operating a child care business from her home even though she and her family had moved out of the home, so a letter was mailed on August 4th. Mrs. Woods called on August 7th stating she didn't move out and understood the code if she were to move out. In September Police Chief Eborn received another complaint from a person about the same thing, so he had some of his officers go to her house at different times after child care business hours and never found anyone home. Another letter was mailed to Mrs. Woods on October 27th advising her of the second complaint and that she could appear at the next City Council meeting to show cause why her home occupation child care license should not be revoked. The reason her license is in question is that Sunset Code states a home occupation is a business that is clearly incidental, secondary and compatible to the residential use meaning a person has to live in the home and the business is secondary.

Rebekah Woods stated she has been operating a day care in her home for the last eight years. She was going to move, but she and her husband separated so she still lives in the home and her husband moved to Roy. She works events with Northern Utah Events after she does day

care during the day. Almost every night she leaves for events after the kids are gone and she also does events almost every weekend. She was even supposed to be at an event tonight, but missed it to come here.

Vernell Woods, Rebekah's husband, stated they know who made the complaints. When he lived there, they came home and their vinyl fence was kicked open so the dogs could get out. Later they received a letter stating their neighbor's approximately 50 year old daughter, who does not live there, kicked open their padlocked gate and called animal control saying she was worried about their dogs' welfare. The reason they know it was her is that she admitted to a police officer that she had gone into their yard. This woman is constantly climbing on the fence staring at her and her day care kids. She takes pictures and has called animal control more than once. She is just being malicious. They have contacted a lawyer about what she did. He moved out of the house July 30th. Originally they were going to move together, but they got separated. She does events at nights and when the police have gone there, she was at an event.

When asked how many nights she is at events and if she could provide documentation, Mrs. Woods replied she could provide documentation and it depended on the time, but she does them almost every Friday and Saturday. Their office is in Ogden and she has been working the last two weeks at an event in Bountiful and has two more weeks scheduled. The events are open from 10 am to 10 pm, but she is only able to attend from 6 pm to 10 pm due to her day care and then she has to clean up after that.

Council Members Hadley and Peterson feel they cannot discern if she lives there or not. Council Member Furniss said neighbors tend to know each other's schedules, so when the complaint came from a neighbor, he felt it was appropriate to check on it. Council Member Snow mentioned he personally received a complaint from someone other than the person they think it was so obviously the neighbors don't believe she lives there.

Council Member Furniss made a motion to allow Rebekah Woods to retain her business license because they do not have sufficient evidence to revoke it. Council Member Peay seconded the motion. The motion passed unanimously with Council Members Peay, Hadley, Snow, Peterson and Furniss voting yes.

2. **Consider Resolution 2014-12 adding Section L – Driver Evaluation Criteria Using Motor Vehicle Record to 4(II)3.3 of the Sunset City Personnel Policies and Procedures:**

Mayor Macfarlane read a statement given to the Council by Treasurer/Office Manager Youngdell, "Sunset City has vehicle coverage through Utah Local Governments Trust. Part of their requirement is that we provide them the driver's license number of any employee or volunteer that will drive or has the potential to drive a City vehicle. When a new employee is hired (that may drive a City vehicle), I provide Utah Local Governments Trust with this information. And Utah Local Governments Trust will run a MVR (Motor Vehicle Record) on this employee or volunteer to see if there are any borderline or unacceptable incidents on this employee's driving record. After the initial MVR, they will continue to run the license each month to ensure that there have not been any new incidents on the employee or

volunteer that is driving a City vehicle. The policy that is before you tonight has been drafted with the help of Utah Local Governments Trust and should be included in the Sunset City Policies & Procedures. This policy will clarify what is acceptable, borderline and unacceptable incidents. It is important that we adopt policies such as this one to ensure that the vehicles owned by Sunset City are being driven by employees or volunteers that are safe drivers. This helps keep our insurance rates down.”

Council Member Furniss made a motion to approve Resolution 2014-12. Council Member Peterson seconded the motion. The motion passed unanimously with a roll call vote. Council Member Furniss – yes, Council Member Peterson – yes, Council Member Snow – yes, Council Member Hadley – yes, Council Member Peay – yes.

3. **Discuss the Sunset City employees Christmas party:** Recreation Supervisor Joe Maylin explained that in years past the employees fund has paid for the employees’ Christmas dinners. Anyone who is not a member of the association and wants to attend pays for their own dinner. This year there is not enough money to pay for a dinner. The times they went to dinner at places like Tepanyaki’s it cost from \$1,400 to \$1,700. He talked to Mayor Macfarlane around April about maybe hosting a catered employees’ lunch in the Sunset Room during the day at a cost of about \$10-\$15 per person. He told her he does not believe it is right that the employees have to pay for their own Christmas party. The Employee Association funds are for things like flowers for employees or family members hospital stays, deaths, births, etc. so someone does not have to go around collecting money each time one of those things occur. They need to know if there are City funds for a party. Catering would cost \$400 to \$700. He has talked to Grandma’s Kitchen here in Sunset and a couple of BBQ places. They need to set a date so they can reserve the catering. They had previously thought about holding it on December 12th at 1:00 pm. It was discussed and decided to go ahead with that date and allowing \$500 to \$700 for the cost.
4. **Mayor and Council reports:** Council Member Peay (over Economic Development, Recreation & Senior Program) reported the Veterans Day Event was very poorly attended and she does not believe they should spend the time and energy on it in the future. Maybe they could do something else, but not do an event. She will be volunteering to help with a meal again at the Davis County Senior Center in late November or early December. She would like to see if the Youth Council would like to join her as a service project. As to economic development, she is waiting on the draft plan from Zions Bank.

Council Member Hadley (over Citizens Corp, Emergency Preparedness & Fire) said he had nothing to report.

Council Member Snow (over Beautification, Better Landlord Program, Donations, Housing, on the Development Review Committee for MIDA & the Mosquito Abatement District Board) reported at the Mosquito Abatement meeting he learned this year was one of the worst for mosquitoes with 1,220 spray requests, which was up from 853 last year and up from 1,028 requests in 2012. The good news is that the West Nile Virus was kept at bay. He asked if Better Cities would still be conducting the Better Landlord classes next year.

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Recorder Hale replied they had a contract for 10 years. Council Member Snow said the Beautification Committee meeting was canceled due to the Veterans Day event so they will have one in early December. The DRC has not met and he had nothing to report on donations.

Council Member Peterson (Planning Commission Liaison & over Public Works) reported there will be a Planning Commission meeting on Thursday. He is on the Community Review Board on the 1800 North EIS study and reported the EIS design phase is only 30% completed so things can still change drastically. There will be an open house for the EIS tomorrow from 6:00 to 8:00 p.m. in the Sunset Room. He has been contacted by Don McKinnon from Davis Behavioral Health who owns some properties on 800 North. He would like some ideas on what can be done with the properties that makes the neighbors happy as well. At one time, the previous owner was trying to build an apartment building, but the neighbors did not want two-story buildings in back of their properties. Mr. McKinnon was thinking about cottages maybe. Council Member Peterson asked the Council Members to think about it and give him some feedback. Council Member Furniss suggested they read the minutes to see what happened when the apartments were considered. The tenants in the buildings Davis Behavioral Health owns are people who are trying to get back on their feet. Council Member Peterson said he will have the item put on the next agenda.

Council Member Furniss (on the North Davis Sewer Board, over Property Management, Transportation & Youth City Council) thanked Jenni Williams for her nice article in the newspaper about their tour to the sewer plant. He asked Recorder Hale if the 1800 North Public Hearing could be recorded and put on the City's website because there are people who cannot attend the public hearing and may want to listen to it. Recorder Hale will leave the recorder in his box for him to use. Council Member Furniss said the Youth City Council would like to have a section on the City's website. They will be asking for food donation drops to give the shelter. They will be selling pizzas for a fund raiser. Peggy Stevenson, the Youth Council Advisor, is requiring a certain amount of attendance to their meetings and projects if they want to attend the Utah State Conference.

Mayor Macfarlane (over Administration, Court, Military Affairs Committee, Police & on the Wasatch Integrated Systems Board) has been working on an agreement to exchange water with Weber Basin Water. She asked the Council Members to review the agreement and get their comments back to her as soon as possible. She had a meeting with UDOT because she is concerned with the happenings on the rail road tracks through Sunset. She said they would place some lighting and video surveillance along the tracks so they can see if anything is going on and possibly deter some of the accidents. They also discussed some fencing people have been going over to get into Clinton. She hopes the lighting will not be an issue with residents along the rail line. She is still pushing for a Frontrunner Station in Sunset. She attended a meeting with Wasatch Integrated where their budget was discussed. She talked with Sunset Elementary school on the crosswalk. A community partner wanted to pay for a crossing guard, but the Council decided not to do that until budget session in case the community partner stopped paying so she let the school know that. The school has not heard anything more from the community partner. She has applied for a Main Street improvement

planning grant, but does not know yet whether or not it will be approved. The Court is running great and she appreciates them.

5. **Department reports:** Police Chief Eborn said the Clinton Police Department owns a radar trailer that displays the speed of oncoming cars and reminds them of the speed limit. He plans to ask if Sunset can borrow it for a while to place at Sunset Elementary. It will be another educational tool and a reminder the Police Department is watching the area. He reported Officer Butcher is leaving the Department, so he sent an email to Mayor Macfarlane and the Council Members asking if he could begin the process to fill the position and he received a reply from four of them to go ahead. He then realized City policy says to open the position in house first so he posted the application and has received only one application. It was from Sunset Fire Captain Kelcee Oyler who has completed the Police Academy, is working for another agency and desires to work for Sunset. She is more than qualified. Chief Eborn had asked if the City could offer to help pay off her contract with Clearfield City, but she has since worked that out and the proposal is off the table. The City policy states they should consider in house first. He knows there is a meeting tonight, but does not know what that may have to do with her. He has discussed hiring her with Sgt. Jamison, Lt. Arbogast and other officers and they all believe she would be good. City policy also says he has to notify the Council the outcome of the internal posting. He reminded them he has never filled a position without bringing it to the Council and receiving a majority approval to proceed. Mayor Macfarlane asked for a consensus. Council Member Peay said absolutely. Council Member Hadley asked if this was to hire her right now or to consider her. Mayor Macfarlane said it would be to hire her. Council Member Hadley asked if she would leave the Fire Department and Chief Eborn said he believed she would. Council Member Furniss said Chief Eborn had asked the Council if he should proceed with this and he asked Chief Eborn what his direction was. Chief Eborn said his direction from Council Member Furniss was to let it be. Council Member Furniss said it was because there is a closed meeting tonight in which they will be discussing her, yet he still brings it before the Council. Chief Eborn said he brought it before the Council because he believes policy says he is to do that. Council Member Furniss believes policy only says he advertise in house. He is insulted and said part of the allegation mentioned in the newspaper involves her. He believes it was wrong of Chief Eborn to bring this up knowing the Council would be talking about this tonight. Chief Eborn stated he knew there would be a closed meeting involving the Fire Department, but had no idea what that entailed. Council Member Furniss believes Chief Eborn needs to wait until they take care of the business they need to take care of. He advised the Council they may want to hear the details in the closed meeting before they make their decision. Mayor Macfarlane said they can hold the closed session and come back into regular session to make their decision.

Public Works Director Noyes stated an updated Water Conservation Plan was emailed to them. State regulations require the updating. He advised the Senior Christmas Luncheon will be on December 3rd. He appreciated all Joe Maylin does for the Employees Association and appreciates the Council's support of the Association.

Fire Chief Lowman stated he appreciated the fire fighters presence tonight to support the Fire Department. He reported Santa Claus will be going through town on December 6th beginning at 9:00 a.m. and it has been put on the City marquee.

Possible Closed Session for reasons allowed by Utah State Code 52-4-205:

Council Member Furniss made a motion to go into a closed session in accordance with Utah State Code 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual and (g) investigative proceedings regarding allegations of criminal misconduct. The meeting will be held in the Sunset Council Chambers. Council Member Hadley seconded the motion. The motion passed unanimously with Council Members Hadley, Furniss, Peay, Peterson and Snow voting yes.

An affidavit for the closed session regarding section (1)(a) signed by Mayor Macfarlane and notarized by Recorder Hale is attached. Section (g) was not discussed.

Council Member Furniss made a motion to go back into the regular session. Council Member Hadley seconded the motion. The motion passed unanimously with Council Members Hadley, Furniss, Peay, Peterson and Snow voting yes.

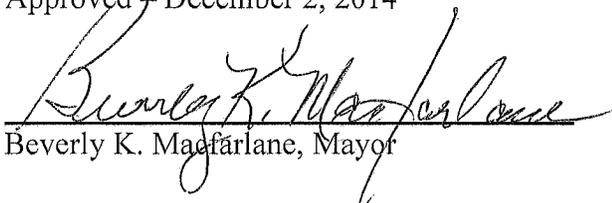
Discussion: Since Council Member Hadley is unable to continue doing his Fire Department assignment due to family issues right now, Mayor Macfarlane took back the Fire Department with the Council Members' consent. She will reassign the Fire Department to another Council Member at the next Council meeting.

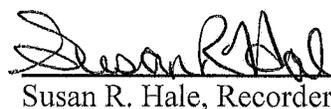
Council Member Furniss made a motion to adjourn. Council Member Snow seconded the motion. Mayor Macfarlane asked if they could go forward with what they discussed in the closed session or if they had to make a motion because they have to take action in the open meeting. Council Member Snow stated in the Mosquito Abatement Board meetings they make a motion to do what they discussed in the closed session. Council Member Furniss said because it was about personnel issues he believes that would be good. Mayor Macfarlane said ok. She will contact Chief Lowman tonight. She asked for clarification that it would be from Wednesday to Wednesday and it was confirmed. Council Member Snow said now she was talking about this in an open meeting. Mayor Macfarlane said she just needed to be clear, but didn't want it in the minutes and apologized. She asked for a motion to adjourn.

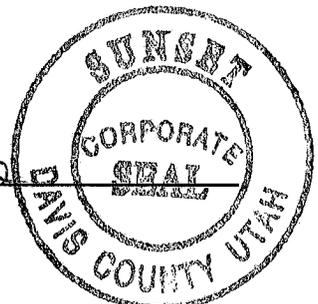
Council Member Furniss made a motion to adjourn. Council Member Peterson seconded the motion. The motion passed unanimously with Council Members Hadley, Furniss, Peay, Peterson and Snow voting yes.

The meeting adjourned at 11:25 p.m.

Approved December 2, 2014


Beverly K. Macfarlane, Mayor


Susan R. Hale, Recorder



AFFIDAVIT FOR CLOSED SESSION

State of Utah)
 §
County of Davis)

I, Beverly K. Macfarlane, being first duly sworn under oath, state the following:

I hereby certify that the sole purpose for the closed session held on November 18, 2014 was to discuss the purposes described under:

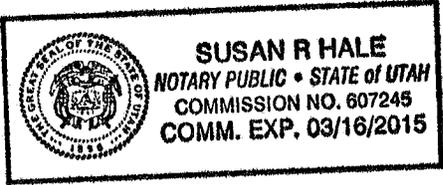
- Utah State Code Subsection 52-4-205(1)(a) - the character, professional competence, or physical or mental health of an individual, or

- Utah State Code Subsection 52-4-205(1)(f) – regarding deployment of security personnel, devices or systems.

Dated this 19 day of Nov., 2014.

Beverly K. Macfarlane
Mayor

Subscribed and sworn (affirmed) to before me on this 19th day of November, 2014.



Susan R Hale
Notary Public