

City of La Verkin

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La Verkin City Council Work Meeting Minutes

Wednesday, September 18, 2019 5:00 p.m.

Council Chambers, 111 S. Main, La Verkin, Utah

Present: Mayor Richard Hirschi, Council Members: Randy Reeve, Patricia Wise, Ray Justice and Micah Gubler; Staff: Kyle Gubler, Derek Imlay, Kevin Bennett, Chief Ben Lee and Christy Ballard; Public: John Valenti

Councilman Kelly Wilson was excused

A. Called to Order – Mayor Hirschi called the work meeting to order at 5:00pm

Mayor Hirschi mentioned Santa Clara has two regular city council meetings and one work meeting per month and asked if the Councilmembers would like to do the same.

Kyle pointed out the Planning Commission meet on the 2nd and 4th Wednesdays so the work meeting would need to be a different day.

The Councilmembers decided work meetings would continue to be only as needed.

1. Discussion on recent changes to state law regarding personal use by public officials and employees of public property and possible changes to the City's Personnel Policy regarding such use and the marking of such property.

Kyle explained Councilman Wilson was not able to attend these meetings, but he did give Kyle a list of five concerns he would like discussed. (The concerns are listed as bullet points)

The new law increases the penalty to a felony, so the City needs to make sure we have everyone covered.

- Personal use of the vehicle when out of town on city business.

Kyle explained that the current policy does allow for some reasonable personal use, which he feels is important.

Kevin said the current policy is; in route, 15 miles from the most direct route to the destination, and then 30 miles from the destination for a non-business-related use and the location must not discredit the City.

If an employee takes their own vehicle, the law does not apply.

Councilman Reeve feels the policy should be less restrictive if we are asking people to go out of town.

- Allowing City employees to use City vehicles to haul family around.

Kevin explained the current City policy addresses this issue. If an employee can take a vehicle home and they are not on call it is only for commuting. If they are in an on-call status or their position always requires them to be available, then they can do incidental. Typically, that is not family either, unless it's been allowed by the Mayor.

- How many miles do we allow the city employee to live to take the vehicle home?

Kyle reported the current policy is 25 miles. Kyle can give exemptions and he has authorized Officer Nuccitelli to drive 28 miles until the Council has had a chance to update this policy. He and Chief Lee have discussed the options of charging officers who travel outside the 25 miles or not letting them take a vehicle home.

Councilwoman Wise feels if we hire an employee and their position warrants them taking a vehicle home then the City should allow them to take the vehicle home.

Mayor Hirschi would like a number limit set in the policy.

It was suggested putting a clause in the policy letting the Mayor authorize a further distance than stated in the policy.

Kevin said granting exceptions is arbitrary and capricious. There needs to be some type of criteria on how to go beyond what is stated in the policy.

Chief Lee feels allowing an officer to take a vehicle home is a very cheap way to keep an employee.

Kyle pointed out if you have an employee that is driving 100 miles one way to work every day that is costing the City money in fuel, vehicle maintenance and possible lease mileage.

- All City vehicles must have EX plates and a City logo on the door.

Kyle mentioned the license plate requirement is already in City Code.

- Contact the Trust to find out about insurance liability with family members in city vehicles.

Kyle reported the Trust carries Personal Injury Protection (PIP) for each vehicle which covers everyone in the vehicle up to \$3,000.

If a police officer has their family in the vehicle and a call is made, they must find the nearest intersection and let their family out. The concern is, prior to her shift beginning, Officer Crouse brings her child from Washington City to Headstart. She is not going to drop her 4-year old off at an intersection.

The Trust says if there is an accident with a family member in the vehicle a city's liability may be at stake depending on whose fault the accident is.

In the past, most cities let their employees use the vehicles and were not too concerned, but after this, from the Trust standpoint, more and more cities are not allowing their employees to have passengers in their vehicles.

Kevin read the current City Code. Changes were made in 2013 to stop the things that were going on at the time.

He reported on an accident he was involved in with his own vehicle doing city business. Workman's Comp took care of his medical issues, but his car was destroyed. He was told by officers on site that the amount of damage was probably 5-6 times the amount of insurance the young lady had that caused the accident.

The insurance will only pay up to the limit of the insurance and they also only pay if it is within the scope of your employment. So, if the employee is not within the scope of their employment the insurance does not have to pay anything and if they are, the insurance will only pay up to the limit. Once the limit is exhausted and the people sue, it will be the city and/or the employee that must pay, not the insurance.

Chief Lee said when he worked for the State, prior to them filing a personal use clause, they required the employee to get an umbrella plan for the vehicle if they were going to use it in a personal capacity to address those issues. After they amended their policy to personal use, they abolished that requirement.

He wanted to point out some of the benefits for the employees and the City. It puts the police vehicles on the street and at the schools for community and athletic events. Even if they are there as an off-duty capacity, they have all their equipment ready and available to them. He also likes to take his vehicle to church for the same reason.

There are policies in place and the families know if there is anything going on, they must stay in the car or will be dropped off at the corner.

One of the biggest things for the employees is that most of their significant others work too, so if they are taking care of the children, they could drop them off at daycare on their way to work. Every governmental agency he has ever worked for has allowed that.

Councilman Justice mentioned he wonders what citizens would think if they saw a La Verkin City police vehicle in a driveway in Enoch, for example. He would wonder why his tax dollars were paying for someone to drive back and forth from Enoch to work. This is something that doesn't feel 100% right to him. He understands how difficult it is and that La Verkin doesn't have the ability to pay our police officers really well and that in order to keep them we need to offer some benefits. He appreciates our police officers and the sacrifices they make in order to serve our great community. He goes back and forth on this; it is a hard decision to make.

Kyle explained the policy needs to state exactly what the Council wants because an employee could be charged with a felony and lose their job if they are ever found in violation of city policies.

Derek said he has taken his wife with him on call outs because a person never knows what they are going to run into or what they could be accused of. Things have happened in the past so now there are always two public works employees to do shut offs.

Councilman Reeve pointed out this law does not just cover vehicles. It is all public property. If his drill dies and he gets a drill out of the School District truck, he has just committed the felony. He feels the City needs to protect its employees.

Councilwoman Wise said she thought computer equipment was included in the policy.

Kevin said he included a redlined version of the City's personnel policy and superimposed on that same copy are the changes staff has suggested. Staff has been working on updating and clarifying the Personnel Policy and Procedures Manual.

Kyle explained the EX plates and logo have been an issue. There are a couple of vehicles that don't have the plates and a few that don't have the logo on them.

Councilman Justice pointed out our cell phones are so vital to us now and we don't want to require our employees to carry 2 phones.

Kyle agreed and mentioned the disadvantage of using a public phone for personal use is that you run the risk of having your phone subpoenaed.

Mayor Hirschi said this came to the City's attention from an Ash Creek Sewer District meeting. A copy of their resolution was included in the packet for the Council to review.

Kevin mentioned the County did something similar, but he would not recommend following their example. Their resolution basically blessed everything not listed specifically in their policy but now you can't discipline or administratively handle a situation if there was an abuse of public property.

He would write something similar but would include that it was only for the purposes of that statute. That way it wouldn't necessarily constitute a felony, but it may still constitute a violation of unreasonable use of city property.

Councilman Gubler said he feels the current policy is well written. He would like Kevin to put something together he feels would be beneficial and present that to the Council.

Kevin asked if the Council would like to make any additional changes to the current policy or the proposed changes, like the mileage.

Kyle said the Council has discussed increasing the living mileage from 25 to 30 miles. If anyone is going to be able to make exemptions, he would like it to be the Mayor.

Councilman Gubler suggested, to avoid being accused of being arbitrary and capricious, the City increase the mileage to 40 miles. That would cover most of the County except for Enterprise but would take in Cedar City.

Chief Lee would like to clarify for directors. He used to have a contract that specifically stated personal use of a vehicle. He would like "personal use" defined for directors. In the EX plate it says that part of the compensation would be to have a little bit of personal use. It's not what he is asking for, just a reasonable personal use like what has already been discussed for directors. He would feel more comfortable with that covering the directors.

Kyle stated he feels the Mayor could make that exception.

Kevin stated that language is already there. It already covers the director. It does not however, give you unlimited use.

Councilwoman Wise is okay with increasing the home mileage to 40. She thinks there should be a clause written for the Mayor to make exceptions rather than trying to up the mileage to accommodate all the possible situations. The allowance should be a written exception.

Councilman Gubler suggested notifying the employees of these policies.

Kyle stated all new employees are given a Personnel Policy and Procedures Manual. It is their responsibility to review it.

The directors can use the vehicle for reasonable use. Do you want to extend that ability to the other employees?

Councilman Gubler does not want to extend that use beyond the directors.

Chief Lee asked about extending the use to other employees within City limits.

Councilman Gubler pointed out they should be allowed to get lunch in Hurricane if they would like.

Kevin stated personal use of city vehicles is already allowed during working hours for incidental use such as taking breaks and meal periods.

Councilwoman Wise would like all exceptions given in writing, whether that is a text or email, so everything is documented.

Derek asked how this would affect his on-call time. He does drive to soccer games within the County even when he is on call. He does not take his family, they drive separate.

Kevin said any employee that is on call can use the truck for incidental personal noncommercial use. The specific issue that caused this policy to be put into place was an officer taking their children to school.

2. Possible private sale of certain property to the adjacent property owner of property at the end of 210 South. Kyle explained no action needs to be taken for this item, more information has come up that has changed it. The park that will be at the end of 210 South is next to property owned by Gary Groom. There is a strip of property where the road was supposed to go and the developer put the road in a different place. The City has agreed to move the road 25 feet to allow him to get a flag lot. That will leave a strip of land between the parking lot and his property that the City will have to maintain. Mr. Groom is interested in purchasing that property. Ash Creek Sewer District technically owns the property but after speaking with Mike Chandler, Kyle thinks we can work something out to get the property released so the City can sell it to Mr. Groom. That will be the buffer between the park and Mr. Groom's homes, and he will be responsible to maintain it.

Mr. Groom has expressed his concern with the City putting up a block wall hindering his view, but he also doesn't want people visiting the park to come into his yard. Staff has discussed using the money from the property purchase to put in a "boundary wall" that is not very high. Mr. Groom mentioned being interested in putting a rod iron fence on top of the wall.

Kyle would like to sell Mr. Groom the property, if possible, so the City is not responsible to maintain it.

Kyle reported originally, staff thought the property had power, but it doesn't so the City will have the additional expense of getting power to the property for the restrooms.

That will be an expense Mr. Groom will need to share in as well for his flag lot.

Derek's crew will be locating the water and sewer line connections for the property this week.

Kyle said Mr. Groom was probably promised by a councilmember 20 years ago, who also happened to be the developer, the things he is stating he was promised. He doesn't have anything in writing, but the City is conceding and allowing Mr. Groom an access for a flag lot.

Mayor Hirschi asked Derek if a pipe would be installed behind the existing homes for the runoff.

Derek said no, that there is already a ditch that carries the water to 210 South, underground into a pipe and then out to the ledge.

Councilwoman Wise stated a single councilmember has never had the authority to promise anything to anyone. She is fine with working with any citizen but whatever is decided needs to benefit the City. While she does hate to give up any park property, this piece is very small.

This is going to be a very nice park. The County is putting a lot into it. The park is right above the power plant and people will be able to hike down to it. Once the County gets a bridge crossing in Confluence Park this area will become a very key area.

Kyle explained the City Council will need to determine whether they would like to give Mr. Groom the opportunity to purchase the property.

Councilwoman Wise would like to be accommodating to Mr. Groom by allowing him to purchase the property, but he should be paying his share of all construction costs and the purchase price should be what the City is paying Ash Creek Special Service District, including the interest.

Kyle said this will be a business item on a future agenda for the Council to determine if they would like to sell Mr. Groom the property and if so what the terms of that purchase would be.

Derek explained staff is trying to formulate a plan that is beneficial to both the City and Mr. Groom before bringing it to the Council for approval.

The meeting ended at 5:55pm

Minutes where done by Christy Ballard.

December 4, 2019

Date Approved

Richard M. Hirschi

Mayor Richard M. Hirschi

ATTEST:

Christy Ballard

Christy Ballard
City Recorder

