

**MINUTES OF THE STUDY SESSION OF THE PRINCETON CITY COUNCIL HELD ON
SEPTEMBER 2, 2010, 4:30 P.M. IN THE CITY HALL COUNCIL CHAMBERS**

Mayor Jeremy Riddle called the meeting to order. Council members present were Paul Whitcomb, Lee Steinbrecher, Dick Dobson and Victoria Hallin. Staff present included Administrator Mark Karnowski, Finance Director Steve Jackson, Fire Chief Jim Roxbury, Police Officers Kristi Kuyper and Ryan VanDenHeuvel and City Attorney Dick Schieffer. Others were LELS Business Agent Dennis Kiesow and Union Eagle Reporter Joel Stottrup.

EMPLOYEE GRIEVANCE – STEP 3

Prior to discussion, there was some question whether the grievance procedure should be handled in a closed session of the City Council. Business Agent Kiesow indicated that if it was not a closed session, he would not address the issue.

City Attorney Schieffer noted that the issue before the Council was not disciplinary in nature and that it was not a performance review. Accordingly, he counseled that there was no provision in Minnesota Statute to close the meeting.

Karnowski explained that Police Union (LELS) had filed a grievance because officers Kuyper and VanDenHeuvel claimed that overtime earned was not paid. The time claimed was the result of both officers attending a staff meeting. Karnowski noted that a memo and supportive documentation included in the meeting packet were exhibits the Council could review. Those documents explained that:

1. Officer VanDenHeuvel took two (2) hours of vacation leaving his scheduled shift early on Thursday, June 24th (without prior notice and/or approval and in violation of article 10.03 requiring that vacation be taken in blocks of no fewer than 4 hours); and
2. Officer Kuyper had taken a total of 26 hours of sick leave between the dates of June 19th and the 22nd; and
3. A one-hour police department staff meeting was held between noon and 1 PM on Wednesday, June 23rd for which officers who were not on duty during the meeting time were granted two hours of work.

Karnowski explained that the department's standard practice was to pay overtime only for hours actually worked – as outlined in the Federal Fair Labor Standards Act (FLSA). Since the officers in question took either sick leave or vacation, Karnowski explained that the city's past practice in situations like this was to credit back two hours of vacation to Officer VanDenHeuvel and two hours of sick leave to Officer Kuyper and not pay overtime because those hours were not "actually worked".

Further, Karnowski advised that, as per the Police Chief's note to file, Officer Kuyper subsequently advised that she didn't know why she filed the grievance because she agreed – after thinking about it further – that they city's actions in this case were in line with previous similar incidents.

Karnowski also noted that Officer VanDenHeuvel's took vacation without prior notice and, further, did not take the minimum four hours of vacation as required by the current LELS contract.

Karnowski went on to explain that LELS had, on several occasions, attempted to get language into the contract that would stipulate negate the impact of FLSA's stipulation of having to pay

overtime only for hours "actually worked" and that language had not become part of the contract. Karnowski further noted that, in 2004, LELS had raised the same issue as it related to compensatory time and that the Council denied that grievance as well. He noted that, in checking with Police Chief Payne, the pay calculation being disputed was done exactly the same way as it had in the past.

Karnowski recommended that the Council again, deny the grievance, based on the findings included in the August 31, 2010 staff memo.

Business agent Kiesow then started his presentation by advising the Council that he did not know why he was even making a presentation as he preferred to take the issue to arbitration. He then asserted that the city's actions were in violation of both sections 9.04 and 9.05 of the current LELS contract. He asserted that section 9.05 specifically says that officers required to attend a staff meeting outside their regular shift will be paid overtime.

Agent Kiesow disputed Karnowski's claim that the situation in question had been handled in the same manner as similar situations that occurred in the past. Kiesow did not cite any specific examples to support that allegation.

Kiesow asserted that the way the city computed overtime in the case of Kuyper and VanDenHeuvel was in violation of the union contract and that the FLSA did not apply in this case and that the city has to follow the methodology for computing overtime according to the police union contract.

After his presentation, Kiesow did not stay at the meeting to discuss the matter with the Council and, instead, left.

Mayor Riddle expressed concern that Officer VanDenHeuvel took vacation without prior approval.

Riddle also noted that LELS was arguing that an officer should be paid overtime when they'd only worked 22 hours in that week.

Steinbrecher said that both officers were compensated by having leave time returned to their respective banks.

STEINBRECHER MOVED TO DENY THE VARIANCE FOR THE REASONS STATED IN THE AUGUST 31, 2010 MEMO. DOBSON SECONDED THE MOTION.

During discussion, Karnowski suggested that, since the city had 21 days to respond to the Step 3 Grievance procedure, that the city double check with Chief Payne to make sure that the way the two incidents were handled are in keeping with past practices.

Attorney Schieffer cautioned that, in his opinion, the 21 days started on the date that the Step 3 Grievance was filed and that the Council did not have the time to delay their decision. He indicated that, if LELS opts to take the issue on to arbitration, the city could present that information at the hearing.

Dobson agreed and noted that the Business Agent indicated he preferred to take the issue to arbitration and that would be okay.

ON THE VOTE: AYES: 5; NAYS: 0. THE MOTION CARRIED UNANIMOUSLY.

SYNTHETIC MARIJUANA ORDINANCE

Karnowski referenced a memo and proposed ordinance provided to the Council and explained that he'd recently learned that the City of Duluth had adopted an ordinance prohibiting the manufacturing, sale and/or possession of synthetic marijuana.

Karnowski noted that reports indicated that synthetic marijuana was becoming more of an issue and, at this point, is legal in Minnesota. He went on to suggest that the Council could put the issue on a future Council agenda or initiate adoption if they felt the issue was timely.

Dobson indicated that he'd prefer to be proactive and outlaw the substance in the city rather than have to react.

HALLIN MOVED TO ADOPT ORDINANCE 656, AN ORDINANCE ADDING A NEW SECTION TO THE PRINCETON CITY ORDINANCES REGARDING THE USE OF SYNTHETIC CANNABINOIDS. STEINBRECHER SECONDED THE MOTION. ON THE VOTE: AYES: 5; NAYS: 0. THE MOTION CARRIED UNANIMOUSLY.

PROPOSED 2011 BUDGET/LEVY

Finance Director Steve Jackson reviewed a preliminary budget summary for 2011 with the Council and advised that the Council needs to adopt a preliminary levy prior to September 15th.

Jackson advised that the proposed levy assumes that there will be no cost of living increase for employees. He also noted that the proposed budget includes the full amount of local government aid budgeted by the state of Minnesota. He noted that it is likely that the full amount will be reduced by either the governor or the legislature in the coming months.

He went on to advise that the school district's cancelling of one of the school liaison officers will result in a reduction in income of about \$46,000.

Jackson noted that the amount of debt service levied for 2010 is significantly reduced for 2011 and advised that proposed levy level with the debt service reduction being shifted to the general fund will result in the levy being level with the 2010 levy.

Mayor Riddle asked if the budget includes the shift of funds left over from 2010. Jackson advised that it does not.

Steinbrecher suggested that the city add an additional percentage to the proposed preliminary levy to give the city some buffer should the state significantly cut LGA. He added that the extra amount could be adjusted downward if the final LGA cut was not drastic. Both Dobson and Hallin agreed that would be a prudent move.

Hallin said it may be wiser to have a smaller increase in 2011 and 12 rather than a huge increase in 2012 alone.

Riddle noted that by adding in the surplus from 2009 and/or additional profit from the liquor store that the cut in LGA may be addressed.

Steinbrecher cautioned that a one-time transfer of funds would not address the longer term issue should LGA go away or be cut dramatically...but it would address the one year issue which

could give the city time to make further adjustments.

The consensus of the Council was to add 5% to the proposed 2011 levy and review the document at the following week's Council meeting prior to adopting the final budget.

MYLREA AIRPORT LOT ACQUISITION

Karnowski explained that the attorney representing the Murray Mylrea estate had contacted the city to see if the city was interested in buying the old airport hangar lot. In a memo produced by Community Development Director Jay Blake, he recommended that the city agree to purchase the lot for \$1.25 a square foot...which is the same price the city has purchased other lots for in the past.

Karnowski noted that the city hopes to secure the balance of the properties which will aid in creating a parcel that could be marketed. Karnowski indicated that, with the purchase of the Mylrea lot, there will be six lots left to acquire.

HALLIN MOTIONED TO CONCUR WITH THE STAFF RECOMMENDATION AND PURCHASE THE MYLREA HANGAR PROPERTY FOR \$5,625. WHITCOMB SECONDED THE MOTION. ON THE VOTE: AYES: 5; NAYS: 0. THE MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

There being no further business:

DOBSON MOVED TO ADJOURN THE MEETING AT 6:17 PM. HALLIN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY (5 AYES, 0 NAYS).

Respectfully Submitted,

Mark H. Karnowski; City Clerk

ATTEST:

Jeremy Riddle, Mayor