

1 **PROVIDENCE CITY COUNCIL**
2 **WORKSHOP MINUTES**
3 **July 22, 2019 6:30 PM**
4 **Providence City Office Building,**
5 **164 North Gateway Drive, Providence UT**
6

7 Attendance: John Drew, Kirk Allen, Kristina Eck, Brent Fresz, Roy Sneddon
8 Excused: Dennis Giles
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10 **Business Item No. 1:**

11 The Council will consider for adoption a Resolution 025-2019, a resolution awarding a bid for the Uptown Park
12 Sports Lighting project.

13 **Motion to approve Resolution 025-2019: — R Sneddon, second — K Allen**

14 **Vote:**

15 **Yea: K Allen, K Eck, B Fresz, R Sneddon**

16 **Nay:**

17 **Abstained:**

18 **Excused: D Giles**

- 19 • S Bankhead said that we will still want to apply for more money to improve the bleachers and upgrade the
20 score booth. The current bid is for the lighting project. It is a RAPZ funded project. We received
21 population allocations for 2013-2018 in the amount of \$71,000. This has been sent to the city. The
22 application for Uptown Park was awarded \$130,000 in 2017, \$30,000 in 2018, and \$40,000 in 2019 for a
23 total of \$271,000. To date, we have spent \$179,594.86 on the project, leaving \$91,405.14 in RAPZ money
24 available. Not all of that has to be spent on the Uptown Park project. Some of this is population money
25 that is not tied to a specific project. We are hoping that with this bid, we will still be able to use the
26 balance of the money to improve the playground equipment at Zollinger Park.
- 27 • We received one bid from Brandon Mortenson (BCM incorporated). His bid was \$68,421. This is under our
28 estimated amount that we asked for in our RAPZ budget. We already have the lights and the poles. This
29 bid is for the installation of the lights and polls, and for the removal of old lights and some old polls. S
30 Bankhead said that city staff recommends accepting this bid if the council would like to continue with this
31 project.
- 32 • S Bankhead said that there should be about \$12,000 left to go towards upgrading the score booth. We
33 may apply for more money for that project next year.
- 34 • K Eck asked how much the bleacher upgrade will cost. S Bankhead reported that S Gunnel said that it
35 would cost about \$28,000.
- 36 • K Allen asked if BCM has done something like this project before.
- 37 • Brandon Mortenson of BCM incorporated said that he has done a lot of parking lighting for big trucking
38 companies. He has done site lighting for a high school. He has done the parking and yard lighting at an
39 assisted living center. They have not used the Musco system before, but it seems simpler than a lot of the
40 work they have done.
- 41 • B Mortenson explained that the bases of the Musco light poles are already built. They simply set it in the
42 ground, and then pour concrete around it.
- 43 • K Allen said that the poles seem quite skinny.
- 44 • B Mortenson said that the poles are buried ten feet deep, and that they are made of one inch thick
45 engineered steel. He said that Musco has done a lot of university fields and major league fields.
- 46 • B Mortenson said that he will need to subcontract a crane, and then use an auger to drill down. They
47 found a boring company, and the cost won't be as much as he thought it would be.
- 48 • K Eck asked when they will finish the project. B Mortenson said that he is hoping to be done by August
49 21st.

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51 **Item No. 2: Discussion:**

52 The Providence City Council will hold a workshop to discuss proposed code amendments creating a city manager
53 position. The Council will also discuss an employment agreement and duties matrix.

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- Mayor Drew said that most cities in Utah consider the city manager to be the chief administrative officer, but the ICMA language names them the Chief Executive Officer. He would like to change that part of the suggested ordinance language.
 - Mayor Drew explained that Hyrum, Nibley, North Logan and Smithfield have a city manager or a city administrator. They run the day-to-day operations of the city. Mayor Drew said that the total compensation that these managers/administrators are receiving is similar to what we have been proposing for a city manager salary.
 - K Allen said that sometimes the figures from Transparent.Utah.gov are not accurate.
 - Mayor Drew would like to add language under the mayor section designating him/her as the chief executive officer. He would like to define the city manager as the chief administrative officer.
 - K Eck agreed.
 - R Sneddon asked about transferring executive functions from the mayor to the city manager. What are those functions then called? Mayor Drew said that they are administrative functions. R Sneddon wondered if they are still executive functions.
 - Mayor Drew said that no two cities have the same definition of a city manager. We can design this to work the way we want it to work.
 - Mayor Drew said that Ben Reeves of Santaquin gave us an assignment matrix. He took the personnel policy and used it to build the matrix.
 - R Sneddon passed out a suggested duties and powers matrix for the city manager.
 - Mayor Drew felt that the matrix should be longer. R Sneddon agreed that there are some things that need to be added. However, there are some duties that he used that are not in any other matrix that he has seen. He thought up some of the duties himself.
 - R Sneddon said that one of the duties he suggested was to have the city manager be in charge of cyber attack prevention.
 - The Council discussed Chapter 6, 1-6-6 under Proposed Ordinance Changes in the agenda packet. This language was taken from State Code.
 - K Allen asked about number 5 in that section, which says that the council may create any office that is necessary for the government of the municipality. What does this mean?
 - B Fresz said that creating a police department would be an example.
 - R Sneddon asked about number 8 in that section, which says that the council may enforce obedience to the ordinances of the city with fines or penalties. It seems that most of the time we just look the other way until someone complains.
 - Mayor Drew said that we sometimes refer things to our city prosecutor.
 - K Eck noted that the text of the code says that the council “may” enforce. We are not required to do so at all times. We do not always enforce the ordinances. But it is good for us to have the option to do so.
 - Mayor Drew said that essentially, the council has police powers.
 - Mayor Drew brought up 1-7-1 and 1-7-9. They are deleted because they will now be the responsibility of the city manager.
 - The council discussed the proposed ordinance changes to Chapter 12 of Providence City Code (a new version passed out by the mayor at the meeting).
 - B Fresz asked if we are sticking with a mayor and six member council as a form of government.
 - Mayor Drew said that we are.
 - Mayor Drew brought up 1-12-3 in the proposed ordinance changes. He recommends changing the language to say chief administrative officer instead of chief executive officer.
 - K Allen suggested that we change “governing body” to “city council” throughout the ordinance.
 - The Council agreed.
 - B Fresz brought up 1-12-1. He felt that we should not require the city manager to live in Providence. He thought that requiring them to be within 30 minutes or 30 miles could be appropriate, or requiring them to live within the county could be appropriate. S Bankhead said that minutes would be more useful than miles.
 - R Sneddon felt that the city manager having no allegiance other than a contract [because they do not live

- 106 nearby] might not be a good idea. They may not have an interest other than their paycheck. R Sneddon
107 said that this is the same problem that has occurred in Washington, DC, because the representatives don't
108 live in the areas that they represent. He feels that they should at least live within Cache Valley or Cache
109 County so as to have a connection to the area.
- 110 • B Fresz said he can see it both ways. He originally thought of requiring them to live in the city. However,
111 some people may accuse the manager of favoring their neighborhood if they live in the city.
 - 112 • B Fresz and K Eck said that we should require them to live within the county. The council agreed to
113 remove city in the ordinance and replace it with county.
 - 114 • B Fresz asked about a probationary period before they are required to move here.
 - 115 • S Bankhead said that this is what the text of the proposed ordinance says. It says that at the time of
116 appointment, they need not be a resident.
 - 117 • Mayor Drew brought up the last sentence of section 1-12-1. The council agreed to change "elected" to
118 "served" and to add "as city manager" after "such appointment."
 - 119 • The council agreed to replace all mentions of "council" with "city council"
 - 120 • Mayor Drew brought up 1-12-3(1). He liked the section in an older (7/9/19) proposed ordinance that
121 prevented the city manager from appointing the city recorder, city treasurer, city attorney, city engineer,
122 justice court judges and city department heads.
 - 123 • K Eck agreed that we should copy the old language into this new document. However, she felt that
124 "department heads" should be left out [she felt that the city manager should be able to appoint
125 department heads]. She felt that the city manager will know more of what is going on in those
126 departments, and be better able to appoint the department heads.
 - 127 • R Sneddon did not agree.
 - 128 • K Allen thought that the city council should retain the power. The council can still rely on the city
129 manager's opinion in making the decision.
 - 130 • R Sneddon felt that some city managers may know nothing about certain aspects of the city, such as the
131 technical aspects of public works. They may make expensive mistakes. It is good for the city council to
132 retain the power.
 - 133 • Mayor Drew said that some department heads may use their relationship with the council to prevent
134 disciplinary action by the city manager. It could become political. We try to insulate the city staff from
135 politics.
 - 136 • R Sneddon said that a personality clash with the city manager could cause trouble for the department
137 heads. If they can be fired by the city manager, they have no "out" from the situation.
 - 138 • K Allen said that it is impossible to fully insulate the staff from politics. He felt that the city council is an
139 important check on the city manager's power.
 - 140 • K Eck wondered what other cities do. Mayor Drew said that he can make some phone calls to find out.
 - 141 • B Fresz said that our city engineer and city attorney are contracted, so this discussion would not apply to
142 them. S Bankhead said that state code requires the council to appoint the city recorder and the city
143 treasurer, and specifies the process for selecting the justice court judge. The only other "department
144 heads" that we have are Rob Stapley [Public Works Director] and Skarlet Bankhead [the Administrative
145 Services Director].
 - 146 • S Bankhead felt that the manager would want to have assistants who supervised public works or the
147 administrative side of things. They would not want to take those departments on themselves.
 - 148 • B Fresz asked if the council is the appeal authority for firing.
 - 149 • S Bankhead said that department heads don't have appeal rights.
 - 150 • B Fresz said that we don't need to mention the positions that are required by state code to be council
151 appointments, because it is already specified in state code.
 - 152 • K Eck said that we should take time to think about this part. She would like to see what other cities do.
 - 153 • B Fresz said that he can see the benefit of insulating the Public Works Director from the council. The
154 council could ask for their own streets to be fixed first, etc.
 - 155 • K Eck said that there could also be a benefit in insulating the Public Works Director from the city manager.
 - 156 • S Bankhead said that if the Public Works director was feeling pressure from the council, they would
157 probably speak to the city manager about the issue. Then the city manager would speak to the mayor.
 - 158 • B Fresz can see both sides, but he is leaning more towards insulating the Public Works Director from the

- 159 council.
- 160 • Mayor Drew will check with other cities to see how they handle this issue.
- 161 • K Eck said that we should add language to 1-12-3 (3) about the city manager attending city council that
- 162 says “unless excused therefrom by the mayor or the majority of the city council.”
- 163 • K Allen said that we should just have it be the mayor who excuses the city manager. The council agreed.
- 164 • K Eck said that we should add to the new version a section from the old version (1-12-5(h)). That section
- 165 says that ordinances should be written by the city manager and presented to the council.
- 166 • S Bankhead said that it is the city attorney who does the legal aspects of ordinances. K Eck said that the
- 167 city manager could write it, and then the attorney could review it.
- 168 • S Bankhead brought up the extracurricular activities that a city manager may participate in. Some city
- 169 managers participate in boards, commissions, etc. She felt that the council would want some control over
- 170 those board/volunteer memberships. It could be in the ordinance or in the employment contract. The
- 171 previous city manager was a member of some organizations that had very little relevance to Providence
- 172 City.
- 173 • Mayor Drew and B Fresz felt that it should be in the employment contract.
- 174 • R Sneddon said that the city manager who joins many organizations may be trying to network in case they
- 175 get fired. But those memberships also bring useful information back to the city.
- 176 • Mayor Drew said that he would expect the City Manager to be a member of the Utah City Manager’s
- 177 Association.
- 178 • K Allen said that language about extracurricular activities is present in the ICMA’s suggested contract.
- 179 • R Sneddon felt that the mayor should have the final word on the extra responsibilities that the city
- 180 manager is taking on.
- 181 • R Sneddon felt that we should state in the ordinance that the budget will be done with appropriate
- 182 accounting and purchasing practices in accordance with state statutes.
- 183 • R Sneddon felt that the ordinance should require the manager to present budget reports in simplified
- 184 terms so that informed citizens can understand them.
- 185 • K Eck said that 1-12-3 (7) covers what R Sneddon is proposing. It requires the city manager to give such
- 186 other reports as the city council may require concerning operations.
- 187 • S Bankhead asked if the council will want to hear directly from those under the city manager, such as the
- 188 sextant or water superintendent. She feels that the council should have the ability to request to hear from
- 189 them, and 1-12-4 may prohibit it.
- 190 • B Fresz said that the language “except for the purpose of inquiry” in 1-12-4 should allow the city council
- 191 to hear from those under the city manager.
- 192 • B Fresz asked about declaration of emergencies in section 1-12-5. What would happen when the city
- 193 manager cannot get to the city? Would the mayor take those responsibilities?
- 194 • S Bankhead said that we may not want a city manager to be able to declare a state of emergency
- 195 unilaterally. We might want to say that they can declare an emergency “in consultation with the mayor
- 196 and city council.” In order to qualify for certain FEMA funding, we need more than one person involved.
- 197 • B Fresz asked if there is flexibility in the process in case the mayor cannot be reached, or the city manager
- 198 cannot be reached.
- 199 • S Bankhead said that she feels that the current language allows for it. However, we will need to check
- 200 with our attorney. The language says that the city manager “may” act on an emergency.
- 201 • R Sneddon said that the city manager should make it a priority to put all our data, such as the utility
- 202 system, into electronic format (such as putting the location of manholes, etc into a GIS system).
- 203 • S Bankhead said that part of the issue is a funding issue. The council may not approve funding for entering
- 204 things into the GIS, etc.
- 205 • The council decided to add 1-12-5(n) from the old ordinance into the duties, and add reference to data
- 206 protection to that paragraph.
- 207 • The council brought up 1-12-6 about terminating a city manager. Mayor Drew said that we could put
- 208 language about severance payment into the contract instead of in the ordinance.
- 209 • B Fresz agreed. B Fresz asked what the vote would need to be to remove a city manager.
- 210 • Mayor Drew said that it would need to be a supermajority, including the mayor’s vote.

- 211 • S Bankhead said that the hearing about terminating a city manager may not need to be a public hearing.
- 212 The city manager may want to speak to the council, but it may not be appropriate to invite the public to
- 213 speak.
- 214 • R Sneddon asked what would happen if it is a group within the city that has the problem with the City
- 215 Manager.
- 216 • B Fresz said that citizens could comment about the city manager at any city council meeting during the
- 217 public comment period. If it got to the point of firing the city manager, there would have already been
- 218 many public comments on the issue.
- 219 • The council agreed to remove the word “public” before hearing, and to move the section about six
- 220 months’ severance pay to the employment contract.
- 221 • S Bankhead brought up 1-12-7. She said that the city may be required to get the surety bond. This
- 222 language says that the city manager would have to get it.
- 223 • The council brought up section 1-12-8 about filling vacancies. They felt it was unrealistic to expect the
- 224 council to appoint a new city manager within 60 days.
- 225 • S Bankhead said that we may want to say something about how we want to fill a vacancy. Maybe it should
- 226 be in the personnel policy and not in the ordinance. Mayor Drew asked S Bankhead to look into the
- 227 personnel policy and come up with some language.
- 228 • B Fresz said that he wouldn’t mind language that requires us to advertise the vacancy within 30 days.
- 229 • The council decided to delete the section.
- 230 • B Fresz brought up the proposed employment agreement. What happens if the city manager doesn’t
- 231 know what they are doing? What prevents us from having to pay them for 6 months?
- 232 • B Fresz also asked what would happen if they resigned after a short time.
- 233 • K Eck said that termination and resigning are two different things.
- 234 • Mayor Drew said that the contract language defines severance as the city council choosing to terminate
- 235 the city manager. This is what qualifies for the severance pay.
- 236 • B Fresz asked what would happen if someone does not show up for work.
- 237 • K Eck said that if someone doesn’t show up for work, that is defined as quitting.
- 238 • S Bankhead said that this may be something to ask our attorney about. In the past, Workforce Services
- 239 has counted not showing up for work without notification as voluntary resignation.
- 240 • Mayor Drew asked what would happen if a council terminated a city manager “for cause” (for example, if
- 241 they misrepresented themselves on their resume).
- 242 • S Bankhead said that Katie Steffey, an HR attorney at Smith Hartvigsen, could answer that question.
- 243 • Mayor Drew said that the city should have to terminate “for cause” in order to avoid paying the severance
- 244 pay. Then the burden of proof is on the city to prove it. If the new council simply doesn’t like the city
- 245 manager, then the city would have to pay the severance pay.
- 246 • B Fresz said that he didn’t see the language about “cause” in this proposed contract.
- 247 • K Allen asked that we look at our current personnel policy for guidance.
- 248 • B Fresz brought up RACI charts. It is how industry divides responsibilities/roles. The acronym stands for
- 249 who is Responsible, who is Accountable, who is Consulted, who is Informed. [It is a similar concept to the
- 250 matrix that R Sneddon made.]
- 251 • The council decided to meet for another workshop next Wednesday at 6:00 PM.

253 **Motion to adjourn:** — K Eck, second — R Sneddon

254 **Vote:**

255 **Yea:** K Allen, K Eck, B Fresz, R Sneddon

256 **Nay:**

257 **Abstained:**

258 **Excused:** D Giles

260 Meeting adjourned at approximately 8:32 PM
 261 Minutes prepared by Jesse Bardsley
 262 Minutes approved by vote of the council on August 13, 2019

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John Drew, Mayor

Skarlet Bankhead, City Recorder