

SOUTH WEBER CITY COUNCIL SPECIAL MEETING

DATE OF MEETING: 24 March 2017

TIME COMMENCED: 4:00 p.m.

PRESENT: MAYOR:

Tammy Long (excused)

COUNCILMEMBERS:

Scott Casas (excused)

Jo Sjoblom

Kent Hyer

Merv Taylor

Wayne Winsor

CITY MANAGER:

Tom Smith

Transcriber: Minutes transcribed by Michelle Clark from the audio recording.

Purpose of the meeting is to negotiate the contract with the City Manager, Tom Smith's, contract:

Council Member Hyer stated that Mayor Long was unable to attend this meeting and Council Member Casas was scheduled to join the meeting electronically but has not. Because the Mayor is not present Council Member Hyer stated Council Member Taylor will be Mayor Pro Tem for the meeting.

Council Member Winsor moved to elect Council Member Taylor as Mayor Pro Tem. Council Member Hyer seconded. A roll call vote was taken. Council Member Hyer, Sjoblom, Taylor, and Winsor voted yes. The motion carried.

Council Member Hyer stated this is currently an open meeting, but they may close the meeting at some point.

Tom Smith stated on Wednesday he was extended an opportunity to work for Vernal City to enter into a contract agreement as their City Manager. He has since communicated his intention with the City Council and also spoke with Vernal City in the mean time. He said we have come to a consensus to discuss that issue in this meeting. He said additional information for the City Council, other than what has been communicated thus far, is that the Mayor of Vernal City has reached out to him asking him this morning to reconsider their offer. He said he communicated his intentions and told her they would be discussing this item tonight.

Council Member Winsor stated he has distributed to the City Council the Tech Net Survey and pointed out the second line item from the top. Council Member Hyer asked if Tom should be present. Council Member Winsor said he didn't have a problem with Tom being present and said this information is public knowledge. He said the second line item shows the wage range for South Weber City. He then pointed out the wage range for the City of Vernal. He stated

there is a \$15,000 difference between the two. Council Member Winsor feels Tom has earned an increase in his contract.

Council Member Winsor moved to amend the City Manager's contract to \$85,500 and that there be some sort of pro-ration given that at a certain time period, should Tom choose to leave, that pro-ration back between the \$70,000 and the \$85,500. Council Member Sjoblom seconded the motion. Further discussion on the motion took place. Council Member Hyer stated right now our City Manager contract is a three-year contract and is basically up for review every year, but it doesn't give us anything beyond that three years. He said if Tom decided to leave next year, the natural pro-ration would be Tom would owe the City \$10,000. He would like a City Manager to feel security. Council Member Winsor discussed the possibility of doing an "at will" contract.

Council Member Winsor moved to amend the motion to exclude the pro-ration and make it a three-year contract starting this year at \$85,500. Council Member Hyer questioned why the \$85,500 and asked if that was what Vernal City offered Tom. Council Member Winsor said when you look at the average pay range for cities. The average pay range is \$85,900. He feels \$85,500 is a reasonable starting spot. Council Member Hyer said this would put us at a more competitive rate than where we were at. He said Tom has proven himself to be proactive and is a good fit for our City. Council Member Taylor asked if this will change the City's pay scale. Council Member Winsor said the \$85,500 will put Tom in the first quartile. He discussed the City Manager being included in the compensation evaluation. **The motion died due to lack of a second.**

Tom expressed his gratitude to the Council for being here to discuss this; however, he is concerned about his staff. He would like to establish a mechanism for the staff to progress in the organization. He understands the Council has every intention of establishing mechanisms. Tom feels who he will be depends on the staff. He would like the staff to want to stay here because the City has competitive wages and not look elsewhere because they are not happy here. He would like some sort of commitment from the Council as a whole. Tom discussed amending the language of the severability clause in the contract. He said the contract currently states severance is three months and then one month after every year he serves not to exceed six months. He would like it changed to six months. Council Member Hyer said he has never heard of anything beyond two months. He feels six months is excessive. He can live with two to three months, but not six months. Council Member Winsor brought up the severability without cause. He said if we have cause to let the City Manager go, then the City would be obligated to pay the severance. Council Member Hyer said even the major corporations that he has worked for don't have a six-month severance. Council Member Winsor feels two maybe three months is acceptable. He said that allows him to find another place of employment. Tom said it provides security for the Council and him. Tom said he thinks it would be fair to go with three months and then one month after every year he serves not to exceed six months. Council Member Hyer is comfortable with two months. Council Member Sjoblom is in favor of leaving the contract how it was a year ago. She doesn't feel it would be fair to change the severance package to less than what it was before. Further discussion took place regarding when the contract should start. Tom said he would prefer to start a new contract. Council Member Hyer said he would like to see a five-year contract with Tom starting now, but he thinks it should be amended to include a two months severance to begin and then after three years it is bumped up to an additional month and then every three years after that add an additional month. Council Member Winsor said to

articulate what he hears there would be a new contract with Tom with a new term of five years, the severability clause would be for two months for the first three years and then bump it up to an additional month and then every three years after that add an additional month. Tom said he doesn't know if he is comfortable with that, because the six months gives him more security, but at the very least, he would ask the Council to leave the severability clause as it is currently stated in the contract. Tom said he is concerned about being released without cause or a new Council or new Mayor not liking him and then not knowing what would happen to his position. He said the nature of the position is very volatile in South Weber City. Tom wanted to make it clear that he does not look at this group that way, but isn't sure about who would be coming in the future. Council Member Winsor suggested going to a three-year term and start the severability at three months since Tom has already put one year in and he has three months to start and he gain a month and then the next three years will get him to six months at the end of the three-year contract. Council Member Taylor stated from his experience retention is a big thing. He said the City has an investment in every employee in the City regardless of the position and we need to guard that investment. He said every time we lose an employee, we have lost an asset, and we start over. He said this is getting to be a nightmare. He said a performance package and pay scale will help. He feels Tom has done a good job. He did speak to the Mayor in Vernal and they are very interested in having Tom. Council Member Winsor said for the record Tom is not trying to blackmail us or back us into a corner. Council Member Taylor said Tom is trying to better himself in his current employment. Council Member Hyer said the City is limited and must be fiscally responsible. He said Tom's base salary rate is \$65,000. He has a hard time with more than two to three months severance. Council Member Winsor asked for a consensus concerning the term of the contract. Council Member Sjoblom said she is flexible. Council Member Hyer would like to give Tom the security of a five-year contract. Council Member Taylor asked if Tom will no longer have part-time employment elsewhere. Tom said, "yes". Tom said his personal problems are not the problems of the Council, but he appreciates them looking out for his well being. Council Member Sjoblom thanked Tom for this last year and how he has been very pro-active. She feels he is worth the investment.

Council Member Hyer discussed the severance and if Tom is dismissed without reasonable cause, that would be an absolute severance inducing situation and if for any reason there becomes a severable with and severable without cause, his feeling would be if things were addressed between proper channels and proper procedures, according what the City code would be, he doesn't foresee that being a problem with Tom. He said Tom has been very responsive to anything we have asked and he thinks the City code speaks to that. He said unless there is something very egregious, such as sexual harassment, etc. Those types of issues would not result in any severance of any kind. He said however, if proper procedure goes through, and we repeatedly ask for change and he is released with cause is that a severance or non-severance situation. Council Member Winsor said you can't have an employee that shirks his duties and then expects severance. Council Member Hyer said if there is a with-cause dismissal then he doesn't think someone would typically be paid for something like that. Council Member Taylor asked if that is written in Tom's contract. Tom said it is not, but he, just like any other City employee, is subject to the City's personnel policies. The Council then discussed the severability clause being three months with an additional month per year of service not to exceed six months. It was stated that Tom is at three months severance right now. Council Member Hyer said he doesn't agree with that. He challenged the Council to find that anywhere. Council Member Sjoblom said but this is what was decided on and approved a year ago with Tom's contract. She doesn't feel they should go backward. Council Member Hyer said but we are making a huge

30% is base rate pay and that is a huge vote of confidence and investment on our part. Council Member Winsor suggested going with a three-months severance starting with a new contract and then one additional month every two years of service not to exceed six months and then make it a five year term. Tom said he is not trying to be difficult but it is a step back from the contract he has now. Council Member Winsor said but Tom is also getting higher compensation. Council Member Hyer said it is a straight compensation without merit or anything. Tom said he is not comfortable with that. Council Member Sjoblom doesn't feel it should be a deal breaker.

Council Member Hyer moved to go into a closed executive meeting as per Utah Code 52-4-204 & 52-4-205: for the purpose of discussion of character, professional competence, physical, or mental health of individual(s). Council Member Sjoblom seconded the motion. A roll call vote was taken. Council Member Hyer, Sjoblom, Taylor, and Winsor voted yes. The motion carried.

Council Member Winsor moved to amend the City Manager contract with the effective date of 19 March 2017, to amend the current salary to \$85,500, to amend the term to three years, and all other aspects of the contract will remain as currently written. Council Member Sjoblom seconded the motion. A roll call vote was taken. Council Members Hyer, Taylor, Winsor and Sjoblom voted yes. The motion carried.

Council Member Winsor moved to adjourn the meeting. Council Member Sjoblom seconded. All were in favor.

APPROVED: _____ **Date**
Mayor: Tammy Long

Transcriber: Michelle Clark

Attest: _____
City Manager: Tom Smith