

**MINUTES**  
**ADVISORY COMMITTEE**  
**Monday, October 6, 2014**  
**City Hall, Committee Room 207**  
**6:30 p.m.**

Members Present: Council President Tom DeWane, Council Vice-President Mark Steuer, Ald. Jerry Wiezbiskie, Ald. Guy Zima, Ald. Chris Wery, Ald. Andy Nicholson and Ald. Brian Danzinger

Others Present: Ald. Dave Nennig, Ald. Joe Moore, Ald. Randy Scannell, Interim City Attorney Jim Mueller, Chief of Staff Andy Rosendahl, Planning Director Kim Flom

1. Call to order.  
The meeting was called to order by Council President Tom DeWane at 6:30 pm. All members were in attendance with the exception of Ald. Wery, Ald. Nicholson and Ald. Danzinger who would be arriving late.
2. Approval of the agenda.  
Motion by Ald. Wiezbiskie, second by Ald. Steuer to approve the agenda and to hold item #4 until Ald. Wery arrives. Motion carried.
3. Approval of the minutes of the September 3, 2014 Advisory Committee meeting.  
Motion by Ald. Wiezbiskie, second by Ald. Steuer to approve the minutes of the September 3, 2014 meeting as submitted. Motion carried.
5. Request by Ald. Zima for review and possible action on Council rules regarding the minutes and actions taken by the Common Council in closed session.

Ald. Zima stated that it seems the City has not been keeping minutes of closed sessions, which Atty. Mueller confirmed. Atty. Mueller said the legal requirements are to record the motion going into closed session and the motion to return to open and said it's up to Council as to what policies and procedures they want to set. Ald. Zima said he recalls that minutes of closed sessions had been kept in the past, adding that the minutes were confidential as long as the reason for them to be confidential still exists. He stated that actions and discussion taken by Council in closed session, once the need had gone, became public record. He feels it's important for the public to see the history of what their alderman had to say about a particular topic, adding that some topics will never become un-confidential. He said there are stringent laws against people breaking

confidentialities and they shouldn't do this with or without taking minutes. He feels the public has a right to know about the arguments for and against a particular item and how it might be handled.

Motion made by Ald. Zima that we begin to keep minutes of closed sessions and that we have a strict reporting out of those when there is action taken. Second by Ald. Steuer.

Ald. Steuer inquired when did we discontinue taking minutes in closed session? Ald. Zima responded that at the last Finance Committee meeting they went through all of the purchase and sale of the Clarion and said there wasn't a single public record of anything that was said at those meetings and he doesn't know that authorization was ever reported out and given. He indicated that now that the sale has passed, those minutes would be open and we'd hear what the arguments were and what administration said, adding that the law allows for taking minutes. He said information from the League of Municipalities emphasizes that our long history of wanting openness is there. Ald. Zima recapped that the City was supposed to resell the property in short order after they preserved their air rights, etc. but said it didn't happen. He said the Finance Committee, at a previous meeting said they wanted the property put back on the market and this was followed by an email from the Attorneys office saying that the deal was completed with no details.

Ald. Zima indicated surprise to learn there was a land contract and commented that he didn't know if Council gave approval for a land contract? He summed up by saying that there is nothing for the public to fall back on and they have a right to know how decisions were made and if information was given out accurately or not.

Ald. Wiezbiskie expressed concern about closed session minutes becoming public when the confidential need is over and inquired at what point and time would the confidentiality be determined and who determine this? Ald. DeWane stated that once a deal is finalized, it's open record. Ald. DeWane said they have closed session minutes at the County and he was able to find out what was said when he couldn't attend a meeting. He agrees with Ald. Zima and feels it's important that we start this process.

Ald. Nennig stated that the process in the past was that closed session minutes were taken and kept separate and said it didn't happen very often that someone came forward asking to review these minutes, which were not in tremendous

detail but it was a record that could be referred back to. He thinks it's an issue not only for Council, but possibly for Police & Fire Commission.

Ald. Steuer said he's surprised that minutes are not being taken in closed session, stating that this is an important tool. He indicated it's difficult to keep track of all the information without having something in place to review the discussion and action.

Ald. Scannell inquired if this would include at P&W when they convene in closed session? Ald. DeWane responded yes.

Ald. Danzinger arrived at this time. He inquired of legal who makes the determination of when an issue is supposedly closed, is that done by the committee? Atty. Mueller responded that it's usually by the custodian of the records, Kris Teske, but added that the request usually comes to the attorney's office. He said it could be taken on a case by case basis and is a policy decision. Ald. Danzinger stated he agrees with Ald. Steuer that it's good to have notes as to who made the motion and exactly what the motion was to insure that they are following the correct practices. Atty. Mueller said he advises people to take notes in closed session and stated that the minutes are intended to be a brief synopsis of what happened.

Ald. Wiezbiskie inquired if this is going to be for all closed sessions, citing Police & Fire Commission and Sex Offender Residence Board. Ald. DeWane responded that Police & Fire have their own commission.

Ald. Nennig said a procedure has to be worked out as to who take these minutes, stating that there isn't a recording secretary present like in the past and it's recommended that an audio recording of closed session not be done, for obvious reasons. Atty. Mueller responded that part of the motion should be having a policy in place, adding that he doesn't see an issue at the committee level because the staffer can take those minutes but said the hardest part is going to be P&W because the Attorneys Office prosecutes that. He said something would need to be worked out, or they could exempt quasi judicial hearings.

Ald. Zima said any time we have important decisions that affect the City in a large manner, we want to keep good records; how decisions were made and why they were made. He added that it gives people a chance to correct minutes if they are incorrect, just as they have the opportunity to do here. He inquired if Council was misled; if one thing was said at Redevelopment Authority and

something different said at Committee meetings with Council? He said a record makes people think twice about what they're saying and said we'll have to decide which items we keep minutes on versus which ones are routine housekeeping. He stated that at the last 3 or 4 closed sessions of the Finance Committee meetings, nothing was reported out, even though a large transaction took place.

Ald. Danzinger said it's difficult to decide what is and isn't important and from a policy standpoint they should either state that minutes will be taken at all City Council meetings that include closed session and all standing committees, or make a determination which committee meetings won't have it. He said a consistent policy is necessary and makes it easier. He feels closed session minutes are a way to outline the decision making process, who made certain motions to identify the flow of information and for historical accuracy. He believes in City Council minutes, the report out is that to do as guided during closed session.

Further discussion ensued on how to decide which topics are important and should have closed session minutes. Ald. DeWane said the motion should be for all committees and Council meetings to have closed session and said the Law Dept. could draft a policy. Ald. Wiezbiskie expressed concern about the cost of taking these minutes and said Council members can attend any closed sessions.

Motion by Ald. Zima amended to refer this item to the City Clerk's Office for the purpose of bringing back to the next meeting all types of closed sessions, to have someone take a look at these and decide which ones we can exempt from. Second by Ald. Steuer.

Ald. Wery arrived and inquired about the keeping of closed session minutes to view. He cited the case of the Younkens deal and agrees it's important to have minutes to review.

A vote was taken on Ald. Zima's motion. Motion carried.

6. Request by Ald. Wery for review, with possible action, on the following ordinances: (held over from 9/3/14 Advisory Comm. meeting)  
2.01(2) Council Meetings-Special Meetings  
2.06(14) Rules of Council Procedure-Committee of the Whole

Ald. Wery stated he didn't have any feedback from Council on 2.01(2) and inquired if six hours to schedule a meeting could be changed to twenty-four. Atty.

Mueller said an emergency under the open meetings law is two hours. Ald. Wery would like to see it changed to twenty-four hours. Ald. Danzinger suggested an exception to include any type of natural disaster, which Atty. Mueller said could be included.

Motion by Ald. Wery to change 2.01(2) from six hours to twenty-four hours notice for a meeting, except in cases of an emergency or natural disaster. Second by Ald. Danzinger.

Ald. Zima stated that the Mayor should not be able to call a special Council meeting without the majority of the Council agreeing, and he doesn't feel one-third of the Council is enough to call a special session. Ald. Steuer stated he feels a majority of the Council should be needed to call a special session. Ald. Danzinger said a quorum must be present for any meeting to conduct city business, including special session and would be in favor of keeping the policy.

Ald. Nicholson arrived at this time. Ald. Zima inquired if one third is by statute? Atty. Mueller responded that this is our rule. Ald. Zima said this needs to be changed.

A vote was taken on Ald. Wery's motion. Motion carried unanimously.

Ald. Zima made a motion to reconsider the issue of the Mayor being allowed to call a special meeting of the Council. Motion seconded by Ald. Steuer. Ald. Wery's motion was re-read. Ald. Danzinger stated they could add that an emergency is determined by emergency services. Further discussion ensued on one-third of Council or changing to seven members. Ald. Wery agrees with Ald. Danzinger that four members can call a special meeting, but unless there's a quorum, no business can be conducted. Ald. Zima suggested that the Mayor could be allowed to call a meeting with the agreement of Council President and Vice-President. Ald. Danzinger said it's protocol that the Mayor contact the Council President and Vice-President to discuss the issue before scheduling a special meeting. Ald. Zima reiterated that he feels the Council President or Vice-President should be in concurrence.

Motion amended to state that the Mayor be allowed to call a special meeting of the Council with the concurrence of the Council President, or in the absence of Council President, the Vice-President. Motion seconded by Ald. Danzinger.

A vote was taken on the motion. Motion carried unanimously with Ald. Danzinger voting nay.

#### 2.06(14) Rules of Council Procedure-Committee of the Whole

Ald. Wery read the rules from the ordinance and brought up the Mayor ex officio being chairman provided there is no objection by any of the alderman. He believes it should be changed to read, provided there is no objection by "two" aldermen.

Ald. Danzinger said this would follow closer with Roberts Rules of Order and we need to make a differentiation between the ability to call a meeting of The Committee of the Whole versus the actions that are taken at the Committee of the Whole. He feels the purpose of the Committee of the Whole is for the ability to meet certain deadlines if there are things in terms of negotiation or pricing that need to be dealt with. He agrees with what Ald. Wery stated. Ald. Zima stated he believes this is already addressed in the ordinance and feels Committee of the Whole should only be done in extraordinary circumstances. Ald. Wery thought changing the wording would clarify the rule.

A motion was made by Ald. Wery to change the wording to state if "two" aldermen object. Motion seconded by Ald. Steuer.

A vote was taken on the motion. Motion unanimously carried.

Ald. Wery inquired if only the Mayor should be able to call a Committee of the Whole, or if we should include "in concurrence with the majority of the Council".

Motion was amended to read the Mayor or the majority of the Council may call a meeting of the Committee of the Whole provided there is no objection by two aldermen, in concurrence with the majority of the Council. Second by Ald. Steuer.

A vote was taken on the amended motion. Motion carried unanimously.

7. Request by Ald. Zima for review and possible action on City rules regarding autonomy of the Redevelopment Authority.

Ald. Zima stated he feels that all actions of the RDA should come to the Council for final approval and doesn't believe there is a necessity for them to have autonomy.

Motion made by Ald. Zima that going forward the RDA report to the City Council for final approval of all their actions. Second by Ald. Steuer.

Ald. Steuer stated that the RDA was set up for property acquisition, etc. Ald. Zima stated at the time the City could not be the recipient of certain federal funds unless they had a Redevelopment Authority that was made up of non-Council members. There was emphasis on redeveloping inner cities and the federal government felt there should be an autonomous body to receive and distribute those funds. He stated to his knowledge, that hasn't been a requirement for a number of years.

Ald. Moore said one of the functions the RDA has is the partnership between public and private partnerships such as NeighborWorks and Habitat for Humanity. He indicated there are things right now that the RDA votes on the do not bother the Council. He inquired, if everything is brought to Council and Council overrides, is this what the state wants us to do? Atty. Mueller responded that is something he will need to look into, adding that there are issues that must come back to the Council such as anytime there's city money involved, anytime there's a city contract tied to it or anytime there's a transfer of city property.

Ald. Zima said by the time it comes to Council, the decision has already been made and feels Council should be the final arbitrator of all monies spent there. He feels the RDA is there to make recommendations.

Ald. Wery asked Atty. Mueller if Council ceded some powers could they reclaim those based on current statutes, or if not, are they allowed to disband the RDA and recreate it into a body that would be required to report to Council. He stated some things that RDA has approved, Council has taken the blame for.

Ald. Wiezbiskie stated there must be some functions to this day that the RDA is held responsible to, other than the City Council. Ald. DeWane said this is what Atty. Mueller will find out. Atty. Mueller said there are some major advantages to having the RDA, saying they can bond and it's not put against the city's levy. All bonding responsibilities are the responsibility of the RDA, not the city.

Ald. Zima rescinded his previous motion.

Motion made by Ald. Wery to refer to the Law Dept. to look into the autonomous powers of RDA and their reporting requirements, and to bring back to the next Advisory Committee meeting. Second by Ald. Zima.

Ald. Wiezbiskie would like this to include items that are privy to the Federal Government. Atty. Mueller will include these items. Ald. Scannell clarified that Council is not looking to undo anything RDA has already done? Ald. DeWane said that's correct.

A vote was taken on Ald. Wery's motion. Motion carried unanimously.

8. Request by Ald. Zima to consider creating a new Standing Committee of the Common Council to be named the "Planning and Economic Development Committee".

Ald. Zima stated this is susceptible for any ideas from Council. He again stated that Council should be more involved in the nitty gritty of the planning and development of our community. He would like to see Economic Development come back to the full Council on important matters and have someone else decide on non-important matters, such as how many dogs a resident can have. He said he's willing to put this on hold and bring back for feedback at a future meeting.

Ald. DeWane stated he feels we need a larger Economic Development Team and the Council needs to be informed when people coming to the City are interested in having a development. Ald. Steuer feels Planning and Economic Development go hand in hand and said it's difficult to get a handle on things when we have lost two staff in ED.

Motion made by Ald. Zima to hold this item until the next meeting. Motion seconded by Ald. Wery.

Ald. Zima said his idea is to see a reunification of the Planning and Economic Development Office. Ald. Wiezbiskie would like to see an outline of each planning and economic committee, to include their duties, how they would be split out and how they would be joined together and how this would affect our existing structure.

A vote was taken on the motion to hold this item until the next meeting. Motion unanimously carried.

There being no further business, a motion was made by Ald. Zima, second by Ald. Steuer to adjourn. Motion unanimously carried. The meeting adjourned at 7:55 pm.

Respectfully submitted,  
Mary Haupt, Recording Secretary