

CITY COUNCIL WORK SESSION

Cedar Falls Council Chambers

March 1, 2021

The City Council held a special work session at City Hall at 5:10 p.m. on March 1, 2021, with the following persons in attendance: Mayor Robert M. Green, Frank Darrah, Kelly Dunn, Simon Harding, Daryl Kruse, Mark Miller, and Dave Sires. Absent: Susan deBuhr. Staff members attended from all City Departments. Members of the community attended the meeting and teleconferenced in.

Mayor Green introduced the only item on the agenda, Mayor & City Administrator roles.

Mayor Green indicated two handouts for tonight's meeting: Mayor duties/City Administration duties and located at Councilmembers' stations were the Code of Ordinances, Division 2-Mayor and Division 3-City Administrator.

Attorney Rogers referred to the outlined Mayor duties/City Administrator duties handout in the Work Session packet. The dark gray shaded sections are not being considered tonight for any changes since they are Iowa Code. The basic law in the area is that the Iowa Code prescribes certain duties and obligations on the part of the Mayor and those can't be changed; otherwise the Iowa Code says City Council is free to prescribe the duties and functions of its City officers including the Mayor and City Administrator as long as those duties do not conflict with the State law. We have presented only the duties of the Mayor as compared to the duties of the City Administrator. Depending on what Council decides it might necessitate some code changes in terms of Mayor and City Administrator duties, but regardless of the changes the Mayor would remain Chief Executive Officer (CEO) of the City and oversee all functions. Discussion will include current practices and not introduce wholesale changes. These reflect how Cedar Falls actually operates.

Mayor Green stated we are not looking to change the practices, but to clarify and make sure the code matches our practices.

Councilmember Harding suggested going over the list of Mayor/City Administrator duties. Mayor Green stated the CEO duty would be against State Code to change, so there will be no change to the title.

Mayor Green recommends changing conservator of peace, suppressing disorders, making arrests and issuing process for arrests to the Mayor shall be the CEO and it shall be his duty to enforce all regulations and ordinances. Mayor Green recommends removing section 2-187(a) entirely. Attorney Roger stated the practical application would be to get law enforcement involved; otherwise it's not much different from a citizen's arrest. Mayor is not a sworn law enforcement officer and Attorney Rogers agreed it doesn't make sense to leave it in the Mayor duties. Councilmember Sires stated Mayor Green should keep all his powers. Councilmember Miller would like to keep the CEO statement and remove the rest as Mayor Green recommended.

Councilmember Harding agrees with Councilmember Miller and would like to remove conservator of peace, make arrests and issue process for arrests. Councilmember

Dunn agrees with Miller and Harding on removal of those three items and stated Mayor is not giving up power since Mayor is still the CEO. Mayor Green stated his function is to make sure all the laws are enforced.

Mayor Green stated he should be the one to enforce all ordinances and resolutions and the role of the Mayor is to also provide recommendations, information, and ensure that City staff is giving that information to make policy. It's important to have the Council as the approver as how the government is going to operate. Councilmember Darrah thinks Mayor needs to ensure processes are happening.

Mayor Green referenced the section on, Represent City in all negotiations unless delegated. Mayor stated there's some overlap in these duties, but the City Administrator and Mayor have determined who signs which contracts, deeds, event permits, etc. Mayor referenced the section on: Prepare/submit budget and believes there could be some confusion on which portion the Mayor or City Administrator would do. Mayor Green asked Councilmembers what they would like to see the Mayor's involvement be. The City Administrator's role is to prepare and submit the annual budget and capital improvements program to the Mayor for review based upon approved City Council goals and implement the final budget as approved by the City Council. This is an overlap in the Mayor's responsibilities as stated in the Code of Ordinances; which states the Mayor shall annually prepare and submit to the Council an itemized budget, revenues and expenditures. Mayor asked the question of who does prepare the budget, Mayor or City Administrator. Councilmember Miller stated to take out the word prepare and just say submit the budget to the Council, list under Mayor's duties? Mayor Green asked if we can tie to the City Administrator and have it as, annually review and submit. Mayor stated he doesn't feel it's his role to prepare the budget, but make suggestions and changes if necessary, but it's ultimately Council that makes that approval. Councilmember Miller would prefer to not use the word review since the Council sets the direction for the City Administrator and has concerns that Mayor could hold the budget and make changes. Councilmember Miller believes the budget should go through the Mayor, but it's ultimately the Council's document. Councilmember Harding stated he would feel comfortable taking out the word prepare (the budget) from Mayor's duties. Councilmember Miller stated that this is a duplication and isn't the process. Mayor Green stated that the Mayor can veto, if needed. Councilmember Harding suggested changing Sec. 2-187 (8) to the Mayor shall submit to Council an itemized budget of revenues and expenditures, prepared by City staff. Councilmember Miller stated to change it to submit the budget to the Council. Councilmember Harding stated it's not in the ordinance who prepares it. Councilmember Miller stated that it's drawn out that the City Administrator prepares the budget. Mayor Green confirmed it's in the City Administrators role to prepare the budget.

Mayor Green referenced the police operations budget and it states the City Administrator handles that budget. Councilmember Miller asked if that has to remain per ordinance. Attorney Rogers stated this can be handled in a general fashion, like the general City budget, State law doesn't require separate budgets for those departments.

Mayor Green referenced secure professional services in the duty requirements as Mayor. Mayor stated that Mr. Gaines satisfies these requirements. City Administrator Gaines stated City departments are securing these services by sending out RFP's, doing interviewing for consultants, and taking the lowest bids. Mayor Green stated this item should be removed from his duties. Councilmember Miller asked if we should add oversee instead of removing entirely from duties? Mayor Green stated he's the CEO and responsible for reviewing everything and ensuring the whole government functions. If this was removed would it be missed by an upcoming Mayor? Councilmember Harding referenced Sec. 2-187 (Powers and duties) stating that Mayor shall supervise all departments of the City and give direction to the department heads concerning the functions of the departments. Councilmember Harding referenced Sec. 2-187 (Powers and duties-(10)) and stated this falls under the functioning of the department so Mayor would have authority. Councilmember Miller asked if Mayor has ever secured any professional service contracts and Mayor Green stated no. Councilmember Miller stated to remove service contracts from Mayor's duties. Councilmember Sires objected to removing service contracts.

Mayor Green stated he does sign licenses and permits.

Mayor Green stated he would like relinquish declaring a snow emergency to the City Administrator. Councilmember Dunn verified that the Mayor still has the power to declare a snow emergency or override it and Mayor Green agreed. Councilmember Harding asked City Administrator Gaines if there was confusion of whether to declare a snow emergency and the Mayor said to the Administrator, "declare a snow emergency", based on page one give direction to the department heads would you then have to declare the snow emergency. City Administrator Gaines stated the answer is yes, my supervisor gave me direction to declare a snow emergency. The only reason why City Administrator Gaines wouldn't is because the council voted four to three that no, you're not going to declare a snow emergency. Councilmember Harding just wanted to show the Mayor still has his CEO power. Mayor Green stated he gets the final say, but Council can override and Mayor Green respects that Council has the final say. Councilmember Harding would approve snow emergency being moved to City Administrator.

Mayor Green stated he'd like to discuss the interaction with Mayor and City Administrator. If Mayor wants to give direction to City staff, Mayor gives that direction to the City Administrator. Mayor Green referenced Sec. 2-187(b): Specific powers and duties. The Mayor shall supervise all department of the City and give direction to the Department heads concerning the functions of the Departments. Mayor Green suggests changing to Mayor shall supervise the City Administrator and give direction as necessary concerning the functions of the Departments. The City Administrator is here to run the day-to-day functions of the government and the Mayor is here to ensure the government is functioning properly. Mayor Green asked Council their thoughts on changing the wording to say, Mayor supervises the City Administrator. Councilmember Miller agreed. Councilmember Harding suggested to put: shall supervise the City Administrator and give direction to him based on the functions of Departments; and maybe add a clause that says Department heads if needed. Councilmember Miller

asked if supervise is the correct word? Attorney Rogers stated supervised connotes the idea of directing acts and judging performance. Mayor Green agrees with keeping the word supervisor in the statement. Mayor Green referenced Sec. 2-218-Power and duties. It says the City Administrator shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Code of Law. Mayor Green would propose changing the word administration to performance. Councilmember Darrah asked about the criteria of evaluating the City Administrator. Mayor Green stated that last year, Councilmembers completed surveys on the performance of the City Administrator. Mayor Green would like to formalize the evaluation. Councilmember Miller would like to leave the word administration instead of inserting performance. Councilmember Harding would like Attorney Rogers suggestions on Administration vs. performance. Mayor Green suggested to say direct and supervise all departments. Councilmember Harding stated: direct and supervise seems a little more concise and clear, and Councilmember Miller agreed. Councilmember Miller suggested staff bringing back redline changes. Mayor Green suggested bringing to Committee of the Whole and Councilmember Harding agreed. City Administrator Gaines reiterated that staff will bring back an ordinance form, redline version to Committee of the Whole, the changes that we propose? Mayor confirmed that it will be in just this section and no other parts of the code, except the police budget, which isn't in the Mayor or the City Administrator ordinance.

City Administrator Gaines asked Mayor about discussion of the ombudsman portion. Mayor Green referenced Sec. 2-187(a), the Mayor shall supervise the conduct of all corporate officers, examine into the grounds of complaint made against them, etc. Mayor explained that the City does not have an ombudsman and it's usually and organization and at the state level is responsible for doing reviews, complaints of waste, fraud, or abuse in the City. Mayor would like guidance and a policy on how to carry out this function. No Councilmembers disagreed with adding ombudsman information.

There being no further discussion, Mayor Green adjourned the meeting at 5:58 p.m.

Minutes by Kim Kerr, Administrative Supervisor