

# MINUTES

Public Services Committee Meeting  
Sioux Falls City Council

Monday, February 14, 2011  
6:10 p.m.  
at the 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:** Cheryl Rath, Mike Cooper, David Pfeifle, Tracy Turbak, Greg Jamison, Beth Jamison, Dean Karsky, Tim Stanga, Rex Roling, Jeanne Gerken, Gerald Gerken and Jonathan Ellis.

1. Call To Order  
Committee Chair Kenny Anderson Jr. called the meeting to order at 6:10 p.m.
2. Review and approval of Minutes dated January 10, 2011

A motion was made by Brown and seconded by Aguilar to approve the minutes dated January 10, 2011. Committee Chair Anderson Jr. called for a voice vote on the motion. All members voted yes. **Motion Passed.**

3. Administrative Rules and Executive Orders

Executive Orders: Debra Owen, City Clerk/Chief of Council Operations, opened the discussion by reviewing the following information previously distributed:

## **City Charter Sections where executive orders are mentioned:**

### **Section 2.03. Mayor.**

The mayor shall serve as a member of the city council. In the absence of the mayor for purposes of city council meetings, the city council shall designate one (1) of its members as acting mayor, with the duties but not the powers of that office. In case of emergencies or for purposes of day-to-day administrative duties and functions if the mayor is temporarily unavailable, the mayor shall propose to designate an interim successor by executive order, listing not less than three (3) nor more than seven (7) interim successors. The

selection of interim successors in the executive order shall be at the mayor's discretion from among department heads or city employees; however, the number and order of proposed interim successor designees shall not be effective without the advice and consent of the city council.

**Section 4.01. General provisions.**

(a) *Creation of departments.* The mayor may establish city departments, offices, or agencies in addition to those created by this charter by filing an executive order which may also provide that any funds previously appropriated to perform a function which is being transferred may thereby be transferred to the new major organizational unit performing such function, with such order becoming effective after the expiration of 25 days from the date it is filed, unless action is taken to nullify the executive order by a vote of six (6) or more members of the city council. The mayor may prescribe the functions of all departments, offices, and agencies, except that no function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

**City Ordinances where executive orders are mentioned:**

**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.

**Sec. 2-37. Administrative organization of city departments.**

The organization chart for the city shall be established by executive order of the mayor. The departments established in the order shall be the administrative departments of the city.

**Sec. 2-56. Disbursements by third party administrators.**

The mayor may, by executive order, authorize the processing of claims and expenditures by third party administrators under contract with the city, including the issuances of warrants drawn on separate accounts established by the city. Authorized third party administrators shall be subject to audit as determined by the city.

**Sec. 2-80. Disaster declaration.**

The mayor shall declare an emergency by executive order upon the occurrence of any disaster or emergency involving any natural, nuclear, man-made, war-related or other catastrophe producing phenomena in the city which in the opinion of the mayor, causes damage of sufficient severity and

magnitude to warrant extraordinary lawmaking authority. Notice shall be provided to the press by e-mail or facsimile, or any other means.

**Sec. 30-1. Definitions.** *Classified employee* means an employee providing support services to a director, elected official, human resources, or the city attorney as determined by executive order of the mayor. Classified employees are nonexempt under FLSA.

**Sec. 30-5. Salary grades.**

The various salary grades and schedules for the several officers and employees of the city shall be as provided by executive order of the mayor or as separately provided by a negotiated agreement for members of that collective bargaining unit only. All salary grades shall be on file in the office of the city clerk.

**Sec. 30-19. Application to appointive officers.**

(a) This article shall not apply to elective or appointive officers unless otherwise specifically stated. The term "appointive officers" as used in this section shall include all appointive officers specifically provided for by statutes of the state and all other officers appointed to fill appointive offices created by ordinance, executive order or resolution as authorized by the statutes of the state or city charter.

**Sec. 34<sup>1</sup>/<sub>2</sub>-15. Construction manager-at-risk authorized.**

Notwithstanding any other provision of law, the city may construct public improvements using the construction manager-at-risk method of project delivery. The mayor shall, by executive order, establish rules for the administration of the construction manager-at-risk method of project delivery.

**Sec. 40-13. Declaration prohibiting travel on city streets.**

The mayor may declare by executive order, that an emergency exists in the city because of snow, freezing rain, sleet, ice, snow drifts, or other natural phenomena which create, or are likely to create, hazardous road conditions resulting in stopped vehicles within the public right-of-way. Upon the issuance of such order, no person shall travel upon any designated public street for a period of up to 48 hours. Police, fire, healthcare, snow removal, snowmobiles and other vehicles responding to emergencies or critical occupations are exempt from this prohibition. The no travel order, and any termination of it, shall be given to all broadcast media within the Sioux Falls area for broadcast to the public.

Erpenbach gave an update on the first meeting between Pfeifle, O'Toole, Owen and herself regarding Executive Orders. The meetings will continue and the documents are being reviewed individually. Particular attention is being given to whether or not the Executive Orders pertain to the general public or to the administrative processes. Additional meetings will occur in the next three months.

Administrative Rules: Owen continued this discussion by reviewing the following information previously distributed:

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY AMENDING SECTION 2-35 OF THE POWERS OF THE MAYOR REGARDING EXECUTIVE ORDERS.

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

*Section 1. That Section 2-35 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:*

Section 2-35. Powers of the mayor.

The mayor shall, ~~by executive order,~~ have the power to prescribe executive orders for an interim successor and for the creation of departments of the administration, as provided in city charter sections 2.03 and 4.01, such administrative The mayor shall also have the power to prescribe such rules and regulations as that the mayor shall deems necessary or expedient for the conduct of departments and administrative agencies subject to his or her authority. ~~The, and the~~ mayor shall have the power to revoke, suspend, or amend any executive order, rule or regulations dealing with the administration of the city, provided the executive orders do not conflict with city charter or ordinance. All executive orders shall be filed with the city clerk.

*Section 2. That Section 2-37 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:*

Section 2-37. Administrative organization of city departments.

The organizational chart for the departments and administrative agencies of the mayor city shall be established by executive order, ~~of the mayor.~~ The departments established in the executive order shall be the administrative departments of the city.

Anderson Jr. stated that he would like to see an additional appeal process available to the citizens who dispute their rulings. This process would only occur if a citizen is not satisfied with the results of their appeal and want one more step before pursuing litigation.

Cooper reminded the committee of the following points:

- Every adopted code has a standing Board of Appeals made up of citizens appointed by the Mayor and approved by the City Council.
- The Boards consist of citizens who have knowledge and experience in their assigned board. Some of the Boards review ordinances and rules that are highly technical and there is great representation on these boards.

4. Open Discussion

There was none.

5. Pending Items:

*The subjects listed below are pending and can be moved up on this Agenda when necessary.*

a. Pawn Shop Ordinance

Anderson Jr. stated that additional information is pending from the Police Department and will be made available within the next month. The Police Department will be bringing their proposed changes to the City Council; the Council can then decide whether to move forward with the proposed changes or refer it to the Public Services Committee for additional review or revisions.

Owen reminded the committee that the Pawn Shop ordinance reviews originated with a request by a City Council Member for a Special Request Audit. City departments have collaborated with the Council Member and the Audit Committee to bring forward the proposed policy changes.

6. Adjournment

A motion was made by Erpenbach and seconded by Brown to adjourn the meeting at 6:30 p.m. Committee Chair Anderson Jr. called for a voice vote on the motion. All members voted yes. **Motion Passed.**

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Tamara Jorgensen, CMC  
Assistant City Clerk