

**CITY COUNCIL ORGANIZATIONAL MEETING
MONDAY, MAY 14, 2012
555 S. 10TH STREET, ROOM 113
IMMEDIATELY FOLLOWING DIRECTOR'S MEETING**

I. MINUTES

1. Director's Meeting minutes of May 7, 2012.
2. Organizational Meeting minutes of May 7, 2012.

II. REPORTS ON BOARDS/COMMITTEES/COMMISSIONS/CONFERENCES

1. Public Building Commission (PBC) - Carroll, Cook
2. Information Services Policy Committee (ISPC) - Carroll
3. Parks and Rec Advisory Board - Cook
4. Joint Budget Committee - Emery, Eskridge
5. Board of Health - Emery

III. APPOINTMENTS/REAPPOINTMENTS - TBA

IV. REQUESTS OF COUNCIL FROM MAYOR - TBA

V. MISCELLANEOUS

1. Discussion on releasing legal opinions.

VI. CITY COUNCIL MEMBERS

VII. MEETINGS/INVITATIONS

See Invitation List

VIII. ADJOURNMENT

**MINUTES
CITY COUNCIL ORGANIZATIONAL MEETING
MONDAY, MAY 14, 2012**

Present: Gene Carroll, Chair; Adam Hornung, Vice Chair; Doug Emery; Carl Eskridge; Jon Camp; Jonathan Cook; and DiAnna Schimek

Others: Trish Owen, Deputy Chief of Staff; Rod Confer, City Attorney

Chair Carroll opened the meeting at 12:08 p.m. and announced the location of the Open Meetings Act.

I. MINUTES

1. Director's Meeting minutes of May 7, 2012.
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II. REPORTS ON BOARDS/COMMITTEES/COMMISSIONS/CONFERENCES

1. Public Building Commission (PBC) - Carroll, Cook

Cook stated the Commission agreed to a bid recommendation to hook up the new generator located at the 33rd Building. Purchased the generator at a very good price.

2. Information Services Policy Committee (ISPC) - Carroll

Carroll stated VOIP should be presented to Council in June. Counting all phones, then deciding on reductions. The City has 1600 users on the 2010 exchange system, the County 860. The 2010 exchange system continually updates for emails. Will store more emails, look up differently, search through emails by words, in the mailbox or deleted.

Carroll stated moving to the State main frame is probably September, and now doing tests, making sure it works. The Parks Department will be going on line hopefully by June 1st.

Camp asked for employees with cells, like Public Works people without desk phones, how does VOIP work? Carroll replied doesn't have anything to do with cell phones. Would be desk phones. But a substantial decrease in phone lines the City now uses. Camp asked if Council will be able to work through our I-Pads? Carroll doesn't think it would work for tablet, but would have to have a laptop.

Cook asked if reducing the number of phone lines? Now need a dedicated phone line for each phone, and the phone company has the phone number. On VOIP will we have virtual City phone numbers, and sufficient phone lines to handle local calls anytime? Carroll replied all numbers will be the same but run through VOIP. Will have dedicated lines to go out. The spreadsheet will show the reduction in lines we're now paying for, the cost, and the savings.

Camp asked if everyone will have the same number, and calls go through a number and then to the switchboard, or? Carroll replied will go through the computer system working the same as a regular phone but go to a person's client box, near their desktop where they have the phone, to answer. Camp asked if they need an identification to a specific number to get to the desktops? Carroll said it would be the same number as previously, the numbers won't change.

3. Parks and Rec Advisory Board - Cook

Cook stated they approved a statement for the Woods Park Tennis Center renovation. The idea is

fundraising and design work to replace the bubbles with structures, built to fit into the surrounding neighborhood. There are 6 indoor courts but would like 10. At times the courts are completely full.

Cook said they voted on two surplus resolutions, located at 21st and M. Basically the corner including the Windstream building, and the car dealership owned by the NRD, used by the City Mission. This and our middle Parks properties will be part of a RFP for a redevelopment project. Did vote on surplusing even with concerns on moving the vehicles to the municipal service center.

Cook stated there was a denial vote for surplusing the muni pool house building, being used by Parks. Kind of an historic building, and some people feel it is important to preserve and in surplusing would be saying we don't value appropriately. Council may have to decide. A plan may come along utilizing the pool house. Camp thought is sounded as if someone wants all the property, to go forward with the RFP? Cook replied we don't know of anyone yet. Will see what plan we get. Think they may say the LT&T warehouse is possibly a historic building. Will put in the RFP, to consider. Someone could save the building, reusing. Once we have a redevelopment plan would sell. The money would be used to buy parkland in Stevens Creek. Carroll added it would be a Letter of Interest and not a RFP. Cook agreed, would be RFRP. Camp asked if the idea was to get a 5 acre parcel, and why would the private market want the LT&T building? Cook stated Windstream wants to get rid of it and willing to work with us to have a larger parcel.

Cook stated the next item was renaming the Bird Garden at the Chet Ager building as the Irene and George Alexander Bird Garden.

Received the best margin ever recorded for golf. The nice weather certainly has been great.

Approved some tree planting guidelines for planting in park areas by private parties.

At the Centennial Mall phase one construction bids are within budget.

At Union Plaza the Community Health Endowment has moved into the second floor of the Jayne Snyder Trails Center

Camp asked what kind of progress on selling the commercial space? Schimek doesn't think they've sold it yet. Camp stated if it isn't sold then would go into the CIP.

Camp stated he has had inquiries about 56th and A area on the parks condition. Was suggested to go for quality over quantity. If we have trails going to maintain parks might work better than continuing to tie up the ratio of parks. Cook replied at a previous meeting spent time discussing Taylor Park, and park maintenance. Staff is working with them, hoping a good agreement is reached. An issue all over town. The Prairie in the Parks Program, some think great, some think it looks unkept.

Emery asked if before next year's marathon someone could look at how they block the streets? Received a complaint from people living behind Bishop Heights who were not able to get to church on Sunday. Blocked in on 27th and 33rd, and they would not stop the runners. Understand, but assume there is a way in or out of every area. Cook replied some churches had services Saturday night.

4. Joint Budget Committee - Emery, Eskridge

Emery stated they have a preliminary idea on granting JBC money. Not at the budget stage yet. Historically the City puts in around \$500,000, the County put in \$1.5 million. If they take a 3% cut would put them down to about \$750,000, as they cut back last year.

Hornung stated that doesn't sound like 3%. Emery replied the 3% is the County saying about \$750,000 now, as they reduced a year ago. Not from \$1.5 million, but out of the whole amount. The preliminary total was approximately \$1.2 million, with requests \$400,000 above where we have money. We did some cutting and waiting to see what the County contributes.

5. Board of Health - Emery

Emery stated they discussed the ten items community health should accomplish going over identification and notification. How do we quickly identify, if we have epidemic type effects, then how do we get that message out to everyone.

III. APPOINTMENTS/REAPPOINTMENTS - None

IV. REQUESTS OF COUNCIL FROM MAYOR - None

V. MISCELLANEOUS

1. Discussion on releasing legal opinions.

Carroll stated he requested discussion on releasing legal opinions from Mr. Confer to the public. Confer stated the position Council has taken is attorney client privileges applies to all their office renders. Interrupted if an opinion is rendered for the Executive Department the Mayor can waive the attorney client privilege. If rendered for the City Council it takes a majority vote of Council to waive the attorney client privilege. He cannot waive the attorney client privilege himself as the Council is the client. Confer added he spoke to the Mayor about waiving the attorney client privilege on some earlier opinions written for executive department, specifically Human Rights Department, and he's agreed if the Council wishes to waive on behalf of the City as well. Camp asked if it goes from City, to Attorney, City Attorney so we know they're safe and not disclosed? Confer replied they're on line, have 1,260 opinions. Not back to the beginning. Camp asked if we're talking about 4 or 5 releases? Confer answered the ones discussed are 3 earlier City Attorney's opinions, 1 issued last Friday.

Schimek asked if all opinions go on line after a certain time? Or these got approved to be released to the public? Confer replied when saying on line, shouldn't have said on line, but in our computer data.

Cook thought to make a motion. Hornung didn't think a good idea to do. If understanding correctly the Journal asked for the opinions 2 weeks ago, or the original opinion from '81? Confer replied about then, plus Mr. Mach asked. Hornung asked if the public information requests are for the exact opinions we'll vote to release? Confer replied have a public Records Act request for an opinion issued by William Austin in '81. Replied those were protected by the attorney library. Hornung asked, when did you send the memo draft? Confer said 3 to 4 weeks ago. Hornung said he was told to keep confidential. The attorney client privilege, and we had the public debate on this subject a week ago. These opinions were not public at that time? Confer replied correct. Hornung stated the day we vote on this item we're going to let the public have access to these opinions? Think this is probably the worst day we could do it on. Should have done 2 or 3 weeks ago when people asked, or maybe tomorrow. We're releasing the opinion, justifying our actions, on the day we take action, with people asking for these opinions for 4 weeks. Incredibly poor timing, along with the opinion saying we have the authority to do in contraction of prior City Attorney opinions and being available to the public on the day we vote. The public should have known this information exists when they asked. Particularly they should have before the day we vote, as they have no chance to address their view, and opinions. Better to have public than not, although seems it comes across poorly we have an opinion coming out the day we vote. We are saying we have the authority to do, when the 30 year old

opinion hasn't been made available until today. Anybody justifiably will say why all of a sudden we find it permissible to release this opinion which happens to be on the same day we're issuing a contrary opinion? Carroll stated he thinks Mr. Austin put it out, opened the door by sending a letter to the paper.

Hornung agreed, saying it should have been public. Carroll stated Confer's opinion didn't come until Friday. Did have an opportunity to read and think it needs to be issued to the public. Mr. Austin decided he would go ahead and tell everybody. As long as he's did that, let's release.

Hornung stated people asked 4 weeks ago. Four weeks ago was going to send to someone and was told it was attorney client privilege, which is incredible as opinions from 30 years ago generally aren't justification for litigation. Carroll thought important that our City Attorney responded first. Confer said litigation isn't but protected by the attorney client privilege, it's legal advice. Initially thought right not to release. But in view of the fact Mr. Austin has written, and talked about it, and the Attorney General issued an opinion did seem there may be public uncertainty about the legality of the action Council is taking, expressed during the hearing last week. Hornung reiterated, it's just really bad timing. Thinking that people asked for this information would be we're taking the position it's not publically released. Now, on the day we vote for it, we're not only disclosing an opinion which has existed for 30 years, but disclosing a contrary opinion. Happening on the same day.

Eskridge disagreed, the City Attorney's office weighed the information, analyzed and provided their opinion on taking into account not only the previous attorney's opinions but the state law which changed city charter. All these factors come together. To release piece meal would have been incomplete information. Hornung stated the information has been in existence for 30 years. Eskridge added, with 30 year old law. Hornung said even if it were, why are we disclosing now? Now that we have an opinion to prove the case we're making is the right action? Why the need to tell, we've made reference to it, why do we need to give the opinion to everybody else? If we do, why didn't we do prior? Carroll thinks Mr. Austin did on his own so it is out to the public. When Mr. Confer refers to Mr. Austin's opinion think it's fair to say, here's Mr. Austin's opinion which we're referring to. If you're going to look at it, look at everything, and think that's what we should do.

Hornung asked why are we disclosing then? Carroll thought what we're basing our decision on should be public. Cook added Confer didn't complete his opinion until Friday, and he sent to us. Hornung asked Confer when he sent the near final draft? Confer replied he didn't send Hornung an opinion draft. Hornung asked if it was based on the memo Confer sent? Confer replied no. Cook stated this is a complete analysis of all different issues which have come up over the past few weeks, and are addressed. The 1980's opinion is in many ways obsolete and has to be addressed as we have a different Charter now. Releasing doesn't tell people what the current law is, tells what the law was 30 years ago. Perhaps this tells what we think the law is today, analyzing different items, including opinions which have recently come out. This is valuable, but not sure it would have been available in it's entirety earlier. Hornung wants everyone to remember 3 to 4 weeks ago, people asked for information City Attorney opinions, and we wouldn't release. Needed to be kept confidential, and 3 weeks later and now this is something we need to disclose.

Emery added the Attorney General was asked for an opinion by an Omaha Legislator, 4 to 5 weeks after it went into effect. We came out last Friday with an opinion. You don't think there was any curiosity on the timing? Hornung replied he's not talking about the Attorney General's opinions. Emery asked again if he saw the timing?

MOTION: Cook made the motion Council disclose City Attorney Rod Confer's recent opinion plus

three other related opinions on the topic of Adding Protected Classes to the Ordinance. Schimek seconded.

Discussion: Hornung asked if including the '81? Cook replied yes. Confer added there's the '77 opinion. Camp thought disclosing or making public is fine, but is strange we'll vote in the next couple of hours on this opinion, trying to think how we rationalize. If we want to go on the opinion with a confidential basis is one thing, but now putting out with the public having no way to respond. Unusual. Schimek stated the City Attorney has given us advice and think perfectly okay to release. The public is not going to read before we take our vote, probably not until afterwards. But they'll know why people did, or did not, vote a particular way. Possibly sometime discuss if we should do like the Attorney General and releasing his opinions, making public immediately.

Hornung asked if Council thought this information valuable in making a decision? Schimek replied yes. Hornung asked if therefore it should be valuable to voters who come up and debate, and give us their comments? Isn't this the kind of information they should have when having a public debate on the subject? Schimek replied one thing is our process moves so fast, we don't always have time to do all the steps. Hornung said it didn't have to get introduced when it did. The Attorney's opinion could have been done by the time it got introduced. The timing is completely in our control. The only people subject to the timing is ourselves. Camp asked if there was other discussion, or suggesting that we delay the vote?

VOTE: Voting aye - Carroll, Hornung, Camp, Cook, Emery, Eskridge, and Schimek. 7 - 0.

VI. CITY COUNCIL MEMBERS

No comments

VII. MEETINGS/INVITATIONS

See Invitation List

VIII. ADJOURNMENT

Chair Carroll adjourned the meeting at 2:40 p.m.