

MINUTES

Monday, December 13,
2010

Public Services Committee
Meeting
Sioux Falls City Council

5:59 PM at Carnegie
Town Hall
235 West Tenth Street



Members Present: Kenny Anderson Jr., Sue Aguilar, Vernon Brown and Michelle Erpenbach

Members Absent: None

Staff Present: Debra A. Owen, City Clerk/Chief of Council Operations; and Tamara Jorgensen, CMC, Assistant City Clerk

Guests: Mike Cooper, Jim Entenman, Dave Pfeifle, Paul Bengford, Ron Bell, Donn Hill, Dean Lanier, Thad Schetnan, Elton Byre, Chuck Benson, Cheryl Rath, Greg Jamison, Bob Litz, Rex Rolfig, Tim Stanga, and Mark Cotter

1. **Call To Order**

Committee Chair Kenny Anderson Jr. called the meeting to order at 5:59 p.m.

2. **Review and approval of minutes dated December 7, 2010**

A motion was made by Erpenbach and seconded by Aguilar to approve minutes dated December 7, 2010. Committee Chair Anderson Jr. called for a voice vote on the motion. All members voted yes. **Motion Passed.**

3. **Referred Ordinance (from 6/7/10 City Council Meeting): An ordinance of the City of Sioux Falls, SD, amending the revised ordinances of the city by revising Article III, Section 12 ½-35, for the complaint procedure for the Board of Ethics.**

Owen stated that a sentence was added to Section 12 ½-10 (6) which reads "No subpoena request will be unreasonably denied by the board to the accused". David Pfeifle, City Attorney, stated that he will provide two additional revisions before the next meeting. The revisions concern provisions for board responses to the media and a provision for the investigator section.

No action required at this time.

4. Administrative Rules Review

This meeting is a preliminary discussion regarding the administrative rules process. Owen distributed a memorandum regarding Administrative Review. The items “struck out” and “underlined” are proposed changes. The following memo was reviewed and discussed:

Date: December 13, 2010 **To:** Public Services Committee
From: Debra Owen, City Clerk/Chief of Council Operations
Subject: Public Service Committee’s discussion of administrative Rules

The Public Services Committee, in the past year, rejected an ordinance revision which would have allowed a department to promulgate administrative rules for the land-fill regarding recycling. These rules would have carried the same weight and effect as a city ordinance but would not have approved by council, nor would these rules be subject to a public hearing and vote.

In those committee meetings, council expressed a concern that the policy setting authority rests with the council and the council did not want to delegate this authority to the administration. The committee expressed support for updating/changing city ordinance if the department deems the changes are necessary. An alternative idea that was supported by the committee was to have all administrative rules that affect city ordinances and the general public, subject to the final review and approval of the council.

For discussion purposes, City Ordinance Section 2-35 could be amended to address this issue:

City Ordinance Sec. 2-35. Powers of the mayor.

The mayor shall, by executive order, have the power to prescribe such administrative rules and regulations as the mayor shall deem necessary or expedient for the conduct of departments and administrative agencies subject to his authority, and the mayor shall have the power to revoke, suspend, or amend any rule or regulations dealing with the administration of the city. All executive orders shall be filed with the city clerk.

Proposed Revision for City Ordinance Sec. 2-35. Powers of the mayor.

The mayor shall, by executive order, have the power to prescribe ~~such administrative~~ rules and regulations ~~as that~~ the mayor ~~shall~~ deems necessary or expedient for the conduct of departments and administrative agencies subject to his authority, and the mayor shall have the power to revoke, suspend, or amend any rule or regulations ~~dealing with the administration of the city, subject to city charter or ordinance. Executive orders that direct the administration of city ordinances, and affect the general public, or exceed the duties and activities of the administration of the employees subject to the mayor’s authority, shall go into effect, upon final approval of the council.~~ All executive orders shall be filed with the city clerk.

Anderson Jr. stated that this would be a good time to review administrative rules and how well they work within the affected departments in the administration.

Mike Cooper, Director of Planning and Building Services, stated he is looking forward to participating in the ongoing discussions regarding administrative rules. Several city departments have administrative codes and Cooper would like to see an improved description of what type of “administrative rules” are going to be reviewed. He stated that there are various definitions including administrative rules, code interpretation, code amendments, etc. and he would like to have more specifics on what is going to be reviewed and discussed. He stated that if there were specific issues that have come up, that they would like to be able to work with and respond to the issue as we all move forward.

Ron Bell, Chief Building Services Official, gave a description of the codes and the scope of administration. He discussed when an inspector has the authority to make any modifications to the code and the procedures that need to be followed. Discussion followed regarding the need to review the original “intent” of the codes and the process for the Board of Appeals. The Board of Appeals meets monthly and there are boards for: Building Services, Fire, Mechanical, Electrical, Maintenance and Plumbing. The Boards are appointed by the Mayor (with advice and consent of the City Council) and the boards serve a three year term. Each of these boards has administrative provisions in their codes to allow them to make decisions regarding code modifications when necessary.

Donn Hill, Chief of Fire Rescue, introduced Dean Lanier as the new Fire Marshall. Hill spoke about the International Fire Codes that are adopted by ordinance with some amendments. He also showed a book that gives directions on how to interpret the codes. He stated that the Fire and Building Service codes are “companion codes” and that the Fire Marshalls have worked closely with Building Service inspectors in the past to ensure the same interpretation of the codes and that appropriate action is taken.

Citizen Elton Byre stated that it was difficult to interpret the codes. He also stated that he felt that departments should not have the power to make administrative rulings. He felt the City Council should be acting on some of these decisions. Byre gave an example of how one of his buildings was handled when the electronic panel was struck by lightning. Hill responded with an explanation of how, when a panel (or “system”) is replaced, you have to update other areas as well. This policy has been in place since the 1990’s. Hill will be providing additional information to the committee regarding fire codes.

Citizen Thad Schetnan, stated that a portion of the administrative code states “administrations are able to put in place policies to enforce the code”. He stated that he feels that this is very different than instituting policy changes or altering the codes

Council Member Bob Litz stated that the codes are updated every three years. He also thought the Fire codes and the Building codes were interchangeable. Litz stated he thought a board should be formed made up of citizens. This board would be responsible for reviewing items before they get added to the code. Bell replied that the departments do seek input from the trades prior to the proposed changes coming before the City Council or the Board of Appeals.

Cooper stated that, during last year's city elections, he participated with the Chamber of Commerce in a planning session. As a result of those comments and discussions, a volunteer committee has been formed to talk about city development, review the permit inspection process, etc. Cooper stated that the Planning Department will be presenting information to the City Council, in early 2011, that will illustrate areas that are working well and areas that may require improvement. He called the committee "a peer review" of our development processes. Cooper will be providing a listing to the Public Services Committee of the members of the volunteer committee

No action required at this time.

5. **Open Discussion**

There was none.

6. **Adjournment**

A motion was made by Brown and seconded by Erpenbach to adjourn the meeting at 6:45 p.m. Committee Chair Anderson Jr. called for a voice vote on the motion. All members voted yes. **Motion Passed.**

Tamara Jorgensen, CMC
Assistant City Clerk