

**MINUTES OF THE CITY OF WEST JORDAN
SPECIAL CITY COUNCIL MEETING**

Wednesday, April 29, 2015

6:00 p.m.

Council Chambers

8000 South Redwood Road

West Jordan, Utah 84088

COUNCIL: Mayor Kim V. Rolfe, and Council Members Jeff Haaga, Chris McConnehey, Chad Nichols, Ben Southworth, and Sophie Rice. Councilmember Judy Hansen participated electronically.

STAFF: Bryce Haderlie, Interim City Manager, and Melanie Briggs, City Clerk

I. CALL TO ORDER

Mayor Rolfe called the meeting to order at 6:04 p.m.

The Pledge of Allegiance was led by Nate Gedge.

Councilmember Southworth point of clarification, Councilmember Hansen was to join the meeting electronically. However, there has been a question if she could participate even though she is not on City business. When I read that portion of the 'Council, Rules and Procedures' I did not think that was what that said. I don't know if we need a legal clarification. Either way, I do not think the City Clerk has her on the phone right now.

Melanie Briggs stated Councilmember Hansen was not on the phone, because she was waiting for a determination from the Council.

Councilmember Southworth stated that we need that clarification so the City Clerk could get her on the phone and participating in the meeting, if that would be the determination.

Councilmember McConnehey stated in the past when we have conducted electronic meetings, the meeting must be notices that way, and then suspend the Council rules to allow participation whether it was City or personal business.

Melanie Briggs stated the meeting had been noticed as an electronic meeting.

Councilmember Haaga said a special meeting must be called by the Mayor or two Council members. The State law indicates that a lack of presence was a waiver that you had been notified of the meeting.

MOTION: Councilmember Nichols moved to suspend the rule to permit Councilmember Hansen to participate. The motion was seconded by Councilmember Southworth.

Councilmember Haaga said by suspending the rules, the Council would have no guidance on how to conduct the meeting. So, if the rules were suspended, he requested that Councilmember Nichols specify which rule was being suspended, so that all of the rules are not suspended.

Councilmember Haaga asked if the Acting City Attorney would be able to look up State Code concerning councilmember presence, and lack of presence would be a waiver of their activity in the meeting.

Darien Alcorn stated she would not be able to.

Based on her comment, Councilmember Haaga objected to the motion because it violated State Code.

Mayor Rolfe spoke against the motion also, because the Council should *not* pick and choose which rules to follow, and which ones we do not.

A roll call vote was taken

Councilmember Haaga	No
Councilmember Hansen	absent
Councilmember McConnehey	Yes
Councilmember Nichols	Yes
Councilmember Rice	Yes
Councilmember Southworth	Yes
Mayor Rolfe	No

The motion passed 4-2 in favor

For clarification Councilmember Haaga indicated that the conversation must be audible both receiving and sending.

Mayor Rolfe asked Councilmember Hansen is she was participating in the meeting of her own choice.

Councilmember Hansen indicated, yes.

II. BUSINESS ITEMS

REPORT ON MEETING WITH SALT LAKE COUNTY DISTRICT ATTORNEY'S OFFICE ON MONDAY

Mayor Rolfe reported to the City Council that he had a meeting with Sim Gill and his staff on Monday. The investigation was proceeding, and he had requested additional documents, and he stated that he would cooperate with him fully.

Councilmember Southworth asked if the Mayor could elaborate on what investigation, and was this something that was initiated on his own volition.

Mayor Rolfe stated the investigation into two items that had to do with the hiring practices of the City, and signatures on City documents.

Councilmember Haaga said he wanted to make public that after a closed door session, he with Mayor Rolfe submitted documents concerning the hiring of the City Council member, along with other allegations to the Salt Lake County District Attorney.

He said this involved the Interim City Manager and City Attorney interviewing a City Council member for the Deputy Public Works Director position. It also involved the selection of the Council member being hired above more qualified candidate's that applied. Of the 19 applicants selected for review, and with many more qualified applicants that were not even considered, the position went to an elected official of this body in March 2015. This involved the City Council member working with the City Attorney to change City Code for filling a vacancy of his position even after he had been offered the job.

Finally, there was never a disclosure to the public or City Council body of the City Administration interviewing a Council member. He was seeking a full investigation of this matter by the Salt Lake County District Attorney, or refer the item to the Utah State Attorney General's Office. The 110,000 residents that he represents, demand that our hiring practices and system for positions in the City was fair and without prejudice. He would hope all staff members and elected officials work with the investigative officers to a resolution of this matter.

AFFIRMATION OF BRYCE HADERLIE TO EXERCISE HIS DUTIES AS ACTING CITY MANAGER AND TO FULFILL THOSE DUTIES ACCORDINGLY

Councilmember Southworth stated as an introduction I want to use the word veracity, which is the quality of being truthful or honest. In fact, it is devotion to the truth. He wanted to make a statement, that if this Council, if all of us, between its members, City staff, and the especially the public cannot have faith in the veracity of their elected officials, our ability to carry out work would be irreparable harmed. My friends, we can do better. Let me introduce this by starting with a motion:

MOTION: Councilmember Southworth moved that the West Jordan city council hereby reaffirms our support of Bryce Haderlie as the acting city manager of the city of West Jordan to exercise all authority and responsibilities of the office of City Manager as prescribed by state and city code and to fulfill those duties accordingly. We feel it necessary and appropriate to remind ourselves, city staff and

residents alike that our system of government is based on law and order; and as such would like to rehearse the following from city code and council policies, rules and procedures.

COUNCIL POLICIES, RULES AND PROCEDURES

D.1 INTERACTION WITH CITY STAFF/OFFICIALS

a. Overview. City Council policy is implemented through professional staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties in order that City policies and programs may be implemented successfully. The City has a long tradition of positive relationships between members of the City Council and staff. To maintain these effective relationships, it is important that roles are clearly recognized.

b. Council-Manager Form of Government. West Jordan City has adopted a City Council-City Manager form of government. Basically, this structure reflects that it is the City Council's role to establish City policy and priorities. The Council appoints a City Manager to implement this policy and undertake the administration of the organization. The City Council is to work through the City Manager in dealing with City staff. Indeed, the municipal code requires Council Members to work through the City Manager, unless simply requesting information from other staff members.

c. City Manager Duties. The City Manager is appointed by the City Council to enforce its laws; to direct the daily operations of City government; to prepare and monitor the municipal budget; and to implement the policies and programs initiated by the City Council. The City Manager is responsible to the City Council, rather than to individual Council Members. The Manager has the sole responsibility to direct and coordinate the various departments and City staff.

d. Council/Manager Relationship. The employment relationship between the City Council and City Manager honors the fact that the City Manager is the chief executive officer of the City. The City Council should avoid situations that can result in City staff being directed, intentionally or unintentionally, by one or more members of the City Council. Regular communication between the City Council and the City Manager is important in maintaining open communications. All dealings with the City Manager, whether in public or private, should respect the authority of the City Manager in administrative matters. Disagreements should be expressed in policy terms, rather than in terms that question satisfaction with or support of the City Manager.

The City Council is to evaluate the City Manager on a regular basis (at least annually) to ensure that both the City Council and City Manager are in agreement about performance and goals based on mutual trust and common objections. West Jordan City Councils have utilized the following areas of performance: communications; interpersonal/community relations; and ability to accomplish goals and objectives.

As in any professional relationship, it is important that the City Manager keep the City Council informed. The City Manager respects and is sensitive to the political responsibility of the City Council and acknowledges that the final responsibility for establishing the policy direction of the City is the City Council. The City Manager communicates with City Council in various ways. There is a formalized approach by holding briefing meetings with individual Council Members and through “For Your Information” memorandums, and by bi-weekly City Activity Reports. Communication must be undertaken in such a way that all Council Members are treated similarly and kept equally informed.

D.1 - h. Council Roles. Individual members of the City Council shall not attempt to pressure or influence Administrative staff decisions, recommendations, workloads, schedules, or department priorities, without the prior knowledge and formal approval of the City Council, as a whole. If a Council Member wishes to influence the actions, decisions, recommendations, workloads, work schedule, and priorities of Administrative staff, that Council Member must prevail upon the Council and to do so as a matter of Council policy.

City code:

1-6-7 Limitations of actions and authority of city council

A. Council Prohibited From Administrative Interference: No member of the city council shall direct or request, except in writing, the appointment of any person to or his removal from office. No member of the city council shall interfere in any way with the performance by the appointed officers of their duties. The city council shall not give orders to any subordinate of the city manager, either publicly or privately, but may make suggestions and recommendations to the city manager.

1-7b-2 Mayoral Duties

B. No Administrative/Executive Duties: The mayor shall have no administrative or executive powers or duties. The mayor may provide

citizens with names and phone numbers or e-mail addresses into specific departments of city government for assistance with citizen questions, but the mayor may not direct the city staff as to the solution or action responding to any such concern. Any issue raised by citizens or the city council concerning the level or appropriateness of city responses or services shall be discussed with the city manager and not directly with any subordinate employee. The motion was seconded by Councilmember Rice.

Councilmember Haaga wanted to make sure the Councilmember Hansen was still on the line.

Councilmember Hansen stated she was.

Councilmember Haaga addressed what the Mayor and Manager's duties are based on State Code. We are unfortunate, or fortunate, to be governed by 1977 Law, and sometimes it gets interpreted with other forms of government. But, in 1977 Code, Section 10-3-1224, the Mayor shall preside at all meetings of the Council; and shall have a vote in all Council proceedings. All bonds, notes, contracts, and written obligations of the municipality shall be executed on its behalf by the Mayor. Now, to me, that is CEO type of authority granted by State Code. He stated he objected to the motion. He felt the Council placed a staff member that was appointed as the Interim City Manager in a position that is probably beyond his ability. I would even confess, this is a big city. We have 500 plus employees, give and take. I am sure, I know just from going down to St. George with him, he had to leave an extra day because he was ill. It has taken a toll on his health. Therefore, he proposed the following substitute motion:

SUBSTITUTE

MOTION: Councilmember Haaga moved to release Bryce Haderlie from Interim City Manager, and allow him to resume his duties as Assistant City Manager; and appoint Chief Marc McElreath, as our Acting City Manager, temporarily as we go out and seek a new City Manager. The motion was seconded by Mayor Rolfe.

Councilmember Hansen asked if Chief McElreath agreed to this, because she knew at one time that he would not do it again.

Mayor Rolfe asked if Chief McElreath asked to do this, would this be something he could do temporarily.

Chief McElreath said he was asked this question prior to the meeting starting. He felt along with anyone at this table, you always have 'other duties as assigned;' and he could just tell them, that was something he was asked to do temporarily, and that was the direction the Council wanted to go, I would do that.

Mayor Rolfe asked if Councilmember Hansen heard that.

Councilmember Hansen indicated that she did.

Councilmember Rice said she would be willing to accept Councilmember Haaga's substitute motion, if she could alter it herself.

AMENDED SUBSTITUE

MOTION: Councilmember Rice moved that she would accept Bryce Haderlie becoming Assistant City Manager, IF WE RIGHT NOW REINSTATE RICK DAVIS, BECAUSE WHAT HAPPENED TO HIM WAS WRONG.

Councilmember Haaga called a point of order. The Council by contract are not allowed speak of our former City Manager in public.

Councilmember Rice said that he was not allowed to speak ill of him in public.

The motion was seconded by Councilmember Southworth.

Councilmember Southworth said with both substitute motions, the Council has caught two individuals off guard that had not been previously discussed this with.

Mayor Rolfe point of clarification Chief McElreath was approached prior to the meeting, and said he would do this.

Councilmember Southworth said he heard *how* he said he would do it, and he is a good Indian and he said the correctly. He seconded the motion of Councilmember Rice and would support it. However, he did not know, the Council has not reached out to Rick Davis to see if that was something he would be willing to do. This is not what we intend to do tonight. We are getting off track.

Mayor Rolfe stated if we are off track then a motion should not have been made, and you should not have seconded it if that was the case.

Councilmember Southworth said we have been off track all night. Thank you, that is all I have to say.

Councilmember Haaga just a point of clarification. Back in August of 2014, our past City Manager resigned, and our City Attorney crafted a separation agreement, which is I guess standard procedure in government. Part of that agreement, was that we as Councilmembers', now our new Councilwoman has a perfect right to mention our past City Manager. The Council is supposed to refrain from any disparagement. He resigned

with honor, and as far as I know we honored his retirement and all of the agreements that we had up to June of this year. Out of respect of the separation agreement, that we avoid using our past City Manager's name in this motion.

Councilmember Rice said she would pull her motion.

A roll call vote was taken on the *Substitute* motion

Councilmember Haaga	Yes
Councilmember Hansen	No
Councilmember McConnehey	No
Councilmember Nichols	No
Councilmember Rice	No
Councilmember Southworth	No
Mayor Rolfe	Yes

The motion failed 2-5 against

Councilmember McConnehey clarified his 'No' vote, was in no form or any sign of discord or concern with Chief McElreath, rather it was the release of Bryce Haderlie. He has full faith and confidence in Chief McElreath.

Councilmember Southworth said you might consider this legislative intent, behind what we are proposing today. The first of that motion, the vast majority of it was pulled straight from our Council, Rules, Policies and Procedures, and City Code. But the first two paragraphs, state where we reaffirm our support of Bryce Haderlie as the Acting City Manager, and support him in executing those duties. Means all of those duties that we talked about in there. He has my explicit support to reach out to Jeff Robinson, and if he so feels in executing those duties, that he is qualified, and if he should be returned back to work, he has my support to do so. He has my support to take care of, and it has come to my attention, that we have had examples of Councilmembers, and I am not pointing fingers, and people should understand that we have a lot of rules. At times I don't know that there is a Councilmember that is on this Council right now, or a Councilmember or Mayor who has ever served in this City who hasn't stumbled over a line somewhere, somehow. We have a whole book of rules, policies, and procedures. So I am not saying that any of us are perfect, but it has come to my attention that there has been some blatant disregard for these, on Council and in staff there has been serious cases of insubordination with staff, and our City Manager has that authority to take care of these things.

Councilmember Haaga said there were a series of closed door sessions, where we are not allowed to ever talk about what we discuss in there. But there was direction given from the Council, and it involved our City Attorney, and I with the Mayor, I guess as a witness, went with the Mayor to execute the direction of the Council to the Interim City

Manager, and it was twice rejected. We then had to have another closed door session on April 17, and his recollection again, where there is direction I cannot tell you details, other than there was direction that our City Attorney, because of investigations from the State of Utah should be put on leave, and be escorted out of the building. I actually came to witness that on Monday, which happened. I stand by what happened. I believe it was a direction of this City Council. Unfortunately, Councilman Southworth was not at that meeting, so he might not be aware of the direction of the Council. So our City Attorney is on leave based on the direction, from his perspective of a closed door meeting of the City Council.

Councilmember Nichols said he wanted to speak to one specific subject that was brought up, which was that the fact that the office of Mayor has CEO, or CEO like functions. In our form of government, I want to set the record straight, there are no CEO like functions within the Council. We have administrative functions only in appointing a City Manager, and allowing the Mayor to sign contracts, and those contracts have to be approval of the Council. There is no executive authority within any member of the this body, except for those few administrative functions that are permitted. There is no executive authority in this office. Just to be clear.

Bryce Haderlie felt compelled to correct the comments of Councilmember Haaga. Having participated in those conversations, I hope that you would agree, that at no time did I deny that I would carry out the requests of the Council, but asked if we could have a conversation with the Council in a closed session last Wednesday. So, I would refute the claim that he refused to follow the order, but asked for an opportunity to talk with the Council to clarify that. I would also like refer to Section 1-6-7 of our Code: 'Limitations of actions and authority of city council A. Council Prohibited From Administrative Interference: No member of the city council shall direct or request, except in writing, the appointment of any person to or his removal from office.' And at no time has he received anything in writing referring any action against any of our staff in that regard. So he wanted to make that clear.

Councilmember McConnehey said even as he start speaking, I am still trying to formulate my thoughts, and my apologies if it is a little bit convoluted. Normally I would speak against the motion, I would find it to be somewhat superfluous, it is redundant, it has already been stated in City and State Code, and I don't know is worth taking time to rehash. It's out there now, and if you vote against it, it feels like our hands are being pushed because if you vote against it, it could be seen as oh well I don't support that Code, but you vote for it, and it seems like it allows it to continue the rift that exists among our Council. Honestly, over the past couple weeks, I have been embarrassed by what I have seen in the newspaper. I have done my best to work with all parties, speak with all parties. I find it embarrassing, and frustrating that we have to have something like this, I guess we don't have to have something like this, but we do have something like this on the agenda. It feels like the discontent that exists among Council is starting to spill out to City staff, and staff has been somewhat victimized because of our inability to

get along and moved forward. I feel like we have been so stuck on focusing on some of the parliamentary procedures and how do we do this, and how do we do that, that the human element has completely been lost from what we are trying to accomplish. With that, I really don't know if I would speak for or against this at this time. Obviously, we all took an oath to support, obey and defend the Constitution of the United States, the State of Utah, obey and uphold the laws and ordinances of the City of West Jordan. Obviously, everybody is going to have slip ups sometimes, I don't know that it is necessary to, this almost feels like a public shaming, to say that we may have slipped up, and we are going to put a vote to it, or are we going to support our Interim City Manager, yes or no. By law, and under our form of government, he is in charge. I am just frustrated that this is even out there. I will leave my comments at that. I am frustrated, I am embarrassed, and disappointed, and I think this is absurd.

Mayor Rolfe said it was amazing to him how the rules get waived by certain members of the Council when it fits their needs, and it just amazes me when we broke the rules in one breath, and changed the rules proceeding, by certain members of the Council to fit the will of certain members of the Council. I wish that we would stick with the rules all the way. I need to state, that even though my colleagues stated that he hasn't pointed the finger at any one person, he only pointed the finger to one person in the Tribune yesterday. I want to go on the record as stating that six members of this Council gave me direction to enforce what the Council instructed on the 17th of April.

Councilmember Rice stated strongly that is untrue. That is untrue. And I would like my buttons fixed.

Councilmember Haaga called point of order.

Councilmember Southworth restated his motion.

A roll call vote was taken on the *Main* motion

Councilmember Haaga	Abstained
Councilmember Hansen	Yes
Councilmember McConnehey	No
Councilmember Nichols	Yes
Councilmember Rice	Yes
Councilmember Southworth	Yes
Mayor Rolfe	No

The motion passed 4-2 in favor with one abstaining

DISCUSSION AND POSSIBLE ACTION REGARDING SELECTION OF A QUALIFIED EXECUTIVE RECRUITING FIRM, TO COORDINATE AND ASSIST THE MAYOR AND CITY COUNCIL IN ALL PHASES OF HIRING A CITY MANAGER

Councilmember Southworth said this item had been going on for quite some time, and action should be taken to get a recruiter on board, to hire a City Manager.

Councilmember Haaga said the Council received the RFP's into the email; however, with the issues the City has had with the email system, he would like to table the item for further review.

Mayor Rolfe said all of the candidates who submitted an RFP should be interviewed by the Council all candidates in a public meeting as soon as possible, and move forward with a contract. He asked if the Council were in favor of this direction

Councilmember Rice was opposed.

The majority of the Council were in favor of interviewing all of the executive recruiters as soon as possible.

DISCUSSION AND POSSIBLE ACTION REGARDING SELECTION OF QUALIFIED ATTORNEY(S) WITH EXPERTISE IN ALL ASPECTS OF MUNICIPAL LAW TO REPRESENT THE CITY

Mayor Rolfe felt the Council had a chance to review the RFP that was sent. He felt the staff and Council need direction from legal staff.

MOTION: Mayor Rolfe moved to direct staff to hire the firm that was the lowest responsible RFP, for 60-days, not more than \$20,000, until it can be placed on the agenda by the City Council to be used. The motion was seconded by Councilmember Haaga.

SUBSTITUTE

MOTION: Councilmember Southworth moved to table this item until the next Council meeting. The motion was seconded by Councilmember Nichols.

Councilmember Haaga said the Council needed to come together. He felt legal advice from an attorney was essential. Delaying this only keeps the controversy going.

Councilmember Nichols spoke in favor of the motion for additional time to review the RFP's

Councilmember McConnehey spoke against the motion based on conversations with the Interim City Manager, and his concern with the recent events in the legal department, and

the continued burden that exists there. Postponing additional resources will only continue to harm the City. He felt the original motion was more appropriate than the substitute.

Mayor Rolfe spoke against the motion.

A roll call vote was taken on the *Substitute* motion

Councilmember Haaga	No
Councilmember Hansen	Yes
Councilmember McConnehey	No
Councilmember Nichols	Yes
Councilmember Rice	Yes
Councilmember Southworth	Yes
Mayor Rolfe	No

The motion passed 4-3 in favor

DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION 15-85, CONFIRMING THE APPOINTMENT OF AN INDIVIDUAL AS PLANNING COMMISSION MEMBER

Councilmember McConnehey said they interviewed several qualified applicants. In this case, it was a very difficult decision to make because of their talents and willingness to be involved with the City.

MOTION: Councilmember McConnehey moved to approve Resolution 15-85, confirming the appointment of Kelvin Greene as a Planning Commission member to fill the current vacancy. The motion was seconded by Councilmember Nichols.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Yes
Councilmember Nichols	Yes
Councilmember Rice	Yes
Councilmember Southworth	Yes
Mayor Rolfe	Yes

The motion passed 7-0 in favor

Councilmember McConnehey expressed appreciation to the applicants who were willing to get involved, and suggested they become involved in other areas throughout the City.

III. ADJOURN

MOTION: Councilmember Southworth moved to adjourn. The motion was seconded by Councilmember Nichols and passed 7-0 in favor.

The meeting adjourned at 6:55 p.m.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

KIM V. ROLFE
Mayor

ATTEST:

MELANIE S. BRIGGS, MMC
City Clerk

Approved this 13th day of May 2015