

**CITY COUNCIL ORGANIZATIONAL MEETING  
APRIL 15, 2013  
IMMEDIATELY FOLLOWING DIRECTORS' MEETING  
555 S. 10<sup>TH</sup> STREET, ROOM 113**

**I. MINUTES**

1. Director's Meeting minutes of March 18, 2013.
2. Organizational Meeting minutes of March 18, 2013.
3. Pre-Council Police and Fire Pension Actuarial Valuation Report for August 31, 2012 - Minutes of meeting on March 11, 2013.

**II. BOARDS/COMMITTEES/COMMISSIONS/CONFERENCE REPORTS**

1. Public Building Commission - Carroll, Cook
2. Information Services Policy Committee - Carroll
3. Parks and Recreation Advisory Board - Cook
4. Board of Health - Emery
5. Multicultural Advisory Committee - Eskridge

**III. APPOINTMENTS/REAPPOINTMENTS**

**IV. REQUESTS OF COUNCIL FROM MAYOR**

**V. MISCELLANEOUS**

**VI. CITY COUNCIL MEMBERS**

**VII. MEETINGS/INVITATIONS**

See invitation list.

**VIII. ADJOURNMENT**

**MINUTES**  
**CITY COUNCIL ORGANIZATIONAL MEETING**  
**APRIL 15, 2013**

**Present:** Carl Eskridge, Chair; Jon Camp, Vice Chair; Gene Carroll; DiAnna Schimek; Jonathan Cook; Lloyd Hinkley; and Doug Emery

**Others:** Trish Owen, Deputy chief of Staff; and Denise Pearce, Senior Policy Counsel; Rod Confer, City Attorney; and Mary Meyer, City Council Secretary

Chair Eskridge opened the meeting at 2:07 p.m. and announced the location of the Open Meetings Act.

**I. MINUTES**

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2. Organizational Meeting minutes of March 18, 2013.
3. Pre-Council Police and Fire Pension Actuarial Valuation Report for August 31, 2012 - Minutes of meeting on March 11, 2013.

With no discussion, or corrections, the minutes were placed on file.

**II. BOARDS/COMMITTEES/COMMISSIONS/CONFERENCE REPORTS**

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

Cook stated discussion on the 27<sup>th</sup> Street Police Department's solar panels, which has gone back and forth, with expert reviews, and differences over how the originals specs interpreted. Picked Solar Heat over J Tech. Solar Heat met the specs of a 10 kw system, coming in a little above the 10 kw, and the other company did not. Feel this is the final decision, unless they want to go to Court.

Also discussed the Corrections facility, and Wesleyan will do their moot court, at District Court.

Cook stated the Commission approved an audio visual system for the County Courtroom system.

There will be a Weed Control information table set up in this building's hallway.

Carroll stated on the first Friday of May, May 3<sup>rd</sup>, will have an arts display in this building for children's heroes. The children will do art of their heroes from 4:30 p.m. until 6:00 p.m.

Camp stated he reviewed the police substation solar panels, and it seemed an unusual process. Went back and forth 4 times. Consultant, HDR, reversed themselves twice, had 3 different opinions. The Appeals Board recommended J Tech, yet the Commission overrode. Could you explain the process? Cook replied not unusual. This is federal money requiring us to follow our current process. Went to the Appeals Board learning they only hear appellant testimony, possibly somewhat one sided. Purchasing is looking at changing the appeals process to include having the other side involved. But, we followed the rules in place. We received testimony from both sides, J Tech and Solar Heat. Based on this and questions from both company representatives, the PBC unanimously decided to go with the system which met the specs.

Camp asked if concerned the Appeals Court was 5/0, unanimous the other way? Cook replied they didn't have testimony from the other party. Carroll added they assumed and their reported stated, if the 10 kw is not in the RFP, J Tech would win. Not true. We had the specification, which they ignored and said, we think this is a better product so should be awarded. We were required to follow the RFP, 10 kw or

better. When the review board examined and said, not really important, and think the other is better, we had to follow the RFP.

Camp added it said 7 to 10. Carroll stated the name plate required in the first section was 10kw. Every City of Lincoln or Lancaster County process says, equal to or better. J Tech decided to go less, thinking they had a better product, but it was less than the required specification. They stated they didn't think they could go better, but the RFP, and every purchase, says, equal to or better. They disagreed and said they didn't see that specification.

Camp asked why did purchasing award to J Tech twice? Carroll replied there's a question on what dollar amount is set on the value. Based on kilowatt hour or total price? Then a question on what the specs said, and the reason it went back and forth, based upon which spec? It was very close between the two companies. In the end when looking at specifications, which we did, showed Solar Heat was correct.

Camp said he's concerned with the process. HDR brought in as the expert, and reversed twice. Seems to undermine HDR's credibility. In the end they went with J Tech. The Appeals Board went with J Tech, 5-0. The Board has 2 purchasing people, 2 attorneys, a contractor, concerned. If J Tech didn't meet from day one, why did they go back and forth? Costs? Read the large cost and seemed to be an element.

Cook stated both basically quoted on cost per kw. During review think HDR looked at various technical elements, but not exactly bid specs. Realizing When brought to their attention Purchasing came and went over the fine print. If J Tech had a concern/question on appropriateness should have contacted Purchasing, but didn't, and were upset with HDR. Stated in their letter they didn't have electrical engineers reviewing. Not correct. The woman who signed as the HDR representative was a civil engineer, but had electrical engineers' due analysis. They didn't call HDR or reach for information, but made assumptions. Cook stated the 7.5 kw is a nominal rating, this is more detailed. The 10 kw is the name plate, the specification people rely on when setting up this panel. Shows the output, when occurrences like full sun, is working as indicated. Cook stated Mumgaard always looks at this when discussing systems. The name plate spec and 7.5 are completely different numbers. Cannot pick between 7.5 and 10, as 7.5 is an average output number over a period of time. Cook thought J Tech made a mistake, not meeting the required specs.

Camp stated confused as it was awarded to them twice. Seems suspect. Cook asked the price of a kw hour. Carroll responded \$4.81 versus \$4.80. Camp said initially given to Solar Heat because of cost, then HDR said they miscalculated. Then reversed. They were the outside entity to evaluate with cost a big factor. Cook stated Solar Heat contacted HDR on calculations, pointing out what they thought was an error. They made the effort, cleared up a misunderstanding. J Tech never made the effort with HDR. Camp asked why did HDR reverse twice? Carroll replied when looking at price per watt, the companies clarified facts and how their systems operate. HDR reversed based on information, provided by both companies. It was so close they went to the bottom of the specs to make sure one was better. Once they had more information HDR changed their recommendation to Solar Heat as the RFP requested the 10kw dc name per system. Solar Heat proposed the 10.08 kw system. J Tech proposed a 9.555 kw system. J Tech did not meet specification.

Camp thought their final determination was when they met the Appeals Board, and reversed again. Carroll had the HDR statement. Cook added the Appeals Board made a different decision, but HDR's final recommendation was Solar Heat. Purchasing's final recommendation was Solar Heat. The Appeals Board, after hearing from J Tech, reached a different conclusion. We had the final say and decided.

Camp stated this process leaves a lot to be desired. HDR experts brought in, who reversed themselves twice. Back and forth 5 times. The Appeals Board, unanimously with 5 qualified people, said J Tech. Purchasing overrides and you vote to do. If I were still on the PBC would say we need to back up.

Cook said if Camp feels like Purchasing should have changes to this process, no problem. Purchasing perhaps would like to look at changing how information is received by the Appeals Court. We had to make a decision rather than hold up for six months. Camp stated it's been 2 ½ years. Cook added, there were limits on the federal money. Camp commented an extension would be the end of the year. Seems like there should be a rehearing. Why not have a hearing when they're all there?

Cook replied we essentially did. It would have been appropriate if the Appeals Court had all information the PBC received. Camp asked if there is a transcript of the PBC meeting? Carroll thought through Sayers. Camp asked who is on the PBC? Cook stated, Larry Hudkins, Linda Wilson, Gene Carroll, myself. Jane Raybould was absent. Purchasing represented by Vince Mejer and Bob Walla. Don Killeen, 2 representatives from J Tech, 1 representative from Solar Heat. Camp asked if HDR was there? Cook replied no, saying Mumgaard talks about the name plate importance, and why he looks at it. In discussions with other places to see what they're doing.

Camp asked why reversed initially from Solar Heat to J Tech? Why did it go 5 times? Confer thought an error in calculation of the kw hour costs. Camp said that erred against J Tech in favor of Solar Heat, and when they returned to make the equalivant. Confer thought it went the other way. Solar Heat initially given the bid, which was reversed. Solar Heat protested, which was reversed. Then went to the Appeals Board, who gave their advisory opinion. Then they reversed with their specialist there.

Camp asked if the City Council could ask for a meeting? To iron out? Confer replied it is ironed out. Camp concerned and feels this is another bad message to the business community. Cook stated never ideal with mistakes and adjustments based on recommendations from experts, which may change. Or information on the costs initially. Then made aware of the spec issue which made the biggest difference. A different decision made. Don't see the business community issue. We have a process and we finished the process. One company received the bid. If we reverse we say, never mind. Our official process ended, and we awarded the bid. Now you want a continuing process because you didn't like the way it came out? Then, if we change our minds again, clearly not the right message to send to the other business, or any vendor. The specs were 10 kw, and every spec, which every bidder looks at, says, equal or better.

Camp said if this happened initially when there was a protest made after the first award, and the specs were clear, then it never should have been reversed and given to J Tech the second time around. But it went back and forth 5 times. HDR changed 3 times. The process is suspect with problems. Not the standard Lincoln wants to adhere to. Cook answered, not ideal but we made the final decision and think correct based on the specs. Camp said if the specs were clear why did it go through 4 changes?

Emery asked how many people on the Public Building Commission? Five who voted unanimously. Were you at the meeting? I can't second judge what they did considering I wasn't there. It wasn't a 3-2 vote or 4-1, but 5-0. Camp said 4-0, but 5-0 the other way. The Appeals Board, Purchasing Appeals Committee, with 2 attorneys on the committee, 2 purchasing agents. Emery asked who has final say? The PBC. Are you saying something duplicitous happened? Are you questioning how those 4 people voted? Camp stated he doesn't understand how our representatives sat and went through this. Emery asked, didn't the County Board have a representative who did the same thing? Why single out our representatives when there are 4 people who voted with them. Emery added he doesn't like the process

either, just can't point a finger at our representatives. Camp stated he didn't say that, just asking questions about the process.

Eskridge stated the process is in need of correction.

**2. Information Services Policy Committee - Carroll**

Meeting canceled.

**3. Parks and Recreation Advisory Board - Cook**

Cook stated items included a future public hearing on the conversion of the property at 21<sup>st</sup> and Adams. Continuing conversation on the budget indicators. Parks, and the Advisory Board, wanted to discuss specific indicators and expectations for the department.

Included in invitations was the rededication of Sherman Field on April 17<sup>th</sup>, dedication of Jan's Emma, a sculpture on Pitsch Green. Nature's Market and Nature Center on the 27<sup>th</sup>. Wake up the Beds, the planting project at Sunken Gardens.

Emery asked if there is an alternative plan for Sherman Field. The Nebraska baseball game has been moved up to get away from bad weather. Owen stated a 70% chance of rain.

**4. Board of Health - Emery**

Emery stated they continue to review the 10 items which are generally governed in rules and regulations of what a Health Board does. Wrapping up. Discussed the Legislature and how passing, or not passing, some bills might affect their finances.

**5. Multicultural Advisory Committee (MAC) - Eskridge**

Eskridge stated with a couple resignations from MAC it allows the committee the opportunity to discuss the Committee, the mission, and kinds of people who would be represent the Board, the communities, and the discussion of responsibilities. At the next meeting agenda will discuss how StarTran serves the community, which will prompt more discussion.

**III. APPOINTMENTS/REAPPOINTMENTS**

Pearce distributed Board and Commissions Update.

**IV. REQUESTS OF COUNCIL FROM MAYOR**

Owen stated none at this time.

**V. MISCELLANEOUS**

**VI. CITY COUNCIL MEMBERS**

**VII. MEETINGS/INVITATIONS**

See invitation list.

**VIII. ADJOURNMENT**

Chair Eskridge adjourned the meeting at 2:30 p.m.