

COUNCIL ORIENTATION

Tuesday, January 31, 2017

Casper City Hall

Council Meeting Room

4:30 pm

AGENDA

1. Elected Official Training, Wyoming Association of Risk Management
(Mark Stewart, WARM Representative)
2. WOTC, Emergency Response, City Benefits
(Zulima Lopez, Assistant Support Services Director)
3. Agency Funding (Fleur Tremel, Deputy Assistant City Manager)
4. Financial Disclosure, Travel and Training, Purchasing
(Pete Meyers, Assistant Support Services Director)
5. Roberts Rules of Order (Bill Luben, City Attorney)

Mayor Humphrey called the meeting to order at 4:35 p.m. with the following Councilmembers present: Councilman Pacheco, Morgan, Murphy, Huckabay, Powell, Walsh, Hopkins, and Humphrey. Councilman Johnson was absent.

Mayor Humphrey introduced Mark Stewart, Wyoming Association of Risk Management (WARM) Legal Representative, to begin the Elected Official Training. He explained that he is an attorney in Cheyenne who is hired to represent WARM. He began by giving a background on WARM and how they handle claims under the Wyoming Governmental Claims Act (WGCA) and federal claims. He reviewed what the City Manager form of government is, and that the powers and duties of City Council under this form of government are setting policy while the City Manager implements those policies and manages other employees. He explained that Councilmembers stepping outside of their scope of duties exposes them to personal liability that is not covered by WARM.

Next, he reviewed the Public Meeting Act. He explained the purpose of public meetings and the types of actions that must be taken in a public meeting setting. Transaction of official business, including a collective decision or commitment in a meeting which is an assembly of a quorum, where there is expression, deliberation, or presentation of opinions, whether it be via phone, email, or in person, must be done in a public meeting where the public is given proper notice. Councilman Murphy asked about emailing Council about an opinion on a matter, and Mr. Stewart explained that this may constitute an assembly, and forming an assembly without proper notice is in violation with the Public Meeting Act. He stated there are exceptions for administrative emails which are informational in nature, such as reminding Council of a meeting. He stated that any action taken by Council that sets policy must be taken in public meetings and any actions taken that is not in conformity with the rules is null and void.

Councilman Powell asked about Wyoming Association of Municipalities (WAM) issues with the legislature. He explained that sometimes things change very rapidly and he would like to know what Council's opinions are about WAM's position. City Attorney Luben stated that this is a slippery slope because the Councilman is obtaining the positions of other Councilmembers. In these cases a work session or special meeting can be held if need be. Another option is to discuss how Council feels about certain WAM issues that may come up beforehand at a work session. Mr. Stewart stated that the problem with this is conducting public business outside of public view, and intent does not matter. Next, Mr. Stewart reviewed the requirements for meeting minutes, and stated that meetings where action is taken must be recorded and published in a newspaper of general circulation. Meetings without action must still be recorded. He then explained the purpose of Executive Sessions and the matters which may be discussed in these sessions; he added that there needs to be detailed minutes, so that the court would be convinced the session was used properly. Those minutes will be kept confidential and will only be made available by court order. He added that Council can rely on their City Attorney to determine whether it is proper for a matter to go to an executive session.

Councilman Powell asked about the City Manager's personnel decisions where he may want to run something by Council leadership. Mr. Stewart stated that this may be permissible, but that he cannot get direction from Council, because that would be outside the scope of duties of a Councilman. City Attorney Luben stated that Council should not be involved in personnel decisions unless the personnel issue involves the City Manager, City Attorney, or Municipal Court judges. Mr. Stewart emphasized that any Councilman getting involved in other personnel matters becomes personally liable. It is outside the scope of their duties to get involved with how departments are run. If they have issues with how the City Manager is performing their duties, they must speak with him about that. City Attorney Luben added that this can only be done if the Councilman is unhappy with the City Manager's performance; they cannot discuss how he is handling a department.

Councilman Walsh asked about what the expectations of City Council are involving law suits with the police department. City Attorney Luben stated that a Councilmember would only be named in this type of lawsuit if they were acting outside the scope of their duties. That is not the role of City Council and becoming involved can trigger personal liabilities. If through discovery a Councilman is found to be involved with directing how a department is run, the entity could be liable for a claim and that Councilmember is also personally liable because that is outside the scope of their duties. The Councilman must rely on the City Manager to handle these issues. Councilman Humphrey asked about how to share information from a meeting she had with sexual assault victims and the list of things they recommended for the Police Department. Mr. Stewart stated that she can give that information to the City Manager.

Next, Mr. Stewart reviewed what constitutes a public record. He explained that the definition is very broad and can include anything from letters to Facebook posts. He recommended that Council use Facebook sparingly. He explained that public records are open for inspection with certain disclosure exceptions for confidential investigation, appraisals, personnel files, security risk, etc. He explained that personnel files are available to the elected/appointed official that is responsible

for supervising the person of interest, which in the City's case is the City Manager. Next, he reviewed the retention guidelines for public records. City Attorney Luben stated that all emails through City email are retained in the cloud and are therefore stored forever. He stated that it is very important to be careful about what is put in email form. He added that any City business emailed to a Councilman's personal email can also become public record which can make their entire personal device public. He advised that Council ask constituents to email them on their public email about City business.

Next, Mr. Stewart reviewed conflicts of interest and how these are involved in abstaining from some bills and claims. He stated that a Councilman's fiduciary responsibility is first and foremost to the City, and their own interest needs to be set aside when making City decisions. He went over government ethics and stated that the public office cannot be used for private benefit. Decisions must have a greater benefit to the public at large than to the elected official. He also reviewed ex parte communications and stated that in a contested case, an official cannot have communications with one side without the other being present.

Next, Mr. Stewart reviewed the WGCA. In Wyoming, Councilmen are immune from liability if they perform within the scope of their duties, with the exception of select immunity waivers. WARM covers Councilmen for claims under the WGCA and federal civil rights claims as long as they are within the scope of duties. He summarized Federal Civil rights issues and damages that can result from claims. He then went over documentation and advised Council to document communication taken in an official capacity.

Next, Mayor Humphrey introduced Zulima Lopez, Assistant Support Service Director, to review the WARM Online Training Center (WOTC). Ms. Lopez explained that WOTC ensures that all employees are educated on liability issues, including Councilmembers. Employees are assigned required trainings by HR Staff annually. She then went over the City's Emergency Response procedures and passed around the response guide and flipbook that covers basic responses to the most common emergencies. She then reviewed City Hall's emergency response options including panic alarms, evacuation procedures, fire extinguishers, and AED devices. She asked Council about their interest in active shooter training, and said staff would work on setting a training up for them.

Next, Ms. Lopez reviewed City benefits that are available to Council, including health and dental benefits. She then reviewed claim forms that are handled by the City's Risk Management Department and then passed onto WARM for claim management. She reviewed the negligence standards and caps for claims under the WGCA, and stated that these cap and negligence protections do not exist for federal claims.

Next, Fleur Tremel, Deputy Assistant City Manager, reviewed agency funding. She explained the types of funding opportunities that the City of Casper provides to organizations within the community, including specific entity funding and one cent community project funding. She then went over the application process for community projects under one cent and how Council allocates that funding. She then reviewed the process for which community promotions are applied for and allocated.

Next, Pete Meyers, Assistant Support Services Director, presented on financial disclosure, travel and training, and purchasing. He began by explaining that Council is required to disclose financial institutions that they have interests in at a public meeting. He passed around a form for Council to fill out for those disclosures, and stated that the interest and how much it is do not need to be disclosed.

Next, he briefly went over the City's travel policy. He stated that the City covers the cost of employees and Councilmembers traveling on City business, but there are limits for how much can be spent for travel. The Mayor approves expenses for Councilmembers, and the Vice Mayor approves expenses for the Mayor. These costs are public records and receipts must be itemized

Next, Mr. Meyers summarized the City's purchasing guidelines and reviewed purchases that must be bid on, quoted, or negotiated and when there is sole source purchasing. He stated that City staff has purchase cards for the function of purchases made for day to day business such as office supplies. There are multiple people who must review and approve those purchases and they must be less than \$1,000. Any purchases that cost between \$1,000 and \$20,000 must have three quotes to document that the City is paying a reasonable price and being fair to vendors. For sole source purchases, the City Council will receive a memo 10 days prior to the purchase describing why the purchase will be made from a sole source. City staff will then present this information at a work session so that Council can ask any questions about the purchase. He then reviewed bills and claims and explained that these must be formally approved by Council at a meeting before they are paid.

Next, City Attorney Luben reviewed the parliamentary process for Council. He stated that there are specific city ordinances, code of ethics, and state statutes that apply to Council. He reminded Council that they can always come to him with any ethical questions. He stated what the relationship between Council and the City Attorney is and stated that if asked to, he will give his legal opinion to the entire Council so that they all get the same information. The City Attorney does not represent any Councilman individually. He then reviewed how Council meetings utilize Roberts Rules of Order. He stated that Council is aided on parliamentary procedure by a script that staff prepares for every meeting. He then reviewed some specific changes from Roberts Rules of Order that Council has made and some of the most common issues that come up regarding parliamentary procedure during meetings, included motions, reconsidering items, limiting debate, suspending the rules, and tabling topics. City Attorney Luben stated that he is Council's parliamentarian and any Councilmember can call a point of order and he will try his best to answer the question or will call a recess to find the answer. He stated that he can answer any question Council has in regards to this and anyone in the City Attorney's Office can answer conflict of interest questions. He added that it is important for Councilmembers to stay out of the gray area in order to avoid questions on their authority.

Next, Council went around the table to discuss issues related to their respective board and commission meetings. Councilman Hopkins asked about inviting Grant Street Grocery to come do a presentation on their business. Council decided that it would be more appropriate to have them come at the end of the meeting during the public comment period. Councilman Powell stated that the extraterritorial jurisdiction act was defeated by the State senate and that a bill has been introduced that would increase the number of bar and grill licenses. He stated that Councilmembers

can comment on the WAM website about any issues they feel are important. Mayor Humphrey stated that Council still needs to finish assigning seats to boards and commissions. Council decided they would finish this at the next work session. Mayor Humphrey requested that she be cc'd on any email request to the City Manager so she can stay well-informed.

Mayor Humphrey adjourned the meeting at 7:15 p.m.

ATTEST:

CITY OF CASPER, WYOMING
A Municipal Corporation

Tracey L. Belser
City Clerk

Kenyne Humphrey
Mayor