

**ST. GEORGE CITY COUNCIL MINUTES
REGULAR MEETING
DECEMBER 11, 2014, 4:00 P.M.
CITY COUNCIL CHAMBERS**

PRESENT:

**Mayor Jon Pike
Councilmember Gil Almquist
Councilmember Jimmie Hughes
Councilmember Michele Randall
Councilmember Joe Bowcutt
City Manager Gary Esplin
City Attorney Shawn Guzman
City Recorder Christina Fernandez**

EXCUSED:

Councilmember Bette Arial

DEDICATION:

An on-site dedication of the Royal Oaks Park improvements was held on site. Upon completion of the dedication, the meeting resumed at the City Office.

OPENING:

Mayor Pike welcomed all in attendance. The Pledge of Allegiance to the Flag was led by Councilmember Hughes. He mentioned the Gingerbread Tour taking place tomorrow evening. Additionally, he thanked the Police Officers involved in the standoff incident that recently took place.

DISCUSSION REGARDING THE SPECIAL EVENT PERMIT PROCESS:

City Manager Gary Esplin stated that staff has reviewed the special event permit process for other cities of similar size, comparing them to what the City's process is. He explained that there is a committee comprised of City staff as well the County Health Department to review the special event permit applications. The cities that were reviewed are Logan, Orem, Park City, Provo, Ogden, Sandy, Moab, Salt Lake City, West Valley, West Jordan, Flagstaff, Prescott and Mesquite. St. George is one of the easiest places to obtain a permit. Most cities require the request be received 60-90 days prior to the event. Currently, the City's requirement is 30 days. In 2014, the City has issued 214 permits, 104 public parties, 46 private parties, 44 with more than 500 people in attendance, 61 recreational events (including City events), 5 dances, as well as concerts. City Council approval is not required for a permit in many of the other cities. Most have a designated person to approve the request. If a special event is denied, the requestor can appeal to the City Council. Park City allows for either a Master Festival License or a Special Event Permit. It is not the activity that determines the type of permit, rather, factors such as location, number of attendees and noise issues do. He believes with a few changes, the City can make the process more user-friendly.

Councilmember Hughes stated that he likes the fact the other cities do not require approval from the City Council. He commented that staff needs to be aware of the proper guidelines.

City Manager Gary Esplin explained that in Park City, if an approved event takes place regularly or annually, they do not have to reapply for subsequent events as long as there are no problems or changes. If there is a problem, the event would return for approval so that staff can see how the requestor is going to remedy the situation that occurred. All Master Festival Requests are approved by the City Council the first time the event takes place. Additionally, a special event permit is required if an event is to take place on private property if a business is not zoned for that type of activity.

Economic & Housing Development Director Matt Loo commented that a 30-day requirement would be nice.

City Attorney Shawn Guzman stated that one issue is with road closures if they come in two weeks prior to an event. There may not always be time to coordinate the closure.

City Manager Gary Esplin stated that he believes 30 days should be a minimum. There may be some events that can be processed quicker.

Councilmember Almquist explained that the prior City Council made some requests as far as planning and safety. It makes sense to have a time requirement and 30 days is not too much to ask. There is always the freedom of assembly, but the assembly has to be safe and be respectful for the neighborhood. Not all events have to be approved by the City Council. For anyone with an event in which they are raising funds, it is good to have them come to the City Council to raise awareness and for advertisement.

City Manager Esplin mentioned that a Councilmember can be on the committee.

Project Manager Bill Swensen stated that time is the biggest issue that he faces. He commented that he likes the idea of having a Councilmember on the committee and explained that 90% of the applications go through the review process without issues.

Economic & Housing Development Director Matt Loo explained that some of the challenges he has seen are with the insurance and security. The City's goal is to make the event as successful as possible as the event is a direct reflect of the City.

Mr. Swensen explained that applications have been received just days prior to the event, but have been approved.

Councilmember Randall asked if an event is on private property, are there insurance requirements.

City Manager Gary Esplin replied yes, if the location is not permitted for that type of use.

Councilmember Bowcutt commented that he believes the process should be smooth

for all involved. Staff should be given more leeway to make decisions and approval. Every event does not have to come to the City Council. He would also like to see a good appeal process and possibly approving permits until revoked for those that take place annually.

Councilmember Hughes stated that would he like to have Mr. Loo and Mr. Swensen to draft something that can work including key items that have been discussed tonight.

The other Councilmembers agreed with Councilmember Hughes.

Mayor Pike stated that he does not believe all permit requests need to come to City Council unless it is a bigger event or staff feels it is necessary.

City Manager Gary Esplin commented that staff has done a good job in processing special event permits. The number one goal is safety, which is what the approval process is for. The City Council needs to know what is going on in the City. Years ago, several special events were taking place without the City knowing, which can create a problem if another event has already been permitted.

Councilmember Almquist stated that for promoters and organizers, putting on a special event can be scary as a lot of things can happen. He would hate to see promoters getting a reputation for putting on events that are unsafe. When he attends an event, he has certain expectations as to what is provided.

City Manager Gary Esplin stated that written comments from the public can be submitted to staff. Staff can be ready to present the proposed ordinance at the first meeting in January.

Mayor Pike asked if the item needed a public hearing.

City Attorney Shawn Guzman advised that a public hearing is not needed but public comments can be heard.

Mayor Pike commented that staff is happy to take input from the public.

Tiffany Barnes, resident, clarified that the special event permit process is not what the promoters have brought to them prior. The City does not allow dance. She re-read portions of her letter that she read at last month's meeting.

Councilmember Hughes commented that the intention was never to limit dancing.

City Manager Gary Esplin explained that the event in October was not shut down because they were dancing. The applicant did not conform with the special event permit that was submitted. The intent is to not be specific on the type of event, rather to have some triggers that would require a review process.

Jared Keddington, promoter of the October event, stated that the special event permit process is easy. This is not about the process, but the City not allowing dance parties. He was issued a special event permit. Officers staked out the event to make sure that nobody was dancing because the Council did not convene and approve whether dancing could be permitted. He believes it is a problem that the City Council has to approve a dance. He mentioned that he approached the Dixie Center who was okay with an event until he told them they would not need chairs. The Dixie Center staff told him that the City Council was against having an event that would be standing room only. Additionally, he approached Bill Swensen to put on an event at the Ridge Top Complex and was told that any event would have to end by 11:00 p.m. He is looking to put on good, clean fun entertainment in the Community and is met with road blocks. The dance hall ordinance is ridiculous. They have been holding their events in Mesquite.

Mayor Pike mentioned that he is also happy to look at the dance hall ordinance. There is other information that he has been made aware of which is one of the reasons why what happened in October happened. He hopes things are better in the future.

Mr. Keddington stated that he does not know what past indicators Mayor Pike is referring to. He has held 30+ events in Washington County and all have been safe.

Mayor Pike explained that he has received information from Washington City, Sand Hollow State Park and Mesquite. He wants to have a permitting process that works for everyone.

Robert E Coombs, resident, asked if there is a sound level ordinance.

Mayor Pike replied yes.

Mr. Coombs commented that if you have 110 decibels for two hours can cause temporary hearing damage. In dancing or music area, some of the concerts have not been enforceable because the City does not have a sound level ordinance. In order to enforce a sound level ordinance, the City needs to have an audio meter.

Councilmember Hughes asked if the City has a policy that states what time large outdoor events with amplified music needed to end by.

Mr. Swensen stated that 10:00 p.m. is the norm unless the City Council approves for it to go on later. He mentioned that Logan as well as other cities have a 95 decibel rating in their ordinance.

Mayor Pike called for a short recess. The meeting then reconvened.

DISCUSSION REGARDING THE NET METERING POLICY:

City Manager Gary Esplin stated that the City has been debating for the last few months regarding the net metering policy for solar energy. This is an issue, not just for St. George, but for other power companies as well. The primary concern is that there are fixed costs associated with providing energy and how is it equitable and fair to all users to cover the costs. The City is supportive of solar power and was first to build solar panels at the Wastewater Treatment Plant. Additionally, the City believes in the concept of using solar energy.

Water & Energy Conservation Coordinator Rene Fleming presented a PowerPoint presentation covering the following topics: Net Metering Policy Revision; Presentation Overview; The Process; Current Policy; Concerns; Possible Solution; How the Dollars Work; How the Metering Works; Implementation Option #1; Implementation Option #2; Other Possible Solutions; and Staff Recommendation. If the customer disconnects from the grid, they will not have service. Having the utility be the battery back-up is a real asset for the customer.

Councilmember Almquist commented that he would like to make the policy fair and simple.

Ms. Fleming explained that manual readings are labor intensive and the bills are not always easy to read. Suggesting they would not manually read the meters every month. In her research, she has not found capacity charges; however, she has attended workshops regarding net metering and this is something most utility companies are looking at. She does not believe that contractors will have issues, but there may be with homeowners as a capacity charge would affect their payback period. After talking with staff, it may take 3-6 months to determine a capacity charge. She will contact the eight customers who are in limbo as well as the contractors to inform them that there may be capacity charges.

Mayor Pike would like to notify the customers informing them of the capacity charge. He does not feel it should take that long to come up with a charge.

The consensus of the Councilmembers is to let the customers in limbo move forward and to look into a capacity charge based upon the size of the solar PV system.

Councilmember Hughes commented that there is a significant investment both in installing solar and with the public utility has made seeing that there is capacity.

Mayor Pike invited audience members to comment.

Thomas Takach, resident, stated that he would be very upset to hear that solar customers were using the system and not paying for the energy they receive. It sounds as if a solar customer zeroes out their meter, they have not contributed anything; however, what they have done is distributed the energy to the grid which

is used by their neighbor. The power company receives money from the neighbor who receives the power. As the City grows, the power company will need to expand its facilities. Solar is the least expensive way that power can be produced.

Mayor Pike explained that the costs received from the neighbors would not cover the transmission costs.

Ms. Fleming stated that would not defray a capital cost. You still need to make sure resources are available if all customers were to go off line.

Angela Digiovanni, resident, asked what the connection fee to stay with the grid covers. Additionally, she would like to know how it went from getting cash incentives for going solar to charging fees.

Ms. Fleming replied that the utilities department charges a connection fee to set the meter, which is paid by every customer. Currently, there is a \$60 permit fee for solar which covers the cost to inspect for wiring. With regard to the cash incentives, they were offered to get more renewable resources. It was more expensive at that time than it is now. The rebate funds are depleted and the requests for solar have gone up.

Gary Engelmann, resident, stated that he wished to address sell back. When someone zeroes their meter, they are selling power back at a wholesale rate and the power company is selling it to their customers at a retail rate. He asked if that profit covers transmission fees. Solar providers are an insurance policy for the power company as they can supply power to the City with the power going back into the grid.

Ms. Fleming explained that the City typically buys the power back at a retail rate. With respect to solar powering the City, she can see it as a good resource; however, a home could not send their power back to the grid and power the City.

TRAFFIC STUDY UPDATE:

Public Works Director Cameron Cutler presented a map outlining the study areas for traffic signals. The intersections that were studied are: Dixie Drive and Stonebridge, Sunbrook Drive and Dixie Drive, 450 North and 3050 East, Mall Drive and 3000 East, 1450 South and 3000 East, Brigham Road and River Road, Horseman's Park and River Road, St. James Lane and River Road and 1600 South and Dixie Drive. It is recommended that traffic signals be installed at 3000 East and Mall Drive, St. James Lane and River Road and Brigham road and River Road.

Councilmember Almquist inquired if Washington City will share in the cost for the signal at Mall Drive and 3000 East.

Mr. Cutler stated that he has not approached Washington City to share in the cost nor has he determined if the vehicles counted were residents of St. George or Washington City.

City Manager Gary Esplin explained that the recommendation is to get the signals designed. If the general plan amendment is approved in the near future, the developer will have to do a traffic impact study to determine if their development may add to the need of the signal.

Councilmembers agree to proceed with installing the traffic signals.

Mayor Pike called for a short recess. The meeting then reconvened.

HEARING FOR AN EMPLOYEE APPEAL OF THE CITY MANAGER'S DECISION TO UPHOLD A DEPARTMENT HEAD'S RECOMMENDATION FOR DEMOTION:

City Manager Gary Esplin explained that the Fire Department has a classification system, with Firefighter levels 1, 2 and 3. In order to maintain the level, the employee has requirements that they have to fulfill. The demotion went through the personnel process in which the Department Head made the recommendation for the demotion. The employee appealed to the City Manager and he supported the Department Head's decision. Under the City policy, the employee has the right to appeal to the Mayor and City Council.

City Attorney Shawn Guzman explained the process for the employee appeal hearing.

Mayor Pike outlined the facts of the demotion.

City Attorney Shawn Guzman read portions of personnel policy 4.50 pertaining to hearing procedures and the Mayor and City Council decision.

Mayor Pike asked employee Tyler Whitehead to state who his witnesses are.

Mr. Whitehead asked if the person has to agree to be a witness for him.

City Attorney Guzman advised that he cannot make anyone testify. He can invite them to testify, but cannot compel them to. Both sides, as well as the Mayor and City Council, can question anyone who testifies as a witness.

Mr. Whitehead stated that his witnesses are Captain Richard Nelson and Greg Anderson. He would also like to call Fire Chief Robert Stoker as well as Captain Darren Imlay as witnesses.

City Attorney Shawn Guzman stated that the witnesses for the City are Human Resources Director Judith Mayfield, Fire Chief Robert Stoker, Battalion Chief Ken Guard, Captain Darren Imlay, Captain Coty Chadburn and City Manager Gary Esplin. He assumes if either side does not call a witness they would not be available to question by the other side.

Mr. Whitehead stated that he would like to add Battalion Chief Ken Guard and City Manager Gary Esplin as witnesses.

City Manager Gary Esplin stated that he does not want to testify.

Mr. Whitehead handed out a packet.

Mayor Pike clarified that statements made should relate to the appeal.

Mr. Whitehead stated he has lived in St. George all of his life. His Grandpa Whitehead was a Washington County Sheriff and was also on the St. George Fire Department as a volunteer. He has served on Fire Department for 10 years, 4 years full time and 6 years as a part time firefighter and is part of the TRT speciality program which benefits the department as well as the public. He has completed over 40 hours of specialty training on his own time in the last 6 months. He supports a TRT speciality policy and supports 100% in keeping its members accountable for what the policy entails. There were questions at the beginning of the year regarding the policy. He is here to appeal his demotion which he feels is invalid as the standards have changed without their knowledge. The discipline policy for the City was never followed by the City. The TRT specialty standard states that they are required to attend 75% of the training per year, meaning that the employee can miss three training sessions without being demoted a level. The standards also state that the employee is close to the 75% mark, they should receive a written warning. Regarding the February training, he feels that he could not be held accountable for not attending because he understood that he would not be compensated for attending. He explained that this is the purpose of his appeal and he intends to show proof that backs up his understanding. Each training could last 1-4 hours. All of his information is based solely on the communication he had with Mayor Pike, City Manager Gary Esplin, the Chiefs of the Department and his Captain.

Councilmember Hughes asked Mr. Whitehead if he was already certified as a Firefighter II. He also asked him if he completed the training sessions before.

Mr. Whitehead Tyler replied yes, he was certified as a Firefighter II, but he has not attended these training sessions before. This is specialty training, above and beyond the training for a Firefighter II. He stated that he has completed these training sessions previously. Additionally, he is extrication and trench certified, he was not compensated for the training until April 15th.

Mayor Pike stated that he read ahead and is concerned that several statements are not confined to his demotion. He asked Mr. Whitehead to be careful.

Mr. Whitehead read and explained the packet he provided stating his case.

Councilmember Hughes asked Mr. Whitehead what part of the standards he had issues with. He is not sure where that relates to his demotion.

Mr. Whitehead stated that he does not have issues with the standards its with how they relate to his demotion since the standards have changed. The 75% attendance requirement has not changed. He stated that although he did not agree, he was aware the department was concerned that he was not meeting the 75% standard.

Councilmember Almquist asked how soon he notified the department that he would not be here for the training. He then inquired about the employee warning report dated September 24, 2014 which states: "If Firefighter Whitehead attends and participates in these remaining trainings and completes the assigned make-up trainings we will recommend that he retains his Rescue Technician Certification"; however, Mr. Whitehead missed the November 6th training.

Firefighter Whitehead stated that he notified the department that he was going to miss the November 6th training approximately one week prior to the training. Although he did not feel it was important, he explained that he was gone for his anniversary. He stated that during the meeting in which he appealed to the City Manager, City Manager Gary Esplin and City Attorney Shawn Guzman told him that they did not think an anniversary was such a big thing.

City Attorney Shawn Guzman stated that he does not believe anyone in the meeting said it was not a big thing.

Mr. Whitehead asked City Attorney Shawn Guzman if he would like him to play the tape because he has it recorded. He believes his exact words were "well, I've had to stay late here and I've missed my anniversary many times for my job".

City Attorney Shawn Guzman clarified that while he did say something similar to that; however, he did not say it was not a big thing.

Councilmember Hughes asked Mr. Whitehead with regard to the employee warning report, how many training sessions there were remaining.

Mr. Whitehead replied that there were three. He was aware of this and agreed that he needed to attend the trainings, but did not agree with the fact of being written up. He explained that he did not ask to make up the November 6th training since they have always been told that they could not make them up. Captain Nelson told him that it was his decision to miss the training. Additionally, Captain Nelson told him what the ramifications would be for missing the training and he knew that they told him that he could not miss the remaining trainings. Although, he knew he had to be at these trainings to meet the 75%, it illegal to make them attend training and not compensate them. He continued reading and explaining his packet. Councilmember Almquist asked if he was placed on paid administrative leave. With regard to personnel policy 4.50, in section A. Department Head Procedural Requirement, number 2 pertains to paid administrative leave. He asked if this would apply.

Mr. Whitehead replied that he was not and does not know if it applies, that is his question.

City Attorney Shawn Guzman explained that paid administrative leave is used when a termination is being considered or for an issue that needs to be investigated, not when considering a demotion or suspension.

Mayor Pike asked if Chief Stoker would go around chain of command to meet with a Firefighter.

City Attorney Shawn Guzman advised the policy does not say that the department head has to meet with the employee.

Mr. Whitehead stated that if Chief Stoker is going to demote him, he should meet with him to get his side of the story. He asked how he can conduct a thorough investigation without talking to him or his supervisor.

Councilmember Hughes asked Mr. Whitehead if he is saying that he should not be demoted for missing the training because some procedure was not followed although he knew he needed to attend.

Mr. Whitehead stated that he is not saying that. He is showing that there is a history of certain things not being followed correctly. He knows that he needs to attend 75% of his training or he would be demoted, he is not refuting that. He did not agree to being held to a standard and not being compensated. He has not been compensated from the February training. With regard to the January training, Human Resources Manager Judith Mayfield researched and found that he did not claim the training on his time card. He was paid in November when it was brought to her attention.

City Attorney Shawn Guzman asked Mr. Whitehead to clarify that he did not attend the February training, therefore no compensation was due. The only training in question was the one in January in which he has since been compensated for.

Mr. Whitehead replied yes.

Councilmember Almquist reiterated that the section of personnel policy 4.50 in which Mr. Whitehead is referring to is when an employee is put on paid administrative leave, not demotion.

Mr. Whitehead stated that section V refers to Procedural Requirements for Disciplinary Action of Demotion to a Lower Classified Position, Suspension Without Pay, or Termination.

City Attorney Shawn Guzman advised that is title for that section, but not all items in the subsections pertain to all of those listed in the heading.

Mr. Whitehead stated that this has been the problem from the beginning, what is required has never been clear.

Mayor Pike commented that contradicts some of the questions that Councilmember Hughes asked. Mr. Whitehead stated earlier that he understood what the requirements were; maybe what was not understood was whether he would be compensated for January. Within in a certain amount of time, he knew where he was officially and that he was not to miss any more training, but missed the one in November. He knew he was going to be held accountable.

Mr. Whitehead stated that he does not dispute that he knew where he was officially.

Councilmember Hughes asked why miss the training if he new there was a chance of him getting demoted.

Mr. Whitehead replied that he did because since the beginning of the year, he should not be held accountable if he was not being compensated.

Councilmember Bowcutt commented that all of us have worked somewhere and have disagreed with something. Mr. Whitehead knew he should have been at the training. All of this other stuff is a cloud to stir something up since he already admitted that he did not follow the proper procedures.

Councilmember Randall asked if anyone else has received a written warning at the same time he had.

Mr. Whitehead stated that he knew that he should have attended the training, but did not agree. He does not know of anyone who has received a written warning. He stated that he missed four of the trainings. He continued reading and explaining his packet.

City Attorney Shawn Guzman clarified that written warnings are not required. He is not aware of anyone in the department, other than Mr. Whitehead, who is not in compliance with the training standard for Firefighter II.

Mr. Whitehead said "nor am I". He called on his witness, Captain Nelson.

City Attorney Shawn Guzman advised that he has not had a chance to talk to Firefighter Whitehead. He asked if Mr. Whitehead received a letter from the City Manager with a determination on his appeal and if so did it state that he would need to attend three consecutive months, beginning in December 2014, of TRT training in order to regain Firefighter II status. He wanted to make it clear that the determination of the City Manager was not withstanding anything that was said earlier about six months, but there would be a three month requirement in order to regain the Firefighter II status.

Mr. Whitehead replied yes, he did receive the letter and it did state that he had to attend three consecutive months of training, which he understands. What he was bringing to attention that he was first given a notice that said six months.

City Attorney Shawn Guzman asked if it matters that there was a mistake in saying that he had six months, when it was clarified in the letter, that it was three consecutive months of training.

Mr. Whitehead stated that it matters to him because his discipline was not correct.

City Attorney Shawn Guzman stated that Mr. Whitehead admitted to missing four training sessions this year. He again asked if it would make a difference if the letter he received said six months when the determination from the City Manager said three.

Mr. Whitehead stated that he missed four sessions. It makes a difference because his Department Head, who is demoting him, does not understand the statements and requirements for the demotion. He did not meet the training requirements in attending 75% of the training and did not complete all of the packets.

City Attorney Shawn Guzman asked Mr. Whitehead is the standard was that he had to attend 75% of the training. Additionally, he asked if his captain told him that he did not meet the requirements.

Mr. Whitehead replied yes, that is the standard. His captain did tell him that he did not meet the requirements, but agreed that he should not be held accountable for February. He does not believe that he did not meet the training standard because he was not going to be compensated for the February training. He did not attend that training because he was working at his other job. He did not choose, he has another job.

City Attorney Shawn Guzman showed Mr. Whitehead a copy of a time card and asked him if it was his. On the week of the training in January, he asked if Mr. Whitehead claimed the one hour for training. Additionally, he inquired if Mr. Whitehead questioned anyone if he should add the time for the training.

Mr. Whitehead replied yes, that was a copy of his time card and he did not claim the hour for training. He did ask about adding the hour to his timecard, but he did not ask Human Resources Manager Judith Mayfield or Fire Chief Robert Stoker. He stated that he followed proper procedure in letting his captain know. There were many of them who were under the understanding that they do not get compensated for attending the training. He does not know if anyone else did not put the time on their time card, he could be the only one. Even captains have not been paid to go to their staff meetings, but they still go.

City Attorney Shawn Guzman mentioned that he did not attend the training in May because there was no room and the training was rescheduled in July. Because Mr.

Whitehead had already planned a vacation in July, he was unable to attend, which is understandable. He asked Mr. Whitehead why he did not attend the training in September.

Mr. Whitehead stated that he did not attend the training in September due to a family emergency. The reason he did not attend is none of Mr. Guzman's business. He did not attend even though he knew of the 75% requirement.

City Attorney Shawn Guzman mentioned that the September 24, 2014 warning that Mr. Whitehead was given a warning stating that he needed to attend the next three training sessions. Also, he was required to do packets to show that they have reviewed the information. He asked Mr. Whitehead if he has turned in all of the packets which are for those times a training session is missed.

Mr. Whitehead stated that he is missing the November packet and is unsure of the September packet. He was told that the November packet would be given to him, but it was not, and he has not asked for it. He made up the packet from February.

City Attorney Shawn Guzman advised that the February packet has not been turned in per City records. He asked him if there was a reason why he would not have done that packet.

Mr. Whitehead stated that he does not have a reason why the February packet was not turned in.

Captain Nelson stated that he has not turned in the September packet.

Mr. Whitehead explained that they are required to attend 75% of training and complete 100% of the packets, but they do not make up for attendance.

City Attorney Shawn Guzman stated that the intent of the packets is that if they miss the training, they still have some training in the area. City records show that he is missing February, September and November. He asked why the February packet was not turned in.

Mr. Whitehead stated no, other than the fact that he did not agree with what he stated before, he has no excuse for September and has not yet received November's. They do have time to complete the packets while on duty. Part of his issue with the packets is that they require him to do things that he is not trained for. For example, if he missed a rope rescue training and the packet requires him to set up the lines, he is not trained to do that on his own.

City Attorney Shawn Guzman stated that he does not agree with Mr. Whitehead's statement with regard to the ropes course, it may not be pertinent to why he did not

attend the training or complete the packet. He asked about the TRT level requirements that Mr. Whitehead was saying had changed. With the 75% percent, he asked what changed that causes confusion on whether or not he has to complete 75% of the training.

Mr. Whitehead stated that nothing has changed with regards to the 75% goals. His issue is that it changed without his knowing. The packet requirement on the handout at the January meeting was missing. He does not remember if they were told of a packet requirement at the January meeting. Captains Imlay and Chadburn, told him that everything he needed to do was on the TRT standard.

City Attorney Shawn Guzman stated that he has no more questions at this time but would like to reserve the opportunity to question Mr. Whitehead after any other witnesses.

Mayor Pike told Mr. Whitehead that he could now call his witnesses.

Mr. Whitehead called witness Captain Nelson. With regard to their first conversation, he asked Captain Nelson what he told him. If he ever felt that he had to write him up what did he tell him.

Captain Nelson stated that Mr. Whitehead said to let him know what the reason was and to make it clear.

Mr. Whitehead asked if he ever said he would fight that.

City Attorney Shawn Guzman advised that he is confused as to who is testifying because the question is making a statement. He can asked if this was discussed, but if he is stating what he discussed, he would be testifying.

Mr. Whitehead rephrased his question. He asked Captain Nelson when they first talked, what did he say to him?

Captain Nelson stated that their conversation was heated at first as they did not really like each other. After talking, they realized they both had issues that were cleared up.

Mr. Whitehead asked if there have been questions regarding who has been and has not been compensated for attending trainings.

Captain Nelson stated that there has been that question since he has been in the department. There have been times that employees have not been compensated. He cannot expect the employees to attend the training and not be compensated, it is their option. He is a business owner and he knows that he cannot expect his employees to attend and not compensate them. He also knows that he cannot evaluate them if he is not compensating them.

Councilmember Hughes asked Captain Nelson if he told the firefighters that they do not need to attend the training.

Captain Nelson stated that he never told them not to attend, but if that is the law, then they do not need to attend.

City Attorney Shawn Guzman advised that this is getting beyond the item for tonight. They are not here to determine if others were compensated for attending. He can answer the question as to whether Mr. Whitehead told him or understood from him that he would not be paid, but not other captains in other situations.

Mr. Whitehead asked Captain Whitehead what answers he received regarding the concerns he brought to his attention.

Captain Nelson stated that he was told that being paid for trainings is being worked on. That answer was given to them in April.

Mr. Whitehead asked if he was ever asked or told he was going to be demoted.

Captain Nelson answered that he was told that he has to follow steps of the standard. If you take away the one month, he is at 75%

Mr. Whitehead asked if Chief Stoker has spoken to him about the demotion.

Captain Nelson replied no.

City Attorney Shawn Guzman asked Captain Nelson if he understands the 75% requirement for the trainings. Additionally, he asked if he is aware of anyone under his direct supervision that attended the January training and was not compensated

Captain Nelson replied yes, he understands the 75% requirement. Mr. Whitehead is the only employee under his direct supervision that attended that training. He did not pay attention to anyone else.

Councilmember Randall asked if anyone else that has been demoted for not attending the training.

Captain Nelson stated that does not know of anyone else within the Fire Department who has been demoted for not attending the trainings.

Councilmember Almquist asked if Captain Nelson felt that there were opportunities to make up the training that were reasonable under the circumstances.

Captain Nelson stated that if you take away the February training that Mr. Whitehead missed for not being compensated, he would not be under the 75%.

Councilmember Almquist asked if the solution was reasonable. The warning notice stated that Mr. Whitehead needed to attend the three remaining training sessions.

Captain Nelson stated that he agrees with Councilmember Almquist but the fact that they are not being compensated and are expected to be at something, those numbers change.

Councilmember Hughes asked Captain Nelson if his opinion is that Mr. Whitehead should not have been demoted because there was a question on whether he was going to be compensated.

Captain Nelson replied absolutely.

Councilmember Hughes asked if he was aware that if Mr. Whitehead missed that another that he could possibly be demoted.

Captain Nelson stated that was aware of that. On the bottom of the corrective action that was not a corrective action, it states "I do not agree with this action" and it was discussed at that time, meaning he did not agree with it because of the compensation issue. Mr. Whitehead let him know which meetings he was going to miss, he advised him to let the TRT people know. He stated that Mr. Whitehead knew that there was a possibility of him being demoted since he knew what the 75% meant although he did not discuss that with him. The requirement is very cut and dry today, but has not been for the past two and a half years.

City Attorney Shawn Guzman asked Captain Nelson when he said the 75% requirement was not cut and dry over the past two years he asked what was not cut and dry.

Captain Nelson stated that he did not say that. This is a brand new program that has been in the works for a number of years. When a program is under the development stage, questions are not always answered. The packets were developed for people to make up training. He thought it was a safety issue for himself, Mr. Whitehead and the public if they train on things and do them incorrectly and then go out on an engine and happen to be put in a position where they have to do those things. He felt it was a conflict to perform tasks they have not been trained on. If Mr. Whitehead had received credit for February, he would not have been demoted.

Councilmember Hughes asked Mr. Whitehead if he knows there is a chance that he can get in trouble, whether he agrees or not, would he attend.

Captain Nelson replied that he probably would.

Councilmember Randall clarified that Mr. Whitehead missed February, May, July, September and November.

Mr. Whitehead stated that he received credit for May without going.

City Attorney Shawn Guzman explained that there was not enough room in the training facility to accommodate everyone so he did not attend, but did receive credit. May does not count against Mr. Whitehead.

Mr. Whitehead called witness Greg Anderson.

Mr. Anderson's response could not be heard as he did not step up to the microphone. He was not questioned.

Mr. Whitehead called witness Battalion Chief Ken Guard.

Mr. Whitehead asked Chief Guard if there have always been questions regarding TRT speciality policy and how it is involved in the department.

Chief Guard explained that there have been questions with the fact that it is an ongoing process.

Councilmember Hughes asked Chief Guard if there have been questions regarding the 75% training requirement.

Chief Guard replied no.

Mayor Pike explained that Chief Guard is the training officer for the department.

Mr. Whitehead asked if Chief Guard thought it was legal to hold someone to a standard if they are not compensated for the standard.

City Attorney Shawn Guzman stated that Chief Guard is not qualified to determine if something is legal or not.

Mr. Whitehead rephrased his question asking if Chief Guard thinks it is fair to be held to a standard if they are not compensated for that standard.

Chief Guard stated that he would refer that question to Human Resources.

Mr. Whitehead asked what was discussed when he went to Chief Guard with his issues.

Chief Guard explained that he was made aware of this issue on September 26th. He met with Captain Nelson who was concerned about the process. He then met with Captain Nelson and Mr. Whitehead and asked him to write down his concerns which were forwarded to Chief Stoker.

Councilmember Hughes asked how many Firefighter II's are there in the department and if there were any others who have not met the 75% attendance requirements.

Chief Guard replied that there are a handful of firefighters at that level. He is not aware of any that have not met the requirements; however, there was another employee who had issues with attendance, that has been corrected.

City Attorney Shawn Guzman advised there are eight employees that are Firefighter II and three that are Firefighter III. He asked Chief Guard if he knows of anyone who has not been compensated for attending training.

Chief Guard stated that he does not know of anyone who has not been compensated for training. He explained the process if an employee were to notify him that they are missing compensation for training.

Mr. Whitehead inquired if he does not call up additional witnesses, if another witness is called can he cross examine them.

City Attorney Shawn Guzman replied yes.

Mr. Whitehead advised he has no other witnesses.

Mayor Pike called for a 10-minute recess.

City Attorney Shawn Guzman advised that there should be no discussions on the issue during the recess.

The meeting then reconvened.

City Attorney Shawn Guzman called witness Chief Robert Stoker

City Attorney Shawn Guzman asked Chief Stoker if he was involved with the development of Firefighter I, II and III classifications. He also asked if there are certain requirements for each classification and if the movement is voluntary or if the firefighters are required to move up in classification.

Chief Stoker stated that he was involved in the classifications and there are requirements for each classification. He explained some of the classifications. Additionally, he explained that employees are not required to move levels. They were developed because there was not a lot of movement in the firefighter position.

City Attorney Shawn Guzman asked Chief Stoker if he was involved in developing the training standards.

Chief Stoker replied that he was not. He reviewed them once they were developed by Captains Imlay and Chadburn as they oversee the technical rescue program.

City Attorney Shawn Guzman stated that there was an allegation that to make up the ropes course would create a hazard to the firefighters.

Chief Stoker stated that he would have to refer that to either Captain Imlay or Captain Chadburn.

City Attorney Shawn Guzman asked Chief Stoker if he had any comments regarding the testimony.

Chief Stoker explained that they went through the attendance requirements and written warning following City policy. He met with Captains Nelson and Chadburn. Mr. Whitehead did not meet the training requirement and after missing the September training, was given the opportunity to attend the next three training sessions, but chose not to. He did not receive notice that Mr. Whitehead would not make the November training, nor did Captains Imlay or Chadburn. After the November training, he received a memo from Captains Imlay and Chadburn stating that Mr. Whitehead has not met the 75% attendance requirement due to not attending. At that point action was taken to start the demotion process. The idea is encourage the employee to comply. In their Captains meetings, they talk about not wanting to have this happen.

City Attorney Shawn Guzman stated that he would like to reserve the right to redirect.

Councilmember Hughes asked Chief Stoker if a firefighter could be a level one and not proceed to a level two or three as there is not a requirement to do so. He also asked if they stop attending the training can they can be demoted and receive a cut in pay. He asked if this is a voluntary program.

Chief Stoker replied yes to all questions.

Mr. Whitehead stated that Chief Stoker made the statement that warned him based upon City policy yet there are three haz-mat employees that have not been warned.

Chief Stoker explained that he talked with Captain Jerry Tischner who is over the haz-mat training and there currently is not nor has there been anyone who is not meeting the standard. He is not aware of anyone that is not meeting the standard.

City Attorney Shawn Guzman called witness Captain Darren Imlay.

Captain Imlay commented that he has been in department for 30 years. He knows the City policies pretty well especially when it comes to compensation for training.

City Attorney Shawn Guzman asked Captain Imlay if he developed the training policy.

Captain Imlay stated that he and Captain Chadburn set up the policy originally and was reviewed at a couple of different Captains meetings in the past year.

City Attorney Shawn Guzman provided a packet to Mr. Whitehead and clarified that he gave the Mayor and City Council their packet at the same time Mr. Whitehead gave them his.

City Attorney Shawn Guzman asked Captain Imlay if he was involved in the meeting on January 2, 2014. He inquired about the different versions of the policy that Mr. Whitehead mentioned, asking Captain Imlay to clarify what the different versions were and what was handed out at that meeting.

Captain Imlay replied yes, he was at the meeting on January 2nd. He stated that in the January meeting the policy on pages 8, 9, and 10 of the City packet is the one that was handed out. The policy was also reviewed in a Captains meeting in December and has never changed. A bit of the confusion was during the meeting with Human Resources and Firefighter Whitehead. He explained that he sent Human Resources Director Judith Mayfield the incorrect draft which he mentioned at the meeting. It has never been sent out to anyone else.

City Attorney Shawn Guzman asked if the copy that was different was inadvertently sent.

Captain Imlay replied yes.

City Attorney Shawn Guzman reemphasized that it was testified earlier that it really did not matter because the training requirement did not change. He referred page 8, item A. Monthly training, where there is an asterisk. He asked Capt Imlay to read that. After Captain Imlay read the paragraph, he asked if this was the packet that was referred to earlier.

Captain Imlay stated yes, that is the packet that was referred to.

City Attorney Shawn Guzman asked Captain Imlay, with regards to the ropes course training, it was said that it would be unsafe.

Captain Imlay explained that the February included hands on training, the make up training covered the same type of skills. He explained that it was all ground level. At no time was there a safety hazard. The skills being used are skills that they should have been able to do, in fact they were trained on the same skill packet earlier and Mr. Whitehead did the same training at the parking structure the previous year. He would not assign a skill that would be unsafe. Also, it was mentioned earlier that if at

a call and are expected to set up the ropes, it could hurt a citizen, there is no way the department would put them in that situation.

City Attorney Shawn Guzman commented that safety is important in an operation for a fire department.

Captain Imlay stated that they do the training for the safety of the residents as well as the firefighters. He explained that they have been doing this training for eight years and no one has been injured.

City Attorney Shawn Guzman referred to emails from Captain Imlay. He asked what the date was of the first email that was sent regarding the training and concerns.

Captain Imlay stated that the first email was sent of December 24, 2013. He read the email, sent to all full time Captains, and explained what "washed" time means. He mentioned that a second email was sent out by Chief Guard to the entire department on January 22, 2014 regarding February and March training dates and times. Another email was sent out on February 18, 2014 to all TRT technicians and full time captains as a reminder of the February 27th training, he read that email. Compensation would be required; therefore they were told to manage their hours. These hours should have been used before they went into comp time or overtime. He mentioned another email sent out regarding trench training. The emails were reminders of the training dates and times and the need to manage comp hours. He explained that they did not want any confusion as to when the trainings were being held. They distribute a yearly training calendar and also send email reminders.

City Attorney Shawn Guzman asked if there were any additional emails or communications that Captain Imlay would like to bring to attention.

Captain Imlay explained that most of the documents in the packet are training reports. He mentioned an additional email thread regarding the fact that Mr. Whitehead was close to be lacking in the training and read the response from Mr. Whitehead. He then emailed Captain Nelson explaining to him that if Mr. Whitehead missed the training, he would be given a warning letter. The email also went to Mr. Whitehead. Section 4 of the packet contains emails sent to other firefighters regarding the training. One other firefighter received the same warning letter as Mr. Whitehead; that letter is also in the packet. Everyone has been treated the same

Mr. Whitehead asked Captain Imlay about the email that was a draft to Human Resources Manager Judith Mayfield. He asked why was it sent them three different times if it was a draft?

Captain Imlay responded that page 89 of the packet is a copy of an email sent to Captain Nelson giving him a heads up about the trainings that he Mr. Whitehead was lacking.

Mr. Whitehead stated that was not the question. He clarified on the first page of the packet he provided that is the email that he was referring to.

Councilmember Randall commented that the email says that he has to attend 75% of the training, whatever version, whether it is a draft or not.

Mr. Whitehead stated that him receiving the email is a lie as he never received it.

Captain Imlay explained that he sent it to Captain Nelson to follow chain of command. He stated that the email says that if he does not hear back from him within the next hour or so, he would send the email to Mr. Whitehead which he did approximately an hour or so after.

Councilmember Randall asked if Mr. Whitehead is being terminated and if he has the opportunity to become a Firefighter II in approximately three months.

Captain Imlay answered that he is not being terminated and does have the opportunity to become a Firefighter II in approximately three months. He explained that he wanted Mr. Whitehead to be informed throughout the entire process. There is no gray area, it is cut and dry and the questions regarding compensation are clear in the emails. Most firefighters want to be held accountable for what is expected. He commented that hazardous calls go smoothly because of the training.

City Attorney Shawn Guzman advised the City no further witnesses.

Mayor Pike stated that Mr. Whitehead can make a closing statement if he chooses to do so.

Mr. Whitehead stated that no matter what is brought up against him, he is not trying to skirt anything. If it would have been clear to him from the beginning, he would not have come here. Saying that he should have known, does not mean he did. He like the fact the people are being held accountable. Had he known he was being paid for those he missed, then he should be held accountable, but he did not know. The St. George Fire Department is very important and the program is great. He looks forward to serving and being a part of the TRT program.

City Attorney Shawn Guzman stated that he explains that is a difficult process. The goal is to encourage employees to follow the policy. This involves lives, not only the safety of the firefighters but the citizens as well. He does not feel there is any confusion on the policy and Mr. Whitehead stated that he understood the 75% attendance policy. It was clear at the January meeting as well as in the emails. The fire department and the captains go above and beyond to inform their employees of training. The error in payment was not made on the City's side as Mr. Whitehead fills

out his own time card. When Human Resources was made aware of the hour he was not paid for, the time was addressed. He believes the City Manager made a correct

decision on this issue. Mr. Whitehead has the opportunity to advance back to Firefighter II if he complies with the requirements in the determination letter from the City Manager. Also, the packets also need to be complied with.

Mayor Pike thanked everyone that has been involved in the process. He explained that the Mayor and City Council are to cast their votes by secret ballot.

City Attorney Shawn Guzman advised that the City Recorder will collect and read the votes from the City Council. If there is a tie, she will then read the Mayor's vote.

City Recorder Christina Fernandez read the votes as follows:

Councilmember Randall - affirm
Councilmember Hughes - affirm
Councilmember Almquist - affirm
Councilmember Bowcutt - affirm.

The vote was unanimous and the motion carried

ADJOURN:

MOTION: A motion was made by Councilmember Almquist to adjourn.

SECOND: The motion was seconded by Councilmember Bowcutt.

VOTE: Mayor Pike called for a vote, as follows:

Councilmember Almquist - aye
Councilmember Hughes - aye
Councilmember Randall - aye
Councilmember Bowcutt - aye
Councilmember Arial - aye

The vote was unanimous and the motion carried.