

**CITY OF HAMILTON
COMMITTEE MINUTES**

DATE: February 25, 2020

NAME OF COMMITTEE: Committee of the Whole

MEMBERS PRESENT: Council President Claire Kemp,
Councilors Bielski, Pogachar, Mitchell,
Pruitt and West

MEMBERS ABSENT: None.

NOTE TAKER: Cynthia Fleming, Deputy Clerk

STAFF MEMBERS PRESENT: Donny Ramer, Public Works Director, Karen
Mahar, City Attorney, Matthew Rohrbach, City
Planner and Dominic Farrenkopf, Mayor

Council President Kemp opened the meeting at 7 pm. She asked everyone to please turn off their cell phones and advised the audience that the Committee can receive public comment for items not on the agenda during the Public Comment period.

Public Comment:

Kent Barbian, 16 Cottonwood Court: Mr. Barbian said the he was hoping that the Council would start looking at the noise ordinance item that is on the agenda as a “Topics for Consideration at a Future Meeting”. Council President Kemp responded saying that the Committee talked about a noise ordinance last year and she remembers that the Police Chief felt that it would not be enforceable. She feels that it should be taken off the agenda. There was a discussion between the Councilors as to when and who asked for the agenda item. The Council President said that the item has been on the agenda since Oct. 8th.

Approval of Minutes from 01.28.2020

Councilor Pogachar moved to approve the minutes. Councilor West seconded. The minutes were approved unanimously.

Agenda Items

- **Montana Open Meeting Law and Council Procedures Overview**
City Attorney, Karen Mahar

Attorney Mahar addressed the Committee telling them that this is an educational refresher on Council Procedures and Montana Open Meeting Laws. The open meeting laws come from the Montana Constitution drafted in 1972 at the Montana Constitutional Convention. She said that Montana has a unique constitution that provides for individual rights, the right to participate, and for individuals to given a reasonable opportunity to participate. The constitution says that there is

a right to participate before a decision is made. The public has a right to know and look at documents, unless documents are confidential involving an individual's privacy rights. The only other reason where the public doesn't have a right to know is for litigation session planning. The reason being, she explained, is that your litigation position protects tax payer dollars. An exception would be when public bodies are at odds with one another. Exceptions are made on a case by case basis. Collective bargaining is open if you are a public entity. Another exception could be when reprimanding Law Enforcement Officers when it could be something that concerns the public. There are exception sometimes made for school teachers. A court can sometimes override a confidentiality issue.

There are levels of law and underneath that is your City government. The City of Hamilton's City Council is legislative and policy making. The Mayor is the executive. There are two types of local government, general powers, which is what the City of Hamilton is and self-governing when you have a charter. The local government cannot make a law that circumvents the State law. For example, State law says municipalities cannot regulate the sale of firearms. Under general powers, you can make any kind of law that the State says you can make. Self-governing is opposite, you can make any law, as long as there is not an explicit law telling you no. When you say let's regulate this issue. If State law already regulates then we don't. The City's Cell phone ordinance is a good example. There was no law. The State legislature said that local government could make a law.

Attorney Mahar continued with the training describing how the Council acts as a body, by voting to decide the issue when a quorum is present. The Council can make the rules of its proceedings. There are 7 to 8 resolutions that the Council adopted about rules of procedure. The first section addresses laws and the Council can't circumvent them. In 2009 the Council decided to hold meetings with Robert Rules of Order. Policies regarding civil discourse were also adopted in 2009. At local government meetings there can be conflicts of interest. She advised Councilors to call her if they think they may have a conflict of interest. The Office of Political Practice is also a service any public official can utilize.

The roles of Presiding Officer and Clerk are roles that are defined by Montana law. To comply with the law, deliberations must be public, with proper notice of meetings. The City's appointed boards and commission follow these same procedures. The meeting agenda is set by your rules of procedures. She said that you can adjust this order. Anything that is not on the agenda should be kept general. You need to pay attention to what may be a substantive discussion. You cannot add unnotified items. The public gets to know before you make any decisions. Kent Barbian, 116 Cottonwood Court, asked to be recognized to ask the Attorney a question regarding when public comment can be received. Attorney Mahar responded that at City Council meetings there is a public comment period for non-agenda items. Once the public comment period ends you don't take more public comment. Committee meetings are more of a discussion and the chair can set reasonable limits on time. Chair can tell members to stay on topic.

If you have bigger crowds, the Council or Committee chair can limit the time that members of the public speak. They can also decide when they are going to deliberate and don't need to take more public comment. Attorney Mahar advised that you try to treat everyone the same. There is a broad range of free speech and people have a right to express themselves.

Ms. Mahar addressed a commonly held misconception of her role as City Attorney. The City Attorney is not the public's attorney and she acknowledged that this can be frustrating for the public.

Attorney Mahar continued touching briefly on a variety of topics: Public Hearings are different than Council meetings with a specific format and different notice procedure, the Councilors are in control of the information that they need to have and can ask staff for updates, decorum and conduct is similar to civil discourse, calling a point of order is a good way to move the discussion back to a purposeful place, changes to ordinances requires two meetings, a resolution takes one.

Councilor West asked how to handle the situation if you end up in a quorum when you are in public. Attorney Mahar responded that you try not to act or discuss anything that is Council related and if you have an ex parte discussion you bring it back to the public meeting. When talking issues with people in public use common sense. Tell them that this is pending before the Council and so I can't discuss it with you.

Kent Barbian asked if members of the public can talk to staff. Ms. Mahar told him yes, members of the public can come to staff offices and can talk to any elected official.

The Attorney concluded by saying that she would next like to talk about media policies, which could include further discussion of an Instagram account

RECOMMENDATION

Informational/educational only

- **Discussion of City of Hamilton Instagram Account**

Councilor West feels that Instagram is more immediate and is focused on lifestyle more than other social media and she would be interested in the City having an account. Attorney Karen Mahar pointed out that the Deputy Clerk provided them with social media policies from Kalispell. She said that the City of Kalispell has a dedicated person who is monitoring their social media. She said she would prefer to refer to the City's website policy last updated in 2016. She said that she would like to discuss the policy at a future meeting. She feels that problems can arise because how a site is being monitored.

Councilor Kemp explained that both Instagram and Facebook are owned by the same company. If you have an active Instagram account when you post to Facebook it is automatically posted to your Instagram account. She said that the main difference between the two is that Instagram appeals to a younger demographic.

Attorney Mahar asked the members to consider if the City needs a broader social media policy and if we need to prioritize where our efforts are put.

RECOMMENDATION:

Stay in Committee.

- **New Logo**

Matthew Rohrbach, City Planner, explained that the logo that is being considered is part of the wayfinding plan. He said that they were looking for something timeless, that won't look dated. Mr. Rohrbach said by City ordinance there is some restrictions on how the City's logo can be used. He told them that technically the new logo officially belongs to the Hamilton Downtown Association, (HDA) but they have agreed that the City can use it and he feels it would be highly recognizable as the City of Hamilton. Mayor Farrenkopf commented that it doesn't say City of Hamilton and if the City of Hamilton adopted this logo, how would we distinguish between the new logo and old logo. The members discussed what the difference between the City logo and the City seal. Mr. Rohrbach said the one big reason for the new logo would be that it would adapt much easier for reproduction on hats and jackets for City employees who work out in the community. People don't like people knocking on their door that aren't easily identifiable as working for the City. Councilor Mitchell asked how the new logo was paid for. Councilor Kemp responded saying that the Hamilton Downtown Association paid for it. The intent, however, was to use it for the wayfinding project and possible use by the City. She said that there would need to be an agreement done between HDA and the City.

Councilor Bielski feels that it could be confusing having two logos. Councilor Pruitt believes that she has seen organizations with more than one logo. Attorney Mahar suggested that the logo discussion be moved to the Mayor's department head meetings and get the type of information of how we are using it now.

The Committee agrees to keep it in Committee and wait for further information from City staff. Matthew Rohrbach, City Planner, stated that they are moving forward with this logo for the wayfinding project.

RECOMMENDATION:

Keep in committee for more information from staff.

- **Planner I / Zoning Administrator Job Description**

Mr. Rohrbach told the Committee that with the resignation of the Zoning Administrator- Building Inspector they reevaluated the position and recommend amending the job title, description and responsibilities.

Mr. Rohrbach would like to strike zoning administrator from the title. He feels that until we get someone trained it would give the department more flexibility. In the meantime Mr. Rohrbach would remain the Zoning Administrator. He told the Committee that we are taking a lot of permit applications right now and some big picture things have needed to take a back seat in order to deal with more immediate needs. He said that the Planner 1 could take on some of the tasks that are less complicated. Councilor Kemp asked if we need to hire a building inspector. Mr. Rohrbach responded that they are currently contracting the building inspector position at less than 8 hours a week. The Planner 1 portion of the job is what is not currently covered. We are trying to decide how many hours we would need a building inspector or if we want to keep it as a contracted position. Building permits may slow down but zoning questions come up all the time. If this job description is sent to Council the earliest we would start someone is early May. The Planner 1 would assist with planning tasks and we need someone who thinks analytically. Mr. Rohrbach feels that it would be hard to find someone who can do all these things, planner, zoning

administrator and building inspector. Mr. Ramer, the Public Works Director, added that the contractors can cover building inspections working two days a week. Councilor Bielski feels that the inspections need to be consistent and record keeping needs to be housed at Public Works.

RECOMMENDATION:

Councilor West moved to strike Zoning Administrator from the title and send the amended job description to Council for approval. Councilor Kemp seconded. The motion passed unanimously.

Non-Agenda Items:

Councilor Kemp referencing, “Topics for Future Consideration” said that topics go there to die and she feels that it is deceiving to the public. Councilor Pruitt said referring to the “Noise Ordinance” from the topics that it is a gray area, is it noise or a nuisance. Councilor Pogachar commented that he keeps talking about the bike path. In response Councilor Kemp said that some items are part of a much larger projects and it may be that they shouldn’t be on the agenda until there is some specific information to share. Attorney Mahar advised that if an item is pending it should be a specific item on the agenda and have an action plan. “Let’s keep it in Committee”, isn’t an action plan. She added that if you want to move an item to Council and you need information from staff, please let staff know first. Kent Barbian, 116 Cottonwood Court, commented that in his discussion with the public, noise issues came up a lot.

Adjourn

Councilor West moved to adjourn. Councilor Bielski seconded. The meeting adjourned at 8:50pm.

Topics for Consideration at a Future Meeting

- Noise Ordinance
- Potential North/South Routes for Bike/Pedestrian Path
- Portion of Adirondac Avenue Owned by Ravalli County
- Website