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City of Mt. Vernon, Illinois
Joint City Council/Fire & Police Commission Workshop Meeting
Monday, June 23, 2014

MINUTES

The Mt. Vernon City Council held a Joint City Council/Fire & Police Commission Workshop Meeting on Monday, June 23, 2014 at 7:00 p.m. at the Rolland W. Lewis Community Building at Veterans Park, Mt. Vernon, IL.

ROLL CALL

Roll call showed present: Council Members Ron Lash, Dennis McEnaney, Todd Piper, David Wood and Mayor Mary Jane Chesley.

Fire & Police Commission members present were: Bill Beck, Kay Shaw and Myron Moreland. City Manager Ron Neibert, City Attorney David Leggans and City Clerk Jerilee Hopkins were also present.

ORDINANCE GRANTING CONDITIONAL USE

Mayor Chesley presented for Council's consideration the Second Reading on an Ordinance Granting Conditional Use for Church and Subordinate Uses in a Class B-1, Primary Business District Located at 118 S. 9th Street. The petitioning party is Kingdom Seed Ministries.

Council Member Piper made a motion to approve Ordinance No. 2014-17 Granting Conditional Use for Church and Subordinate Uses in a Class B-1, Primary Business District Located at 118 S. 9th Street. Seconded by Council Member Wood. Yeas: Lash, McEnaney, Piper, Wood and Chesley.

HIRING AND DISMISSAL FOR POLICE & FIRE CHIEFS

Mayor Chesley explained that on May 5, 2014 the City Council heard the First Reading on an Ordinance that would change the hiring and dismissal policy for the Police and Fire Chiefs. It would also open up applications for these positions outside to allow external candidates. At that time, City Council expressed interest in learning more information about this issue and also in including the

Commission in the dissemination of information. The proposed Ordinance was tabled. Council agreed to schedule a workshop to discuss this topic at a later date.

She advised that she and City Attorney David Leggans have been in communication with the Illinois Municipal League's Attorney Roger Huebner and also had a conference call with the Illinois Fire & Police Commission Association's Attorney John Broihier. Council tried to gather as much information as possible and share the information with the Council and the Commission.

Council Member McEnaney noted that he became involved in this issue a few months ago when the Commission Chairman asked the Council to consider changing the City Ordinance to allow the Commission to look at candidates outside as well as inside the City's employ. McEnaney also became aware that the Mayor, City Council and the Office of the City Manager have no legal authority in hiring, discipline and discharge of the Chiefs. It is the sole responsibility of the Fire & Police Commission. Based on that, he has concerns and wanted to study the process.

REVIEW OF POLICE CHIEF'S JOB DESCRIPTION

Mayor Chesley noted that the job descriptions for the Police Chief, Assistant Police Chief, and Fire Chief were last modified in 2001, and the City Manager has reviewed same to confirm they are current.

REVIEW OF POLICE AND FIRE COMMISSION DUTIES

Mayor Chesley confirmed that the Police and Fire Commission duties were received by the Council and Commission members.

CONSIDER MODIFICATION OF HIRING & DISCHARGE POLICY OF POLICE & FIRE CHIEF & ASSISTANT CHIEF

City Attorney David Leggans presented the following information:

EXISTING STATUTORY DUTIES OF POLICE/FIRE COMMISSION

1. Board consists of three appointed members who serve three year terms. Commissioners may only be removed for cause. Commission has authority with regard to new hires, promotions, and discipline. No supervisory authority or participation in daily operations of Fire or Police Departments.
2. The Commission conducts testing/evaluations for all appointments, which includes written tests and oral interviews for all new and promotional appointments, and physical testing for new appointments only. Hiring evaluation for Chiefs and Assistant Chiefs is oral interview only.
3. The Commission creates hiring/promotions eligibility lists from which new hires and promotions are made.
4. The Commission authorizes hiring and promotions based on City request.
5. Discipline (except for a limited authority of a Chief to issue a reprimand) and discharge of all officers is based upon written complaints filed with Commission; the Commission must conduct formal administrative hearings, and decisions are subject to appeal to Circuit Court and to Appellate Courts. However, officers subject to Collective Bargaining Agreement may choose the Grievance/Arbitration procedure; and in such event, the Commission has no authority in such matters.
6. The Commission hires and discharges the Chiefs and Assistant Chiefs without review or confirmation by Manager or City Council.

The Office of the City Manager, the Mayor and the Council have no legal authority to hire or discharge but may be consulted by the Commission if they choose to do so.

The Mayor nominates, and the City Council appoints, the members of the Fire & Police Commission.

The City Manager annually completes an Employee Performance Evaluation for the Fire and Police Chiefs. The Commission does not receive a copy of the Evaluation. They are a separate adjudicated body. The Commission's only function is to hire and discharge Chiefs and line officers. The evaluation would be part of the evidence presented at a discipline hearing when a complaint is filed against the Chief. The disciplinary process begins by a complaint filed by a citizen, City Manager, or City Council with the Commission. Giving the Commission the evaluation would be improper ex parte communication.

OPTIONS FOR THE CITY OF MT. VERNON

1. Pursuant to the Board of Fire and Police Commission statute, under the statutory Manager form of government the Council may grant the authority to hire and discharge Chiefs to either (i) the Board of Police and Fire Commission without any formal City Council confirmation (which is current City procedure) or (ii) to the City Manager with or without City Council confirmation, although discharge of a Chief by the City Manager must be confirmed by the Council. The Board of Fire and Police Commission statute does not permit appointment of Assistant Chiefs by the City Manager.
2. Under the City's Home Rule authority, the Council may authorize appointment and/or discharge of the Chiefs and of the Assistant Police Chief by the City Manager, with or without City Council confirmation. Authority to appoint and discharge the Assistant Fire Chief is limited to the Board of Fire and Police Commission if the Fire Department Promotion Act (which restricts home rule authority) is applicable.

CONSIDERATIONS OF CITY COMMISSION HIRING OF CHIEFS

1. Commissioners can only discharge Chiefs within Fire and Police Departments for "just cause" as defined by the Courts. The Commission must conduct a formal administrative hearing before discipline is imposed. The Chief can file suit for reinstatement\administrative review via the Circuit Court and then the Appellate Court. The burden of proof for just cause is on the City through the Commission.
2. Commission hires Chiefs and Assistant Chiefs with full authority without any input or required confirmation by the Manager or Council.
3. When Commission hires the Chief the Chief can ignore City Manager's directions or City Policy, and City Manager has no disciplinary authority over Chief. Chief has no accountability to City Manager. When the Commission makes the hire, only the Commission can discipline the Chief, which discipline requires a written complaint, a formal hearing, and court review.
4. Commissioners do not have day to day familiarity of City operations or policies.

CONSIDERATIONS OF CITY MANAGER HIRING OF CHIEFS

1. Manager has day to day familiarity with City policies and operations.
2. Chiefs are subject to same policies and evaluations as other Department Heads. Chiefs are "at will" employees and can be discharged without cause. Any challenging court action must be initiated by the employee with the employee having the burden of proof to establish that the discharge was for discriminatory or illegal reasons.
3. Appointment of Chiefs by the City Manager is a universal practice within Illinois. It permits review and consideration of all candidates (within and outside the ranks) simultaneously and selection of the most qualified candidate. It also eliminates conflict of interest (actual and appearance) when Chief presents disciplinary matter to Board of Fire and Police Commissioners.
4. City Manager implements the policies and goals of the City Council. City Manager is under direct control of Mayor/Council and can be removed at any time. Therefore, there is more accountability by Chiefs to the policies and goals of the Council.

Commissioner Bill Beck noted that pursuant to the Class Specification for the Fire Chief, the Chief is "Subject to the administrative direction of the City Manager..." Beck knows of no time when the Chief or Assistant Chief have not met with the City Manager when asked to do so.

Beck noted that years ago he suggested to the Mayor that the Commission be allowed to seek applicants outside of City Employ at the same time as the Commission considers applicants employed by the City.

Council Member Wood asked to hear arguments as to why the process should be changed. Council Member Piper noted one reason was expressed by Commission Beck, i.e. to simultaneous seek applicants outside and inside the City employ. Wood stated that he wanted arguments regarding taking the hiring and discharging of Chiefs and Assistant Chiefs from the Commission to the City Manager.

VISITORS/CITIZENS ADDRESSES FROM THE AUDIENCE

Donte Moore stated that a City employee working in the capacity of Assistant Chief and doing of good job, should have an advantage over an applicant from outside of the City employ. He also questioned why the Commission does not receive the Chief's job evaluations which was addressed earlier in the meeting.

Richland Acklin questioned the application or lack of application of home rule in this situation. Leggans noted the City may elect not to exercise full home rule authority but follow the statutory authority. Acklin also recited several questions to the Council.

Jim Rippy stated that the applicants should be screened by the Commission and then the City Manager choose from the pool of screened applicants, whether they presently work inside the department or outside.

Retired Captain Charlie Lamont shared two criminal investigations conducted in Carbondale by the Chief of Police; one involving the murder of his niece, Molly Young, and the other an SIUC student found dead and still under investigation by the Chief of Police. The Chief of Police is still employed after other alleged wrongdoings. Captain Lamont maintains that the Chief would no longer be employed if the same incidents occurred in Mt. Vernon. He confirmed that the Chief selection process has worked for many years in Mt. Vernon, the system works and should remain.

Mike Anthis asked if the Council Members' packets containing the meeting handouts are subject to the Freedom of Information Act. Neibert confirmed they are. Anthis asked who initiates the process to fill a vacancy for Chief.

Leggans stated that the City notifies the Commission of the vacancy. Commission Beck advised that the Commission has not been notified of the vacancy.

Roger Hayes, currently employed by the City of Mt. Vernon as a Police Officer, asked the Mayor and Council if they received his email. The Mayor did not. He objects to the idea that one person would make these decisions where nepotism, favoritism and corruption could survive. He noted he is an applicant for the Police Chief position and asked for a chance to be the determined qualified before outside applicants.

Rick Heck, a former Council Member who served under four Mayors during his four year term, stated that officers take a job with the City in hopes of advancing up the ranks. If they are qualified then they should be considered and not bypassed.

Susan Hughey remarked that the morale of each and every officer on the police force is in jeopardy. She asked that a Police Chief be appointed as soon as possible.

Commissioner Kay Shaw made a motion to adjourn. Seconded by Commissioner Myron Moreland. Yeas: Beck, Shaw, and Moreland. The Fire & Police Commission adjourned at 9:00 p.m.

Council Member McEnaney made a motion to adjourn the meeting for a ten minute break.

The meeting reconvened and all Council Members were present.

REQUEST FOR FINAL REALLOCATION OF FUNDS FOR THE 2013/2014 BUDGET

City Manager Neibert presented final budget adjustments for fiscal year ended April 30, 2014 for approval. There was no increase or decrease in the working fund balance.

Council Member Wood made a motion to approve the final budget adjustments. Seconded by Council Member McEnaney. Yeas: Lash, McEnaney, Piper, Wood and Chesley.

DISCUSSION RELATED TO POLICIES REGARDING 1ST AND 2ND READING OF ORDINANCES

Council Member Wood requested that this topic be adjourned to a later meeting where it can be thoroughly discussed. Wood suggested that the Council agree not to use the suspension of the rules option until the Council has discussed the issue at a Workshop. Neibert suggested that another City Council Workshop Meeting has been scheduled for Monday, July 14, 2014. Mayor noted that she will distribute the packets for the Comprehensive Plan Review at the July 14 Council Workshop for the first meeting of the Comprehensive Plan review meeting scheduled for Wednesday, July 16.

Council Member Wood made a motion to table the agenda item entitled, Discussion Related to Policies Regarding 1st and 2nd Reading of Ordinances, until the City Council Workshop Meeting on Monday, July 14, 2014 at 3:00 p.m. Seconded by Council Member Lash. Yeas: Lash, McEnaney, Piper, Wood and Chesley.

Council Member Wood made a motion to permanently table the first Ordinance drafted regarding changes to the Fire & Police Commission. Seconded by McEnaney. Yeas: Lash, McEnaney, Piper, Wood and Chesley.

Council Member McEnaney requested that the Fire & Police Commission changes be discussed at the July 14th Workshop.

Council agreed to give their individual opinions about the Fire & Police Commission changes to City Manager Neibert so a new Ordinance may be drafted based on the consensus given to Neibert. The two issues are whether the City Manager or the Commission has authority to hire and Discharge and whether to allow applicants from inside and outside of the City employees.

Council agreed that the process include the immediate consideration of external candidates to fill the Chief position.

EXECUTIVE SESSION

No executive session was held.

ADJOURNMENT

Council Member McEnaney made a motion to adjourn the City Council portion of the Joint Council Fire & Police Commission Workshop Meeting. Seconded by Council Member Wood. Yeas: Lash, Piper, Wood and Chesley. Absent: Piper.

The meeting adjourned at 9:28 p.m.

Respectfully submitted,

Jerilee Hopkins
City Clerk