

NOTICE AND AGENDA

Notice is hereby given that the City Council of the City of Santaquin will hold a City Council Meeting on Wednesday, July 25, 2012, in the Council Chambers, 45 West 100 South, at 7:00 pm.

AGENDA – SPECIAL MEETING

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. INVOCATION/INSPIRATIONAL THOUGHT
4. CONSENT AGENDA
 - a. Minutes
 - b. Bills
 1. \$0
5. FORUM, BID OPENINGS, AWARDS, AND APPOINTMENTS

Public Forum is held to a 30-minute maximum with each speaker given no more than 5 minutes each. If more than 6 Speakers, time will be adjusted accordingly to meet the 30 minute requirement
6. FORMAL PUBLIC HEARINGS
7. UNFINISHED BUSINESS
8. BUSINESS LICENSES
9. REPORTS OF OFFICERS, STAFF, BOARDS, AND COMMITTEES
10. NEW BUSINESS
 - a. Discussion and possible action with regard to City Council vacancy candidate selection procedures
 - b. Discussion and possible action with regard to the Orchard Days Parade Route
11. INTRODUCTIONS AND ADOPTION OF ORDINANCES AND RESOLUTIONS (Roll Call Vote)
 - a. Resolution 07-04-2012 "A Resolution ratifying the approval of the lease purchase of 4 Automated Emergency Defibrillator Units for the EMS"
12. PETITIONS AND COMMUNICATIONS
13. REPORTS BY MAYOR AND COUNCIL MEMBERS
 - a. Mayor DeGraffenried
 - b. Council Members
14. EXECUTIVE SESSION (May be called to discuss the character, professional competence, or physical or mental health of an individual)
15. EXECUTIVE SESSION (May be called to discuss the pending or reasonably imminent litigation, and/or purchase, exchange, or lease of real property)
16. ADJOURNMENT

If you are planning to attend this Public Meeting and, due to a disability, need assistance in understanding or participating in the meeting, please notify the City ten or more hours in advance and we will, within reason, provide what assistance may be required.

CERTIFICATE OF MAILING

The undersigned duly appointed City Recorder for the municipality of Santaquin City hereby certifies that a copy of the foregoing Notice and Agenda was e-mailed to the Payson Chronicle, Payson, UT, 84651.

BY: S.B. Farnsworth
Susan B. Farnsworth, City Recorder

POSTED:

CITY CENTER
POST OFFICE
ZIONS BANK

® Amendment to the agenda

**MINUTES OF A SPECIAL COUNCIL MEETING
HELD IN THE COUNCIL CHAMBERS
JULY 25, 2012**

The meeting was called to order by Mayor James E. DeGraffenried at 7:00 p.m. Council Members attending: Keith Broadhead, Matthew Carr, James Linford, Richard Payne, and Rick Steele.

Others attending: City Manager Ben Reeves, Legal Counsel Brett Rich, Community Development Director Dennis Marker, and Public Safety Director Dennis Howard.

Others attending: Mayke Wood and Trevor Wood

PLEDGE OF ALLEGIANCE

Council Member Linford led the Pledge of Allegiance.

INVOCATION/INSPIRATIONAL THOUGHT

Council Member Payne offered an Invocation.

CONSENT AGENDA

Nothing

FORUM, BID OPENINGS, AWARDS, AND APPOINTMENTS

Nothing

FORMAL PUBLIC HEARINGS

Nothing

UNFINISHED BUSINESS

Nothing

BUSINESS LICENSES

Nothing

REPORTS OF OFFICERS, STAFF, BOARDS, AND COMMITTEES

Nothing

NEW BUSINESS

Discussion and possible action with regard to City Council vacancy candidate selection procedures

The Council asked Legal Counsel Rich to provide information regarding certain procedures for filling the vacancy on the Council created by the resignation of Councilmember Richard Payne. Mr. Payne has submitted his resignation, which will be effective at the conclusion of the Regular City Council Meeting scheduled for 7:00 p.m. on Wednesday, August 1, 2012. The Council had asked Legal Counsel Rich to research two issues: (1) whether the City Council may fill the vacancy resulting from Mr. Payne's resignation before his resignation is effective; and (2) if the vacancy may be filled prospectively, whether Mr. Payne may participate in the vote for his replacement.

Legal Counsel Rich told the Council that he has researched the issues and has received information from the offices of the Lt. Governor and the Attorney General. He stated that he has not found any state statute or appellate case in Utah that addresses these exact issues and

therefore considers the matters to be undetermined at this time. However, based on the decisions of courts in other states, he believes that a Utah court would likely determine that the Council may fill the vacancy before the effective date. Legal Counsel Rich's opinion is based largely on the holdings of many cases which note that "generally, appointments that fill a prospective vacancy in office before the actual vacancy occurs are valid." This general rule is supported by public policy of providing continuity in government. However, Legal Counsel Rich also stated that those same cases would suggest that Mr. Payne should not participate in the vote, because the general rule only applies if the appointing authority that makes the appointment is the same authority that is in place after the appointment. Put another way: Appointments that are made before the vacancy actually occurs are valid, so long as the same person (or persons) would make the appointment whether before or after the effective date. Legal Counsel Rich again emphasized that the issues have not been conclusively resolved in Utah and that this advice is based on analysis of the information available.

Mayor DeGraffenried voiced his support of allowing Council Member Payne to vote on his replacement.

Council Member Steele said he felt it is "like a conflict of interest to have the Council Member vote".

Council Member Broadhead questioned if a Council position is really vacant if Council Member Payne is allowed to participate in the procedure.

Council Member Carr commented that it should be up to Council Member Payne whether he votes or not. He doesn't believe the other Council Members have the right to decide for him.

Council Member Linford moved to "approve Council Member Payne on voting for his replacement". Council Member Carr seconded the motion. During the discussion Council Member Carr stated "in this regard I don't know if that is a proper motion". It needs to be "if we fill this vacancy while Council Member Payne is still on the Council". Council Member Carr continued by saying "I still don't believe that we can tell, it that legal for us to tell an acting member of the council that he is not allowed to vote"? Legal Counsel Rich answered by saying, "I guess the procedure would be that if he does vote and it is challenged then you'd end up in court on it". he continued by saying it could happen either way, "you could tell Mr. Payne he couldn't vote and Mr. Payne could file an action". Council Member Carr said he would "like to make an amendment to that. That if we fill the vacancy next Council Meeting, which is August 1st, and we do it while Council Member Payne is still a voting member". Council Member Linford approved the requested amendment to the motion.

Council Member Payne said he feels he needs to continue to represent those who voted for him up to the time he no longer holds office. Therefore, he will be exercising his right to vote on his replacement.

During a roll call vote the vote was as follows:

| | |
|------------------------|-----|
| Council Member Linford | Aye |
| Council Member Carr | Aye |
| Council Member Payne | Aye |
| Council Member Steele | Nay |

Council Member Broadhead

Nay

Discussion and possible action with regard to the Orchard Days Parade Route

The Mayor and Council Members held a discussion on the celebration parade route. Council consensus held that the parade should follow Main Street from 400 East to 400 West with the staging area being the same as advertized in the Celebration Booklet.

INTRODUCTIONS AND ADOPTION OF ORDINANCES AND RESOLUTIONS

Resolution 07-04-2012 "A Resolution ratifying the approval of the lease purchase of 4 Automated Emergency Defibrillator Units for the EMS"

City Manager Reeves read the Resolution in the entirety since it was not available to the Council Members before the meeting.

Council Member Carr moved to approve Resolution 07-04-2012, "A Resolution ratifying the approval of the lease purchase of 4 Automated Emergency Defibrillator Units for the EMS". Council Member Payne seconded the motion. By a roll call vote, Council Members Broadhead, Carr, Linford, Payne, and Steele unanimously voted to approve Resolution 07-04-2012.

PETITIONS AND COMMUNICATIONS

Nothing

REPORTS BY MAYOR AND COUNCIL MEMBERS

Mayor DeGraffenried

Nothing

Council Members

Nothing

EXECUTIVE SESSION (May be called to discuss the character, professional competence, or physical or mental health of an individual)

Nothing

EXECUTIVE SESSION (May be called to discuss the pending or reasonably imminent litigation, and/or purchase, exchange, or lease of real property)

At 7:38 p.m. Council Member Linford moved to enter into an Executive Session to discuss the pending or reasonably imminent litigation and/or purchase, exchange, or lease of real property. Council Member Broadhead seconded the motion. Council Members Broadhead, Carr, Linford, Payne and Steele voted unanimously to enter an Executive Session.

Those attending the Executive Session: Mayor DeGraffenried, Council Members Broadhead, Carr, Linford, Steele, City Manager Reeves, Legal Counsel Rich, Director Marker and City Recorder Farnsworth. Council Member Payne was excused from the meeting due to another obligation.

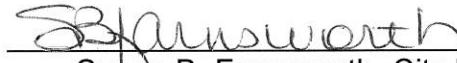
At 7:59 p.m. the Special Council Meeting resumed.

ADJOURNMENT

At 8:00 p.m. Council Member Linford moved to adjourn. Council Member Steele seconded the motion. Council Members Broadhead, Carr, Linford, Payne, and Steele voted unanimously to adjourn.

Approved on August 1, 2012.


James E. DeGraffenried, Mayor


Susan B. Farnsworth, City Recorder



CLOSED EXECUTIVE SESSION AFFIDAVIT

I, James E. DeGraffenried, Mayor of Santaquin City, do hereby certify that the Executive Session held on July 25, 2012 was called to discuss the pending or reasonably imminent litigation, and/or purchase, exchange, or lease of real property.


James DeGraffenried, Mayor

7-25-12
Date