

"HUB OF THE SOUTHWEST"

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AGENDA
CITY COUNCIL WORK SESSION
October 2, 2018
6:00 P.M.

The items listed below are for discussion.

1. City of Holbrook Personnel Policy revisions.

Dated this 27th Day of September 2018


Cher Reyes, CMC, CPM, City Clerk

1 MINUTES OF THE HOLBROOK CITY COUNCIL WORK SESSION HELD ON
2 OCTOBER 2, 2018

3 CALL TO ORDER:

4
5 Mayor Tyler called the Work Session to order at 6:00 p.m.

6 Roll Call:

7 Councilmember Tim Dixon, Councilmember Adam Marsh, Councilmember Francie
8 Payne, Councilmember C.J. Wischmann (telephonically), Vice-Mayor Richard Peterson
9 and Mayor Bobby Tyler.

10 CITY STAFF:

11 Director of Administration Pat Nichols, Interim City Manager Cher Reyes, Sam Coffman,
12 CA (telephonically) and Administrative Assistant Lisa Maestas.

13 1. City of Holbrook Personnel Policy Revisions:

14 Prior to the Work Session Council was given a copy of the City of Holbrook Personnel
15 Policy. The policy the Council received did not contain all the mark-ups, so the Council
16 was given a more updated version. Councilmembers questioned why the attorney, Sam
17 Coffman did not have all the revisions in one copy instead of the Council having to flip
18 back and forth between two copies. Interim Manager Reyes read the Council the
19 response to a question that was emailed to Mr. Coffman. The response was "Those
20 changes are reflected in the red line I sent you May 18th. The latest redline only highlights
21 the changes made since Marlene went over the handbook with the Council". Council
22 stated that they pay him good money and he should have combined the two documents
23 before the scheduled Work Session. Councilmembers had discussion about whether to
24 give the two documents back to Mr. Coffman and have him combine them into one
25 document or whether to proceed with the Work Session. Councilmembers decided to

1 proceed with the Work Session. Councilmembers asked Mr. Coffman if he could get all
2 the mark-ups and all of the changes into one document before the next Council Meeting.
3 Mr. Coffman said he could get it done by tomorrow. Interim Manager Reyes stated that
4 on page two of the document Police Chief had been struck but Fire Chief also needs to
5 be struck because it is not consistent with the Charter. Vice-Mayor Peterson requested
6 that the word "ratification" be changed to "approval" so that it is consistent with the
7 Charter. Mr. Coffman said he would review this. Vice-Mayor Peterson said that the
8 Charter lists Treasurer and Finance Director as two separate positions the Personnel
9 Policy lists it as Treasurer/Finance Director. Vice-Mayor Peterson suggested that the
10 slash be changed to a comma. Vice-Mayor Peterson suggests that in Section 104 (page
11 4) the verbiage be changed from "all meetings are closed" to "all meetings are closed and
12 confidential". Mr. Coffman commented that the meetings will be subject to open meeting
13 laws and may not be truly confidential. Mr. Coffman said we could change the language,
14 but it could be contested. Interim Manager Reyes asked Mr. Coffman to verify that. In
15 section 105, Mr. Coffman would like the words "without prior notice" taken out of the 2nd
16 sentence. Councilmember Peterson suggested adding "In accordance to ordinance" to
17 this sentence. Councilmember Marsh questioned why there is not a Section 106.
18 Councilmember Marsh said in Section 107 he noticed that "sexual orientation" was added
19 and would like it added to all the places that the protected categories are listed.
20 Councilmember Marsh said he would also like "gender identity" added. Councilmember
21 Dixon objected to adding "gender identity". Councilmember Dixon said his objection is
22 because Arizona State Law does not include either "sexual orientation" or "gender
23 identity". Councilmember Dixon said if you look at ARS 41-1463 it only includes race,

1 color, religion, sex, age, national origin or disability. Councilmember Dixon said that he
2 feels like the Council is opening Pandora's Box if they go outside of what the Arizona
3 Laws state because the State has not addressed this and has not addressed this statute,
4 nor has the United States Congress changed their definition. Councilmember Dixon
5 suggested that the original verbiage not be changed. Councilmember Payne said that we
6 can go beyond the statute just not less than. Councilmember Dixon said according to
7 EEOC Rules everything is covered under the term "sex". Councilmember Dixon asked
8 why the City would go beyond what is laid out in the Arizona State Statute, or what the
9 U.S. Congress has laid out in their laws. Councilmember Marsh said that this document
10 is for Holbrook City Staff and that they should recognize "gender identity" so that they are
11 following EEOC. Councilmember Dixon asked, when it comes to race do, we need to list
12 Black, Mexican, Italian, etc. Councilmember Marsh said, "I didn't say gay, straight, bi,
13 whatever, I'm just saying these, are categories". Councilmember Marsh said that there
14 is no reason not to be more welcoming with this document if we are allowed to be.
15 Councilmember Dixon asked of Councilmember Marsh, "According to EEOC standards,
16 this would allow men to go into little girls' bathrooms, are you okay with that?"
17 Councilmember Marsh answered, "If they identify as a woman, yes". Councilmember
18 Dixon asked, "What about the shower rooms?" Councilmember Marsh said, "I'm sorry,
19 sir, but these are my personal beliefs". Mayor Tyler redirected the Council stating that
20 they are getting off track. Councilmember Dixon said that he does not feel like the Council
21 is getting off track and that the discussion should continue. Councilmember Payne
22 suggested asking Mr. Coffman his legal opinion. Mr. Coffman said that although there is
23 some debate, the law right now states that we must follow at least the minimum standard.

1 Mr. Coffman said that “sexual orientation” is not included in the law, but that many courts
2 seem to be headed in the direction of including “sexual orientation” as a protected class.
3 Mr. Coffman also said that many municipalities and government employees are including
4 “sexual orientation” in their policies but they are not required to. Mr. Coffman said the
5 “gender orientation” and “gender identity” is more of a gray area at this time. He said that
6 later if the State or Federal Laws change to include these protected areas, he could notify
7 the City at that time. Mr. Coffman said that he is not suggesting that the Council not put
8 “gender orientation” or “gender identity” in the document, as that decision is up to the
9 Council to make. Councilmember Marsh stated that it comes down to the utility of this
10 document. Councilmember Marsh said that this document does not determine who gets
11 into the pool, it determines whether somebody gets hired under equal employment laws.
12 Councilmember Marsh said that he understands that “gender, orientation and gender
13 identity” are more of a gray area and that he would be willing to leave those out of the
14 document, but he does feel like “sexual orientation” should be included. Councilmember
15 Dixon asked Mr. Coffman “If we have two people that are applying for the same position
16 within the City employ, and everything is equal with those two and one comes down to
17 being whatever fits the definition of sexual orientation or, of course gender identity could
18 the reverse happen here, where the City feels obligated to pick that person because of
19 sexual orientation”? Mr. Coffman stated that the fundamental answer is “no”, the City does
20 not have an obligation to hire someone because of a protected category. Mr. Coffman
21 also said that it does raise, at least a potential claim because the person is now in a more
22 protected category. Councilmember Dixon asked of the Council, why the Council should
23 go above what the laws in the State of Arizona are when this could be a potential law suit.

1 Mayor Tyler stated that, on the other hand, there are several municipalities that have
2 included “sexual orientation” in their verbiage and nothing has come out from that. Mayor
3 Tyler said that those municipalities recognize that the workforce is changing. Mayor Tyler
4 said that he is confident that Interim Manager Reyes would hire the most qualified
5 applicant for any position and not be bias, therefore he would like to keep things simple.
6 Councilmember Dixon said he would also like to keep things simple. Councilmember
7 Dixon said he can look at each Councilmember and tell what race they are, what color
8 they are, with the exception of religion because he does not know what religion everyone
9 is, he can tell what sex they are and approximately what age they are, he can guess their
10 national origin, and he can guess if someone has a disability. With the other categories
11 that are being suggested to add you can't tell. Vice-Mayor Peterson suggested that before
12 adding something that is not required by law, the Council should talk to the community
13 and she what their opinion is. Vice-Mayor Peterson also said he feels that if it is not
14 required by law then the Council should let it be covered by “or any other characteristic
15 protected by law”. Councilmember Marsh said that he understands where the other
16 Councilmembers are coming from, and he offered to withdraw the “gender identity”
17 suggestion. Councilmember Marsh said he is fine with just dropping it knowing that it is
18 going to be in the minutes. Councilmember Marsh wants it known that he thinks that the
19 Council should be more progressive with this topic. Mayor Tyler told Councilmember
20 Marsh that he brought up a valid concern and that the City needs to be more inclusive.
21 Mayor Tyler said that our community is changing as we sit here, and we need to be
22 adjusting to the changes. The Council decided to talk to members of the community to
23 see how they feel about including “sexual orientation” and “gender identity” in the

1 protected classes, before adding them. Vice-Mayor Peterson suggested that in Section
2 109 "in these rules" be removed from the sentence since this is covered in the Charter.
3 Interim Manager Reyes let the Council know that the striking on page 9 was already
4 approved by the Council at a prior meeting. After discussion about Section 202 (page 10)
5 it was decided by the Council to add "within 45 calendar days" to the last paragraph in
6 this section after ..."must resign or transfer". The Council also decided that the definition
7 of cohabitation should be included in the definition section. In Section 203 Vice-Mayor
8 Peterson suggested adding an "and" between from and forwarded in the last sentence on
9 page 10. Director of Administration informed the Council that State law has changed and
10 that any gift, tip or gratuity with a value of \$25.00 or more must be reported. Currently the
11 document says \$50.00. In Section 204 in the last sentence of the first paragraph the word
12 City Attorney will be changed to City Manager. Mr. Coffman suggested removing the
13 words "and request a written opinion" and adding "to seek legal advice, if necessary". In
14 Section 204 Vice-Mayor Peterson suggested that it should read "An employee who has
15 a financial or other private interest shall disclose conflict of interest in writing. This
16 disclosure will be kept on the records of the City or other appropriate authority, the nature
17 and extent of such interest". Mr. Coffman said that he would also clean up the second
18 paragraph. Vice-Mayor Peterson addressed Section 206-A (page 14): The Council would
19 like the sentence in the second paragraph, "Multiple degrees of the same level are not
20 permitted for reimbursement." removed from the document. Councilmember Dixon
21 wanted to address Section 206-B.5. (page 15). The Council decided to remove the
22 following sentence "Failure to do so will be filed with law enforcement authorities". The
23 Council requested to add "by City Manager" to the first sentence after the word

1 "authorized". In Section 208 the Council would like something added that addresses
2 follow-up reporting.

3 A work session has been scheduled for Tuesday, October 9, 2018 after the Regular City
4 Council Meeting.

5
6 Adjournment:

7 There being no further business to come before the Council, the Special Meeting was
8 Adjourned at 7:54 p.m.

9

10 Bobby Tyler, Mayor

11 **CERTIFICATION:**

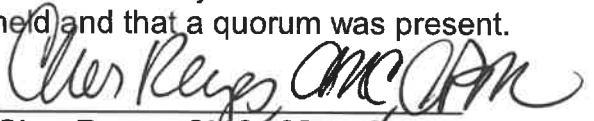
12 I hereby certify that the foregoing minutes are a true and correct copy of the minutes of
13 the Work session of the Holbrook City Council held on the 2nd day of October 2018. I
14 further certify that the meeting was duly called and held and that a quorum was present.

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Cher Reyes, CMC, CPM, City Clerk