

Minutes
Town of Poetry
Special Town Hall Meeting

Thursday, October 7th, 2021 6:00 pm
Faith Temple Baptist Church
11214 FM 1565 Poetry, 75160

Mayor called the meeting to order at 6:00pm. Roll call was made; **Mayor Tara Senkevech, Councilmember Tom Anderson, Councilmember Brian Vinson, Councilmember Simeon White, Councilmember Mike Jaffe, Councilmember Terry Fowler, Dorothy Dillon, volunteer clerk and Karoline Chapman, Prospective City Secretary,** were all present. **Councilmember Jaffe** led the Pledge of Allegiance and Invocation. **Mayor** thanked citizen Don Yost for donating speakers, microphones, and spit covers.

- 1) Approval of minutes from the September 7th, 2021, Workshop Town Council Meeting.

Councilmember Anderson had one correction on page seven, $\frac{3}{4}$ down the page where it said, "and as equipment salesman," which is wrong, because Marty is not a salesman.

Mayor said we need to move this talking point to the regular agenda.

Councilmember Anderson motioned to move this point to the regular agenda, **Councilmember White** seconded. Passed 5:0

i) **Regular Agenda:**

- 1) Approval of minutes from the September 7th, 2021, Workshop Town Council Meeting.

Councilmember Anderson said on page seven, about $\frac{3}{4}$ of the way down, a correction is needed about Dan and Marty being equipment salesmen; he said that is incorrect because Marty is not an equipment salesman. He said we could also strike the sentence; because Dan is a *road* equipment salesman.

Councilmember White said that when we authorized the checks, that they wanted us to have the full names, and said that he noticed our minutes do not include first and last names. He suggests that we add all the first and last names to the minutes.

Mayor said we should vote on the amendment by Councilmember Anderson. Councilmember Vinson seconded. Passed 4:0.

Mayor said she has seen some people put full names at the beginning of the minutes and then not throughout the whole document.

Councilmember White motioned to put full names of each councilmember at the start of the minutes and Councilmember Jaffe seconded. Passed 5:0.

Councilmember Anderson said he does not think it is appropriate for the secretary to transcribe the minutes because there were a lot of mistakes. He thinks that we should let the summary statement stand and if anyone wants to challenge that, then we can refer to the video. It's cumbersome and leads to mistakes to transcribe the minutes as if the secretary is a court reporter.

Councilmember Vinson said he agrees but he does not think we can take up the motion right now because it isn't an actual agenda item.

Mayor agreed and asked if there were further amendments to the document. Nobody offered any.

2) Discuss and consider amendment of Decorum and Rules of Procedure.

Mayor thinks it is in good form but said that Councilmember Anderson had an issue with the order when she emailed it out and she agrees with him upon reflection.

Mayor submitted a sheet to make it clearer. She said they have done it all different ways and all different orders. When asking people for public comments after submitting an item, she said we should announce the item, discuss it as a council, and then allow the public to comment before making a motion. In what was passed last week, it currently says that they should make a motion and second before people comment, so she feels that Councilmember Anderson is right that they should change it. What if a citizen has something to say and then they have to amend it after they've made the motion? She said they have handled public comments in three different ways but believes that citizens should be made part of the discussion.

Mayor motioned to replace A-K with A-J in consideration of agenda items.

Councilmember Anderson motioned that they insert the consideration of items on page four and correct the recent handout that would better reflect what they really do. Councilmember Fowler seconded the motion to insert the amendment into page four. Passed 5:0

Councilmember White said they should include that the Mayor can vote in the case of a tie.

Councilmember White made a motion to add onto page four, where it is discussed that the Mayor is currently not given a vote, that they add in, “unless in the event of a tie,” as an amendment. **Councilmember Jaffe** seconded. Passed 5:0.

Mayor said that she spoke to the lawyer Patricia Adams about page six, under resolutions, and said that it currently said “pre-approved and drafted by an attorney” and she suggests we change it to say “may be approved” instead of the current language “shall be approved” because it doesn’t have to be. She moves to amend that sentence to say “may” instead of “shall.” She said they should change to “and/or.”

Councilmember Jaffe said we may not need the sentence.

Mayor said the lawyer said that it is good to have.

Councilmember Fowler said he doesn’t see why we need an attorney because you don’t need one for every ordinance.

Councilmember Jaffe said we have the option of the attorney reviewing but agrees that they don’t have to draft every one or a lot of money would be spent.

Councilmember Vinson said that we can cut the sentence completely. **Councilmember Vinson** moves to strike that sentence. **Councilmember White** seconded. Passed 5:0

Councilmember Vinson wants to clarify “special meetings” on page two, which said they shall be set when necessary and be set by the Mayor or a memorandum signed by any two council members, and the next sentence said that the Mayor can call one by requesting a memorandum signed by three council members. Two can request, but you need three if the Mayor requests, which is confusing.

Mayor said that by law, if three council members requested a special meeting, you must have one. But if only two request, then you “may” have one.

Councilmember Vinson just wants to understand not amend.

Councilmember Fowler clarifies that if two people call a meeting then the Mayor does not have to call one but if three do, then the Mayor must.

Councilmember Vinson said on page three, items may be placed on the agenda by Mayor or town council; he asked if it should say council members because town council implies majority vote.

Councilmember Jaffe said an earlier paragraph said “a member of the town council.”

Councilmember Fowler notes the same discrepancy that **Councilmember Vinson** saw.

Councilmember Jaffe motioned to reword the first sentence on page three to change it to “town council members” **Councilmember Anderson** seconded. Passed 5:0.

Councilmember Vinson said, on the bottom of page three, under “quorum requirements,” it said to adjourn quorum as necessary, but he didn’t find anything about what the requirements to adjourn are. He asked if the Mayor has the right to declare adjournment.

Councilmember Jaffe clarifies that the lawyer said at the last meeting that we don’t need that because the Mayor can adjourn at any time.

Councilmember Vinson asked about page five, in the second paragraph at the end, beginning with, “However, the Mayor can recognize people to speak who did not sign the appropriate sign up sheet,” if council members can ask people to speak who did not sign up or if only the Mayor can.

Mayor said that people can call on experts or people they believe have relevant information.

Councilmember Vinson agrees.

Councilmember Fowler said that is clarified later on that they can ask anyone present.

Councilmember Vinson said he read it as if you did not sign up that the Mayor could still call on you to speak.

Councilmember Anderson said he can envision a scenario where it would be valuable for people who didn’t sign up to be able to speak. He thinks we should allow that in special situations.

Councilmember Vinson said he is fine with that but wants to know if council members also have that privilege.

Mayor said that, in Robert’s Rules, typically, no.

Councilmember Vinson said that this particular paragraph only said that the Mayor can call on those people and that it doesn’t specify that the people have to be experts.

Councilmember Fowler said we should scratch the sentence and he thinks this sentence is basically saying the Mayor can ask for additional comments.

Councilmember Vinson would prefer to strike it or have council members inserted as well so that there is representation. He understands that we have the consideration of agenda items already incorporated.

Mayor said she can see an instance where someone showed up late that they may still need to be acknowledged but does not think that would be common.

Councilmember Fowler said it could exclude people from whom they want to hear.

Mayor said that the presiding officer should make sure that that does not happen.

Councilmember Vinson said he wants to make sure that we understand what we are passing.

Councilmember White said the Mayor still has the power to call on people and that there are also general comments, and do we really want to give the Mayor or council members power to call up whoever? It could delay things.

Councilmember Anderson notes that the language said “may,” so that makes it seem up to the Mayor.

Councilmember Vinson said that it gives them permission or authority.

Councilmember Vinson moves to strike that sentence at the top of page five that said, “However, the Mayor/presiding officer may recognize individuals to speak who did not sign the appropriate sign up sheet.” **Councilmember Fowler** seconded it. Passed 5:0.

Councilmember Vinson brings up a sentence at the bottom of page five that said that the Mayor can shorten someone’s time for speaking; everyone has three minutes to talk unless they need an interpreter. He wonders if he is reading that correctly.

Mayor said that the sentence should be in the next paragraph about in cases of any abuse of behavior.

Councilmember White said he could see a way that it could give it power to the Mayor.

Councilmember Fowler said he thinks it would need to be done at the start of the meeting whether we have changed the time constraints because otherwise how will we pick and choose.

Mayor said it should not be like that but in case someone is swearing or something, the chair should be able to ask them to stop speaking or leave.

Councilmember Vinson said, to reduce confusion, that he moves to strike that sentence and in a future session, decide how to word it.

Councilmember Anderson clarifies that we are striking that sentence, but he doesn’t understand why.

Councilmember Vinson clarifies how it could become an issue or an abuse of power.

Mayor said that, according to state rules, it isn't even legal, and she thinks it should be in the next paragraph.

Councilmember Fowler said it should be moved down.

Mayor agrees and said there needs to be a tool besides just kicking a citizen out.

Councilmember Jaffe said it could be added to the last sentence on the page, and suggests adding something like, "including the time limit." He said we need a way of maintaining control.

Councilmember Anderson asked where to move it.

Councilmember Jaffe clarifies where he thinks we should move it to, and that we need to add the extra wording that the Mayor would have the ability to cut off.

Councilmember Jaffe makes a motion to move that "the Mayor or presiding officer may, at his or her discretion, shorten the time for speaking" to somehow word that to say something like she can do that to "maintain control of a meeting."

Councilmember Jaffe makes a motion to strike the sentence from the third paragraph on the bottom of page five and to move that sentence to right after the last sentence "fair and impartial conduct" so it would begin after the word "business." **Councilmember White** seconded. Passed 5:0.

Councilmember Vinson comments on the next sentence about not allowing electronic devices and said he thinks we should mute them but what if somebody needed to give a presentation or something; the rule is too blanket of a statement.

Councilmember Jaffe said it is intended to cover things being disruptive and suggests we add a word to denote that it's about disruptive items.

Councilmember Jaffe motioned to add the word "disruptive" "before electronic audible devices" to the top of page six to the first sentence. **Councilmember Vinson** seconded. Passed 5:0.

Mayor asked if we have a motion to pass all the amendments just made. **Councilmember Anderson** makes a motion to pass. **Councilmember Vinson** seconded. Passed 5:0.

- 3) Discuss and consider employment agreement with Karoline Chapman for Town Secretary.

Mayor said that Emily made a straightforward employment agreement. She said the budget approved 15 hours in a week for 52 weeks, which could equal up to 75 hours in a month. The work done may vary from week to week.

Councilmember Vinson said they talked about it being an independent contractor position and he doesn't see that worded, and it also doesn't discuss tax withholding and vacation; there is no basis for balance.

Councilmember Jaffe said that it said they shall be paid net of any withholding deductions.

Mayor said we need to look at that sentence because it is a basic 1099 contract position.

Councilmember Jaffe clarifies if we should word it as "contract labor." Because right now, it said she shall be paid net of any withholding or deductions, but we won't be withholding.

Councilmember Fowler said gross would include all of those withholdings.

Councilmember Jaffe said if they 1099 the secretary, the secretary would be responsible.

Councilmember Fowler said the net wording is different.

Councilmember Jaffe said there is no net if we are not withholding.

Mayor said there should be a period after the word month and it should say that the secretary will be contract labor. Under section 3.1, salary, the town shall provide the secretary to provide her 15 payments and she shall be contract labor.

Councilmember Jaffe makes a motion to use that wording.

Councilmember Vinson seconded that we strike the last section and add "they shall be paid as contract labor."

Councilmember Vinson said we should change it to "position shall be paid."

Councilmember Jaffe amends the original motion so that it said "the position shall be paid as contract labor." **Councilmember Vinson** seconded. 4:0:1

Councilmember Anderson said on 2.2, it doesn't leave room for if the secretary is sick or something, it makes no allowances and said she must be at every meeting but that is unreasonable.

Mayor said it may say that somewhere else.

Councilmember Anderson motioned to amend it to say, “the secretary shall attend all meetings, both public and closed, unless prohibited by illness, quarantine, or injury, or excused by the Mayor for personal reasons.”

Councilmember Vinson said what if we just say “unless duly excused by Mayor” so it leaves room for a variety of things.

Councilmember Anderson motioned to put “or excused by the Mayor for personal reasons.” **Councilmember Jaffe** said it doesn’t need to say “personal reasons.” **Councilmember Vinson** motioned to put “the “unless duly excused by Mayor” at the end of the sentence. **Councilmember Jaffe** seconded. Passed 5:0

Councilmember Anderson said on page one, it said that we should add “for cause or convenience,” concerning termination, and we should put both so that we don’t leave the argument open.

Councilmember Fowler said we don’t have to have a cause.

Councilmember Anderson makes a motion to add “cause or convenience” to the end of term 1.1 **Councilmember Vinson** seconded. Passed 5:0

Councilmember Vinson sees “exhibit a” on section 2.1 but said he sees no exhibit a.

Mayor clarifies that that’s the original job description.

Councilmember White said, under compensation, in section 3.1, that we should go bi-weekly instead of monthly unless it causes too much trouble.

Mayor said that, when she worked for the hospital, it was monthly but she doesn’t mind changing.

Councilmember Fowler said fire departments are also bi-weekly.

Councilmember White motioned to change in 3.1 “by the end of the first week of each month” to “hourly rate shall be paid to the secretary bi-weekly.”

Councilmember Vinson asked what day of the week to do payroll.

Mayor said with contract labor that you typically don’t do that because that makes you more rigid.

Councilmember Vinson said he worked a lot of contract labor, and he thinks it would help the council to establish a cadence so that they know when they need to be getting it out.

Mayor asked if we should change it to Fridays bi-weekly.

Councilmember White motioned to change it to “Fridays bi-weekly.” **Councilmember Fowler** seconded. Passed 5:0.

Councilmember White said on 2.5 when discussing monthly cap, he doesn’t know why we would wait a full year and not make it so that it can be amended as long as all parties agree.

Councilmember Jaffe suggests we change to “may be amended at any time upon mutual agreement.”

Councilmember Vinson said he likes the year because it’s like a check, then we should move it to “no more than 75 hours per month or as amended.”

Mayor said we should consider that we can’t go over budget.

Councilmember Vinson said we only have so much budget and we would have to increase to amend so he said we keep it.

Councilmember White said they probably won’t have to concern themselves with this but he said it would allow them to change if they needed more work done.

Mayor suggests that they get volunteers in that case so that they can stay in budget.

Councilmember White said what if they don’t work as many hours as budgeted and the council wanted to reallocate the budget to later in the year.

Councilmember Vinson said they keep it because it won’t matter, hopefully.

Councilmember Jaffe said that we should keep it the same because we need to be true to the budget.

Mayor said that they should strike the part about 75 hours. She said they should change to 780 hours per year so that they can work however they want if needed.

Councilmember Vinson said flexibility in government is where a lot of things go wrong. He wants some things to be enforceable that are understandable each month. He said we can bump it up but that he would like it to be definitive.

Mayor said there may be a better way to put it.

Councilmember White said we put some kind of cap.

Mayor agrees we should make it more flexible than it is written somehow.

Councilmember Anderson said that if we put per year that it's fine just the way it is. He said this will be a template going forward and we should keep it straightforward.

Councilmember Jaffe made the motion to accept the employment agreement as amended. **Councilmember White** seconded. Passed 5:0.

4) Discuss and consider a template franchise agreement for solid waste vendors servicing Poetry.

Councilmember Vinson said after the last meeting, he gave the council four pages of notes. In section 3.3, where they discuss the registration fee, he asked how they enforce that.

Councilmember Fowler asked how we enforce any of it.

Mayor said like every other town.

Councilmember Vinson said we have no police officers.

Mayor said she discussed it with the lawyer via email.

Councilmember Vinson said that if it is still part of discussion that he won't belabor the point.

Mayor said we may have to have something official so that it could be easily determined.

Councilmember Vinson comments on page three, section seven, and said that the collector makes a request to renew and that the town can give a notice of 45 days that we will not renew, and when the annual fee is due, that it's a 20 days' notice and asked when it ends if they haven't renewed on the specified date. He said they add that they have a registration fee and we have no note of when that is payable and it said that we have 120 days to renew.

Councilmember Fowler asked if it is a one-time vendor registration fee.

Mayor said it lasts for one year.

Councilmember Fowler said it can be renewed one time.

Councilmember Vinson said we don't have a timeline.

Mayor said we should put some dates and times to the agreement because it could be confusing otherwise. She said we have a proposed amendment on section 11 that said that would be the case for this quarter. People may vary, but they shouldn't be charged for November, but that would be with the probation of it being off of October.

Councilmember Vinson said that's the franchise payments.

Mayor said in order to sign the contract, we have to pay the \$100 fee with the contract.

Councilmember Vinson said that in section 3, it said they would have 12 calendar months but 365 calendar days to renew if they choose to do so. But we also have notice that if they don't plan to renew, that's 60 days according to section 7 and 120 days according to section 20, and the town has 45 days before the end of the term to cancel. There is confusion there. It's confusing as to whether we need to communicate about fees and whatnot.

Councilmember Fowler said if we put something in there about the end of the 3rd quarter deciding if we want to continue or move forward that would give us 120 days per quarter to be notified, they would have the burden to tell their customers that they will no longer provide trash service.

Mayor said that these are two different things. She said that it's 60 days prior to expiration of initial terms and **Councilmember Fowler** is talking about the 120 days, which concerns termination. We would have 30 days to give them a reason for that and the collector can terminate, but not less than 120 days. Renewal is from the contract date; it would be 60 days prior to the expiration date.

Councilmember Vinson said that under section 20 it said not less than 120 days so they can terminate, and in section 7, it said 60 days, so that's the confusion.

Mayor said that's not about termination, it's about nonrenewal.

Councilmember Vinson asked for the difference.

Mayor said termination is a grievance against them and the other is for renewing the contract, and the 30 days is for if we have a problem.

Councilmember Vinson clarifies the difference between lack of renewal and termination.

Mayor said they are used in different terms; she said that is to protect our citizens.

Councilmember Fowler said what if we amend section c to say that they can terminate their contract to 60 days.

Councilmember Vinson said what if they haven't let us know that they are terminating and they haven't renewed and they just don't show up then he doesn't understand why we have contract language that we think it is protecting us for terms and conditions we can't enforce.

Councilmember Fowler said this is to protect them and not us because it's about our rights to conduct our business.

Councilmember Vinson said yes this allows them to do business in Poetry and it's for their benefit and ours. He said yes, it is for their benefit, but we have some items stuffed in here that are not enforceable and don't functionally make a difference in how the relationship will work and that we should change it.

Mayor said what if we changed it to switch c to say, "60 days" so that it matches."

Councilmember Vinson said yes it would reduce the confusion, but it doesn't eliminate the point that there are no teeth.

Councilmember White said that the lawyer said that there is something we aren't totally clear on and asked **Councilmember Vinson** if he wants something to enforce it.

Councilmember Vinson said the lawyer may come back with relevant information for them. He said it's good if there is a way to enforce this but if it doesn't serve a practical purpose then it should be stricken.

Mayor said these vendors are well-beloved.

Councilmember Vinson said the vendors will do what's necessary so if =we are going to have a contract that we shouldn't back off of language. He doesn't understand why we have non-enforceable language and what difference does it make.

Mayor asked if there is a motion to address this under section 20 under termination item c to change 120 to 60. **Councilmember Vinson** made the motion. **Councilmember Fowler** seconded. Passed 5:0.

Councilmember Fowler said that on section seven that it allows some forecasting if the vendor said they don't want to renew their contract. He sees the benefit and likes it for forecasting.

Councilmember Vinson said section 12 under spillage the phrase about "the town requiring the customer to increase frequency of collection" his comment is that we are not going to tell the collectors that they have to increase frequency.

Councilmember Fowler said one of the townspeople addressed that this would be a solid waste ordinance and not a franchise fee.

Councilmember Vinson wondered if we should even have this in a franchise agreement.

Mayor said what if it said "vendor may then ask of them."

Councilmember Vinson said it's an issue with the customer's behavior, not the collector, and therefore, we shouldn't put it on the collector.

Councilmember Jaffe said he wants to leave it vague on purpose. He said that he reads this as giving the vendor a little bit of backup.

Councilmember Fowler said it requires that the town "shall."

Mayor said we should switch it to "may." She doesn't like the frequency and finds it unnecessary.

Councilmember Vinson said he would be more comfortable with it saying "town authorizes the collector to issue the customer a larger container" or something like that that would give them the key to do what we are asking them to do.

Councilmember Fowler said additional container.

Mayor said or more frequently.

Councilmember Vinson calls on expert to ask if they would be willing to give second containers.

Experts said that they do that anyway.

Councilmember Fowler asked what they do if the customer doesn't request a second container.

Expert said they eventually stop picking up their trash.

Mayor said it would be "should excess resident or municipal waste continue to be placed outside the container, the town authorized to issue an additional container if it deemed necessary."

Councilmember Jaffe makes a motion to amend section 12 to the wording that she just read. **Councilmember Vinson** seconded to revise section 12 of spillage to backup our vendors. Passed. 5:0.

Councilmember Fowler asked about section 17 and said he reached out to multiple vendors about environmental impairment and got two vendors to answer back. One vendor's underwriter said they don't know what that is, another thought it was about hazardous and toxic, and he said we already have something for that, so we don't need to add this. That was about the dead animals and all that.

Mayor clarifies that it seems frivolous.

Councilmember Fowler makes a motion to strike that section. **Councilmember White** seconded. **Councilmember Jaffe** clarifies if it's in the ordinance. **Councilmember Fowler** said the whole section is in the ordinance. Passed 5:0.

Councilmember White has a question about payment and said it looks like it is set up to work with quarterly payments.

Mayor said it would be good to give them time to figure stuff out and the payment would be submitted quarterly and the franchise fee would be every quarter and that would help even it out.

Councilmember White said it would restrict people who are doing monthly that they are supposed to bill the customer.

Mayor said they can bill the customer however they want to but the fees that we receive are totally separate.

Councilmember Vinson asked if we are assuming that we are on a quarter in the rears.

Mayor said according to the ordinance, it's 40 days after the start of each quarter. The quarter started on October 1.

Councilmember Vinson said we will have to prepay.

Mayor said that's the way it was written.

Councilmember Vinson said it's unreasonable, he thought it would be for the rears.

Mayor asked if we would rather say at the end of the quarter.

Councilmember Fowler asked if it can be 10 days after the quarter.

Councilmember Vinson said we could solve this by adding in "previous" according to the dates provided below.

Councilmember White said we should change the 40th to the 10th.

Councilmember Fowler agrees.

Councilmember White makes a motion to amend section 11 about the franchise fee payment to say that it shall be paid to the town on or before the 10th day after the beginning of the previous quarter for the amounts received by the collectors according to the previous quarter.

Mayor clarifies that January 10th would be the first payment for the fourth quarter.

Councilmember Vinson calls on expert who say that they like that.

Councilmember Fowler said what about the invoice?
Mayor said that's up to them.

Councilmember Fowler said we say we can't charge franchise fee on money not collected and that the next payment would be one month into quarter one.

Mayor said that it should be the 10th of the next quarter.

Councilmember Vinson said if they didn't get a monthly payment then they won't know that until after they've made the franchise fee so we are giving them the month to see if they got the payment.

Mayor asked the experts if that makes sense if it would make sense to wait 40 days.

Mayor asked another expert if they have an opinion and the citizen said if we haven't collected a payment we would still have to pay a fee for them.

Mayor said they don't have to pay on a bad debt.

Councilmember Fowler clarifies that we are only asking them to submit money they collected.

One of the experts said they invoice in the rears and that that is typical. It makes it more fair if you pay at the end.

Councilmember White makes a motion to amend section 11 about the franchise fee payment and change the first sentence to "franchise fee shall be paid on the 10th day at the beginning of every quarter for the performance of the services during the previous quarter according to the dates provided below" and scratching all the wrong quarters to the correct quarters which are January 10th, April 10th, July 10th, and October 10th.
Councilmember Jaffe seconded. Passed 5:0.

Councilmember Jaffe asked for a motion to approve the franchise agreement with all the amendments made tonight. **Councilmember Fowler** seconded. Passed 5:0.

General comments:

One expert asked if we can get a real detailed map because they have had a lot of customers. Mayor said that she has something.

Mayor adjourned at 7:56 pm.

Meeting notes submitted:

Minutes Approved 10/19/21

Karoline Chapman, City Secretary