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City of Taylorsville
City Council Work Session
Minutes

Wednesday, October 8, 2014
Council Chambers
2600 West Taylorsville Blvd., Room No. 140
Taylorsville, Utah 84129

Attendance:

Council Members:

Chairman Kristie Overson
Vice-Chairman Ernest Burgess
Council Member Dan Armstrong
Council Member Dama Barbour
Council Member Brad Christopherson

City Staff:

John Taylor, City Administrator
Tracy Cowdell, City Attorney
Cheryl Peacock Cottle, City Recorder
Kris Heineman, Council Coordinator
Tracy Wyant, UPD Precinct Chief
Mark McGrath, Community Development Director
Scott Harrington, Chief Financial Officer

Excused: Mayor Lawrence Johnson

6:06:15 PM Chair Kristie Overson called the Work Session to order at 6:06 p.m. and welcomed those in attendance. City Recorder Cheryl Peacock Cottle conducted a Roll Call, wherein all Council Members were present.

1. Follow-Up Discussion Regarding the Open/Public Meetings Act - *Tracy Cowdell*

6:07:11 PM City Attorney Tracy Cowdell gave a Power Point presentation regarding the Open and Public Meetings Act as it relates to Community Councils and City Advisory Committees. He rendered his legal opinion that City Advisory Committees and Taylorsville Community

Councils do not fall under the definition of public bodies because City ordinance specifies that they do not have authority to bind the City or make decisions on behalf of the City.

(A copy of Mr. Cowdell's legal opinion on this matter is attached and incorporated therein as part of this record).

6:19:41 PM Council Member Dama Barbour relayed that official community councils are not up and operating in her Council District. She asked for clarification on School Community Councils. Mr. Cowdell gave explanation on the function of School Community Councils. He relayed that they are required by statute and are given power-making authority.

6:23:10 PM Council Chair Kristie Overson commented on minimal amounts that are expended by Community Councils. Mr. Cowdell reiterated that, although Community Councils use some City funds, they are not authorized to make official decisions regarding the public's business.

6:25:10 PM City Administrator John Taylor observed that Community Councils sometimes appear to speak on behalf of the City which is not appropriate. He suggested that clarification be made that they do not have authority to do so.

6:26:35 PM Mr. Cowdell suggested that, as some of the Community Councils do not appear to be functioning well, training should be implemented. He noted that consideration might also be given to having fewer Community Councils.

6:27:46 PM Council Member Dama Barbour said that she has not purposely pushed for Community Councils in her District, but is satisfied with how some of the neighborhood groups in her area are functioning. She said she would like to encourage those groups to utilize funds that are allocated for Community Councils.

6:29:05 PM Discussion was held regarding the functionality of Community Councils in the City. Chair Overson observed that there are currently 10 Community Councils set up in the City, but not all are functioning. She noted that it took a year to craft the ordinance regarding Community Councils. It was pointed out that citizens have the opportunity to join Community Councils and the means for them to function if they want to pursue forming them in their area.

6:33:07 PM Chair Overson noted that Community Councils have a recognizable logo that makes them distinctive. She questioned whether there are any liability issues for the City. City Administrator John Taylor cited an example of a Community Council sponsoring a debate wherein it appeared that the City was sponsoring it, which was not the case.

6:34:52 PM Public Information Officer Tiffany Janzen relayed that some Community Councils are using the City's logo and photos of City Hall in their communications. She described an

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issue with conflicting information that was shared by a Community Council regarding the availability of leaf bags at City Hall. She raised three questions, as follows: (1) Are Community Councils being monitored? (2) Are they representing the City or the City Council? (3) Does the City have related liabilities?

6:36:42 PM Mr. Cowdell addressed liability issues. He cited examples of political liability and also of legal liability, which is more complicated. He observed that there is a need for training, supervising, and monitoring Community Councils.

6:40:04 PM Ms. Janzen gave clarification on information that was shared through Community Councils on social media sites.

6:40:33 PM Council Member Barbour questioned whether unauthorized people are speaking on behalf of the City. Mr. Taylor observed that it is impossible to monitor everything that citizens may state with a claim that they are speaking for the city. He cited the benefits of Community Councils in providing citizen involvement and getting information back and forth, but suggested that they really need training and supervision.

6:43:30 PM Council Member Dan Armstrong questioned the impact of more involvement from the City. Mr. Cowdell suggested that it would be best to give Community Councils more training. He said that if less political liability is desired, the Community Council ordinance could be repealed and community involvement scaled back by just encouraging neighborhood groups to communicate with their Council Members. He said that his ideal scenario would be to increase funding, and set up monitoring and training for Community Councils. He noted that Council Coordinator Kris Heineman does not have time to do the necessary monitoring of Community Councils, although she is currently doing a great job with the time that she has. He suggested that increased budget for additional staff support will be needed if closer monitoring is required.

6:47:44 PM Council Member Brad Christopherson suggested that more involvement from the City defeats the purpose and intent of Community Councils. It was noted that a key to having successful Community Councils is electing a motivated chair person. Comments were made that the ordinance does not need to be changed, but training does need to be implemented.

6:53:03 PM Chair Overson noted that chairs will change as new ones are elected at the end of the year. She recommended leaving the Community Council ordinance as it is until the end of the year, then re-evaluating it further as new chairs are put in place.

6:53:52 PM Council Member Barbour noted that the vehicle for forming Community Councils is there for citizens to use. She agreed that there should not be too many official City spokespersons and anything that goes out under the City logo needs to be official communication

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from the City only. She said she will support Community Councils in her district if they choose to use them.

6:55:34 PM Council Member Armstrong suggested providing some mandatory training and leaving it up to Council Members to monitor those Community Councils within their districts.

6:56:14 PM Mr. Taylor commented on the type of ongoing training that could be provided to Community Councils.

6:57:38 PM Mr. Cowdell acknowledged that School Community Councils function fairly well because they are mostly staff supported. He relayed that they are given training twice per year. He observed that providing training for Taylorsville Community Councils would not be cumbersome and could be easily facilitated by the City.

6:59:29 PM Chair Overson called for some informal direction from the Council on whether to leave the ordinance as it is now with 10 Community Councils set up. The consensus of the Council was to leave opportunity for the same number of Community Councils in place, whether they are functioning are not. It was agreed that training needs to be provided and it should begin the first of the year after new chairs are elected. Chair Overson thanked Ms. Janzen for her valuable input.

7:01:49 PM Mr. Taylor agreed that training will be arranged with the help of the Council Coordinator and Administration. He agreed that information may be passed along to Community Councils advising them that training will be provided soon. He noted that training on use of the City logo and not speaking on behalf of the City will happen immediately.

2. Discussion Regarding the City Council Meeting Schedule - *John Taylor*

7:03:13 PM City Administrator John Taylor noted that the City Council is currently scheduled to meet the first three Wednesdays of each month. He observed that it takes a lot of staff time to prepare for meetings and lately there have not been many matters to address during Work Sessions. He recommended that the Council officially hold two regular meetings per month on the first and third Wednesdays, with additional meetings scheduled only when needed. Mr. Taylor commented that matters that were previously scheduled during Work Sessions could be discussed without action during regular meetings. He indicated that staff prefers having more agenda items scheduled during a single meeting and holding fewer separate meetings. He cited the potential need for the Council to go into more Closed Meetings in the future.

7:04:29 PM Council Member Dan Armstrong said he agrees with Administration's suggestion.

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7:04:34 PM Council Member Dama Barbour inquired how easy it is to cancel a meeting. She cited Mayor Johnson's previously stated preference to hold Work Sessions in order to discuss and become familiar with upcoming action items. She said she would prefer leaving the schedule as is and just cancelling Work Sessions if they are not needed.

Mr. Taylor agreed that it is preferable to be able to discuss certain issues and have time to present them to constituents before taking action in a subsequent meeting. He noted that issues could be discussed during a regular meeting without action and then taken under consideration for two weeks before taking action at the next regular meeting.

Council Member Brad Christopherson noted that City ordinance only specifies that the Council hold at least two meetings each month. Discussion ensued regarding the ability to schedule additional special meetings, as needed.

City Recorder Cheryl Peacock noted that there is already a placeholder on regular meeting agendas for discussing matters for subsequent consideration. She expressed her concerns with cancelling a lot of meetings. She indicated that, although it is fairly easy to notice that a meeting is cancelled, it may become confusing for citizens when too many meetings are cancelled. She noted that she is required by statute to post an annual meeting schedule at the beginning of the year and would prefer to post a schedule that can be adhered to for the most part. She suggested that it reflects better upon the City, is less confusing to citizens, and is more productive to add meetings when needed, rather than to constantly have a need to cancel them.

Further discussion ensued and the Council agreed that the official annual meeting schedule noticed for 2015 should list two regular meetings on the first and third Wednesdays of each month, with special meetings to be added as needed.

Mr. Taylor asked the Council to determine meeting dates for the months of November and December. After discussion, it was decided that regular meetings will be held on November 5, November 19, December 3 and December 10, 2014. It was relayed that these meeting dates will be publicly noticed and placed in the City newsletter and on the City website calendar.

Chair Overson reminded Council Members that a meeting has been scheduled for the City Council and Advisory Committee Chairs on Wednesday, October 22, 2014, at 6:00 p.m., in the Council Chambers. She noted that training on GRAMA Law and Email Retention will be rendered by the City Recorder and the City Attorney during that meeting.

3. Other Matters

There were no other matters.

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4. Adjournment

7:21:39 PM Council Member Brad Christopherson **MOVED** to adjourn the City Council Work Session. Council Member Dan Armstrong **SECONDED** the motion. Chair Overson for discussion on the motion. There being none, she called for a vote. The vote was as follows: Christopherson-yes, Burgess-yes, Barbour-yes, Overson-yes, and Armstrong-yes. **All City Council members voted in favor and the motion passed unanimously.** The meeting was adjourned at 7:22 p.m.

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Cheryl Peacock Cottle, City Recorder

Minutes approved:

Minutes Prepared by: Cheryl Peacock Cottle, City Recorder

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CITY OF
TAYLORSVILLE
UTAH

To: Taylorsville City Administration & City Council
From: City Attorney Tracy Scott Cowdell
Date: October 8, 2014
Re: Community Councils and the Utah Open and Public Meetings Act

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Utah Open and Public Meetings Act

In 1977, the Utah Legislature passed the Open and Public Meetings Act ("Act"). The Act requires nearly all administrative, advisory, executive, and legislative meetings to be open to the public. "Public bodies" are required to keep minutes and recordings for most meetings, as well as provide the public with at least 24 hours notice of these meetings. The Act does allow for closed meetings when a public body is discussing sensitive information regarding a person's character, competence, health, ethical or criminal conduct, pending litigation, or acquisition of real property. If the public entity violates the Act, the final dispositions of the meeting are voidable by a court. If the closed meeting provisions of the Act are knowingly violated, the violating members may be charged with class B misdemeanors.

Public Bodies

The Open and Public Meetings Act only applies to administrative, advisory, executive, and legislative groups known as "public bodies." A group must meet four elements to be considered a "public body:"

1. The body must be created by the Utah Constitution, statute, rule, ordinance, or resolution;

2. The body must consist of two or more persons;

3. The body must expend, disburse, or be supported in whole or in part by tax revenue; and

4. The body must be vested with the authority to make decisions regarding the public's business.

Even if a group is administrative, advisory, executive, or legislative in nature, the group is not considered a public body if it does not meet the above elements and consequently is not bound by the Open and Public Meetings Act.

Community Councils

Community Councils resemble "public bodies" in many ways. First, Community Councils are authorized by Section 2.27.005 of the Taylorsville City Code. They were created as advisory councils in order "to inform communities about city policies and services, engage the public in city decisions, promote a sense of community, and engage and cultivate community participation and communication." Second, Community Councils are comprised of residents, property owners, business owners, and leaders of local religious congregations, schools, nonprofit organizations, and other community organizations. Third, Community Councils may receive funds from the City to be spent on administration costs such as postage, duplication costs, etc.

However, under 2.27.010(A), Community Councils do not have the authority "to bind the City or impose any conditions on the City or its citizens." In other words, Community Councils cannot make decisions regarding the public's business. Because Community Councils lack this necessary element, they are not considered "public bodies" and are not subject to the requirements of the Open and Public Meetings Act.

2014 UT H.B. 91

While the Open and Public Meetings Act does not currently apply to Community Councils, it may apply in the near future. This past year, legislators in the Utah House of Representatives proposed to expand the coverage of the Act. Had the proposal passed, it would have extended the Act's requirements to "public commissions." Public commissions were defined very similarly to a "public body," but required the inclusion of an elected official and only required "the authority to

advise." While Community Councils would not have been effected by H.B. 91, the City should be on notice that the Utah State Legislature is considering expanding the reach of the Open and Public Meetings Act to encompass additional governmental bodies.

Taylorsville City Code

Although Community Councils are not governed by the Open and Public Meetings Act, they are governed by the Taylorsville City Code. Under Section 2.27.010, Community Councils are required to meet on regular monthly schedules and keep minutes. The City should ensure that the Community Councils are following these requirements. The City is under no obligation under its Code to make the schedule or minutes publically available. The City, nevertheless, may consider doing so in order to further its stated purpose "to inform communities about city policies and services, engage the public in city decisions, promote a sense of community, and engage and cultivate community participation and communication."

Conclusion

Community Councils resemble "public bodies" in many ways. They are an advisory body created by ordinance. They consist of two or more persons. And they expend and are supported by tax revenue. However, Community Councils expressly lack the authority to make decisions regarding the public's business. As a result, Community Councils are currently not considered "public bodies" and are not subject to the Open and Public Meetings Act. While the Open and Public Meeting Act provides wise practices, the City is not liable if Community Councils fail to follow these procedures.