

Minutes  
City Council Emergency Meeting  
March 23, 2020  
6:00 p.m.

Members present in Council Chambers were Mayor Terry Merritt, Councilwoman Diane Kuzniar, and Councilman Dale Black. Members who were present remotely through WebEx were Taft Matney, Carol King and Michael Reynolds. City Administrator Brandon Madden was present in the Courtroom and City Attorney Daniel Hughes was present remotely.

1. Call to order- Mayor Merritt
  - a. Invocation- Mayor Merritt
  
2. Update on the City's response to COVID-19  
Brandon reported all City essential services are continuing. City Hall is closed to public traffic. Most of our non-essential employees are tele-commuting.
  
3. Old Business
  - a. None
  
4. New Business
  - a. Consideration of an Emergency Ordinance- Mayor Merritt asked that this ordinance be considered informally if no council member has any objections. None were heard. Mayor Merritt made a motion to adopt this ordinance with Councilwoman King seconding.

Councilwoman King said she would like Council to consider a change to page 2 of the ordinance under item 2 where it states, "to waive any late fees associated with the remittance of hospitality and accommodations taxes to the City through June 30, 2020". She would like to consider inserting the dates for returns that are due between April 1, 2020 and May 23, 2020. This would be similar to state tax sales tax return dates and would identify that this is for returns due within that period of time. Hospitality and Accommodation taxes for February would not be included in this ordinance.

Brandon said hospitality and accommodation taxes are collected by the businesses and remitted to the City. This would allow for any late fee that would be assessed to be waived through May 23rd. This would be different from business license submittals. Councilwoman King said the way this reads now is there is no start date for a waiver of late fees. Is it March 17<sup>th</sup>? The H&A dollars were collected in February. Brandon said any clarification will only help. Councilwoman King said she thinks there is a lot of confusion, and this will help clear it up. Mayor Merritt asked if there were any differences between this and state sales tax. Councilwoman King said it is the same, and the Governor specified a time period for sales tax remittance which is between April 1, 2020 and June 1, 2020.

Councilman Black said the last line "d" of the ordinance should be an "e".

Daniel Hughes asked if the businesses submit monthly forms for H&A. Are the forms still due when they are scheduled to be due? Daniel said his understanding was all the deadlines would remain, but no late fees would apply. So, the returns would be filed, but if

you don't file by the due date, there is no late fee. Councilman Matney asked if the reason we were doing this is because we have an ordinance establishing late fees. Are we trying to avoid repealing an existing ordinance? Daniel answered yes, and he is trying to avoid the business office being confused as to what they are supposed to do. This applies to returns for March and April. Daniel said that was good, and if we need to extend the dates again, we can.

Councilwoman King made a motion to amend the ordinance at 6d to read "to waive any late fees associated with the remittance of hospitality and accommodations taxes to the City between April 1, 2020 and May 23, 2020." Councilman Matney seconded the amendment. The vote was unanimous on the amendment to the ordinance (6-0).

Councilman Matney said this body should be making decisions together. Nothing we are talking about is easy. He was concerned when he read the ordinance that it provides the Mayor the authority to impose a curfew. He thinks if we do have to impose a curfew, we should be unified in the decision. Councilman Matney made a motion to amend section 6 on page 2 to strike the first line to the comma where it says "the Mayor may establish a mandatory or voluntary daily curfew", and add the words "upon an affirmative majority vote, City Council may authorize the Mayor to establish a mandatory or voluntary daily curfew." Councilwoman King seconded the motion.

Councilwoman Kuzniar said she thought this was the purpose of this ordinance, to allow the Mayor the authority to enact it. If Council has a problem with a curfew...

Councilman Matney said that is what the amendment provides for, if Council has a problem with the curfew; not to give broad stroke authority to the Mayor. Councilman Matney said we are not looking at a curfew at this time and does not want to be presumptive. We have the ability to meet remotely and can meet that way to decide as a group if the time has come to impose a curfew. To go ahead and provide authority before the information is available, is too soon.

Mayor Merritt said from his standpoint and looking at other municipalities' actions, the Mayors have been given authority to impose a curfew if needed. Meetings require a certain amount of set-up time. An imposition of a curfew could be something that needs to be done quickly. Mayor Merritt said he would reach out to Council to relay what was going on but would hate to see a delay if action needed to be taken quickly. The information is changing daily. It wouldn't be declared mandatory or voluntary on a whim.

Councilwoman King said the point of the amendment is that we are not a strong Mayor government. If the declaration is not on a whim, then Council ought to give the Mayor the authority to declare a curfew. None of the Council members are hard to contact to discuss this issue.

Councilman Reynolds said he does not think it is fair to put this burden on the Mayor. Also, with our Council form of government, Council should make the decision. Councilman Matney said this also has a public message that Council and the Mayor are speaking with one voice.

Councilwoman Kuzniar said this is what the ordinance is for. We may or may not need to impart a curfew, but by saying we approve this ordinance, Council is giving permission to

allow the Mayor to do it without meeting with Council. If we agree it is in the ordinance, we agree to allow him to impose the curfew. Councilman Reynolds said the way he reads the ordinance is it would mandate the Mayor to make the decision.

Mayor Merritt asked Daniel Hughes if anything in the ordinance violates our form of government. Daniel said it is not a violation, because through this ordinance, Council is authorizing action.

Councilman Matney said he is not concerned about the wording being a violation of the letter of the law, but the spirit. We do not have a strong Mayor government. This provides the Mayor a tremendous amount of power at his whim. Councilman Matney said he is not suggesting or insinuating that Mr. Mayor would abuse the power, but the form of government established was for a reason. This ordinance provides for specific decisions to be made now such as suspending deadlines and eliminating late fees. It allows for us to have electronic meetings. The establishment of a curfew is a decision to be made later and Council should make that decision as the time comes. We could say we have no problem with a curfew, but we as a Council would need to provide the affirmative vote. The other pieces of the ordinance happen now. The curfew is speculative.

Councilwoman Kuzniar said the ordinance is only applicable for 61 days. Councilman Matney said that is irrelevant.

Councilman Black said the communication is the best now since he has been on Council. This is a decision that is not to be taken lightly. The Administrator and Mayor communicated with Council before the Senior Center and Sports Centers were closed down. He thinks the Mayor would have to live with the consequences of a poor decision. This ordinance shortens the time frame within an emergency situation. He is not in favor of tying the Mayor's hands. He doesn't see the need in changing the ordinance.

The vote on the amendment on the motion for section 6 on page two was 3-3 with Councilman Black, Mayor Merritt and Councilwoman Kuzniar voting against. The amendment failed.

This emergency ordinance only requires one reading. As a point of order, Councilman Matney said this ordinance requires 2/3 vote, not a majority. At least four votes would be needed.

The vote on the ordinance as amended with the late fee waiver dates for hospitality and accommodations tax inserted and the last d changed to e was unanimous (6-0).

5. Adjournment- Mayor Merritt adjourned the meeting.

Respectfully Submitted,

Cindy Miller

Municipal Clerk