

**MINUTES OF THE
OAK RIDGE CITY COUNCIL
SPECIAL MEETING**

March 27, 2015

The special meeting of the City Council of the City of Oak Ridge convened at 6:00 p.m. on March 27, 2015, in the Courtroom of the Municipal Building with Mayor Warren L. Gooch presiding.

At the request of the Mayor, Mayor Gooch led the Invocation and Councilmember Baughn led the Pledge of Allegiance to the Flag of the United States of America.

ROLL CALL

Upon roll call the following councilmembers were present: Councilmember Trina Baughn; Councilmember Rick Chinn, Jr.; Mayor Warren L. Gooch; Councilmember L. Charles Hensley; Councilmember Charles J. Hope, Jr.; Councilmember Kelly Callison; and Mayor Pro Tem Ellen D. Smith.

Also present were Mark S. Watson, City Manager; Kenneth R. Krushenski, City Attorney; Diana R. Stanley, City Clerk.

DISCUSSION AND CONSIDERATION

*To discuss & vote on the parameters of the investigation voted on in the Feb 9, 2015 [meeting]** regarding the resolution of the ORPD [Oak Ridge Police Department]** morale, turnover & admin [administrative]** policies & have the option to review and possibly select an investigator.*

First, Councilmember Baughn moved, seconded by Mayor Gooch to discuss and vote on the parameters of the investigation voted on in the February 9, 2015 meeting regarding the resolution of the Oak Ridge Police Department morale, turnover and administrative policies; and have the option to review and possibly select an investigator.

Councilmember Baughn moved, seconded by Councilmember Hope to require 100% participation from current Oak Ridge Police Department employees, including civilians, to spend a minimum of 10 minutes with the investigator.

Members of City Council discussed the reasoning for requiring 100% participation versus voluntary participation or a random sample.

The following residents expressed their support regarding the motion for requiring 100% participation for the purposes of impartiality:

Ms. Anne Garcia Garland, 120 Outer Drive
Dr. James Horton, 106 Carson Lane
Mr. Anthony Alan, 109 Bedford Lane
Ms. Myra Mansfield, 103 Hendrix Drive
Mr. Steve Buxton, 102 Valleta Lane
Ms. Christen Thomas, 182 Wade Lane
Mr. Gary Carver, 117 North Purdue Avenue

Ms. Myra Mansfield, 103 Hendrix Drive, inquired about which officers and/or employees would be excluded from participation with reviewer.

Mr. Percy Brewington, 1074 West Outer Drive, commented about following the reviewers' recommendations regarding participation.

Ms. Tracy Stout Powers, 103 Norton Road, inquired about the process for officers to be required to participate with the investigator.

Mr. Matt Bailey, 17 Riverside Drive, remarked about that retaliation remarks made during discussions of the motion were assumptions at this point of discussions.

Mr. Derric Hammond, 112 Tiffany Place, inquired about discussions regarding costs associated with the two options—voluntary or mandatory participation—from the Oak Ridge Police Department employees.

During receipt of citizen remarks, Councilmember Baughn clarified that the motion was for 100% participation with the reviewer, not a mandatory requirement for employees to provide remarks.

The motion to require 100% participation from current Oak Ridge Police Department employees, including civilians, to spend a minimum of 10 minutes with the investigator failed by board vote with Councilmembers Baughn, Chinn, and Hope voting “Aye,” and Councilmember Callison, Councilmember Hensley, Mayor Pro Tem Smith, and Mayor Gooch voting “Nay.”

Second, Councilmember Baughn moved to require the investigator to interview Oak Ridge Police Department departed employees from May 2011. The motion was seconded by Councilmember Chinn. Councilmember Baughn explained, following inquiries from City Council, that the May 2011 date was cited as it was the Chief of Police's hire date.

The motion failed by board vote with Councilmembers Baughn and Chinn voting “Aye,” and Councilmembers Callison, Hensley, Hope, Mayor Pro Tem Smith, and Mayor Gooch voting “Nay.”

Third, Councilmember Baughn moved to request that all interviewees be given the option to provide a vote of confidence for the Chief of Police and his Supervisory Staff under his command. The motion was seconded by Councilmember Chinn.

The motion failed by board vote with Councilmembers Baughn and Chinn voting “Aye,” and Councilmembers Callison, Hensley, Hope, Mayor Pro Tem Smith, and Mayor Gooch voting “Nay.”

Fourth, Councilmember Baughn moved to require investigators to look into the previous history of the Chief of Police to include any evidence of past behavior that indicate vindictiveness, irrational behavior, or anger outbursts to include time at his Drug Enforcement Administration employment, the Order of Protection issue, and anything else relevant to establish a history of said behaviors. The motion was seconded by Councilmember Chinn.

Mr. Len Hart, 201 West Southwood Lane, expressed his concern over highlighting negative business in Oak Ridge and the personal business of the Chief of Police.

Ms. Tracy Stout Powers, 103 Norton Road, commented that this motion seemed similar to a previous resolution that was turned down by the City Council.

Ms. Myra Mansfield, 103 Hendrix Drive, expressed her support for reviewing the past of the Chief of Police similar to that performed by Oak Ridge Police Department new hires.

Ms. Christen Thomas, 182 Wade Lane, commented that the review of the Oak Ridge Police Department was regarding a work environment concern.

Mr. Scotty Ward, 111 Trenton Drive, commented about the patrol of the Tennessee Highway Patrol to which the Mayor clarified that the comment was not related to the issue being discussed by the City Council.

Ms. Anne Garcia Garland, 120 Outer Drive, remarked that a person cannot be cleared without investigation.

Dr. James Horton, 106 Carson Lane, proposed that City Council establish a criteria before deciding specific proposal.

The motion to require investigators to look into the previous history of the Chief of Police to include any evidence of past behavior that indicate vindictiveness, irrational behavior, or anger outbursts to include time at his Drug Enforcement Administration employment, the Order of Protection Issue, and anything else relevant to establish a history of said behaviors failed by board vote with Councilmember Baughn voting "Aye," and Councilmembers Callison, Chinn, Hensley, Hope, Mayor Pro Tem Smith, and Mayor Gooch voting "Nay."

Fifth, Councilmember Baughn moved, seconded by Councilmember Hope to require that the scope of investigation include the specific allegations found in grievances and communications from former employees to the City and the City Council beginning in January 2015, including, but not limited to Mr. Bayless, Mr. Marlow, Mr. Nall, Mr. Myers, Mr. Carden, and Mr. Mansfield.

Mr. Matt Bailey, 17 Riverside Drive, commented that Mr. Bayless's grievance may not be factual and inquired as to the process of investigating said communications when referencing an anonymous e-mail that was sent.

Mr. Mike Mahathy, 113 Fallberry Street, commented on an e-mail drafted by the City Manager that indicated that in four years under former Chief of Police Beams and current Chief of Police Akagi, no complaints had been submitted to the Personnel Department.

Mr. Len Hart, 201 West Southwood Lane, commented that the review of the grievances did not need to occur.

Ms. Myra Mansfield, 103 Hendrix Drive, commented the merit in reviewing issues of past grievances.

Mr. Anthony Alan, 109 Bedford Lane, remarked about investigating past allegations as part of a resolution for the Oak Ridge Police Department.

The motion to require that the scope of investigation include the specific allegations found in grievances and communications from former employees to the City and the City Council beginning in January 2015, including, but not limited to Mr. Bayless, Mr. Marlow, Mr. Nall, Mr. Myers, Mr. Carden, and Mr. Mansfield failed by board vote with Councilmembers Baughn and Hope voting "Aye," and Councilmembers Callison, Chinn, Hensley, Mayor Pro Tem Smith, and Mayor Gooch voting "Nay."

Sixth, Councilmember Baughn moved, seconded by Councilmember Hope that the investigator selected must not have affiliation or ties to the Oak Ridge Police Department or the City of Oak Ridge.

Based on inquiries from City Council, Councilmember Baughn explained that that the association be independent as part of the investigation. Additionally, Councilmember Baughn commented that she located a reference of the Tennessee Municipal League (TML) on the Municipal Technical Advisory Service's (MTAS) website and her concern about an independent review given that the City is insured as part of the TML Risk Management Pool.

City Council continued discussions regarding the references of TML and MTAS.

Mr. Tom Beehan, 113 Liberty Court, former President of TML and former board member, indicated that there is no direct or legal relationship between TML and MTAS, and that TML has a separate insurance division.

Mr. Chuck Agle, 101 West Melbourne Avenue, described the creation of MTAS by the Tennessee General Assembly and the organization's advisory role for Tennessee cities and towns.

Mr. William Kane, President of Knox County Chapter of the Southern States Police Benevolent Association, 410 Sherwood Circle, Clinton, commented that Mr. Rex Barton, MTAS Police Management Consultant, ties to the Tennessee Chiefs of Police organization would be a conflict given its association to the Oak Ridge Police Department.

Mr. Matt Bailey, 17 Riverside Drive, explained that he had performed research on other potential investigators with the results pointing primarily to out of state reviewers, and expressed concern regarding cost and time of seeking other services than those that could be provided by MTAS.

Mr. Percy Brewington, 1074 West Outer Drive, remarked that the study should broad and lead to a positive future.

Ms. Anne Garcia Garland, 120 Outer Drive, commented that the process needed to be transparent for community acceptance.

The motion for the investigator selected not to have affiliation or ties to the Oak Ridge Police Department or the City of Oak Ridge failed by board vote with Councilmembers Baughn, Callison, and Hope voting "Aye," and Councilmember Chinn, Councilmember Hensley, Mayor Pro Tem Smith, and Mayor Gooch voting "Nay."

Seventh, Councilmember Baughn moved to submit a selection of specific policies titled "Policies and Procedures to be reviewed for ORPD (Leadership) Compliance," as distributed by Councilmember Baughn during the March 27, 2015 meeting, to the investigator for inclusion in the investigation. The motion was seconded by Mayor Gooch for purposes of discussion and clarification. Councilmember Baughn explained that the selection of policies was not to limit other policy reviews, but rather to include the selection.

Mayor Pro Tem Smith moved to amend the motion, seconded by Councilmember Callison to require that all Oak Ridge Police Department Administrative Policies and City of Oak Ridge policies regarding personnel be submitted to the investigator for consideration during the review of the Oak Ridge Police Department.

The amendment passed by board vote with Councilmembers Callison, Hensley, Hope, Mayor Pro Tem Smith, and Mayor Gooch voting "Aye," Councilmember Chinn voting "Nay," and Councilmember Baughn abstaining.

The motion, as amended, to submit a selection of specific policies titled "Policies and Procedures to be reviewed for ORPD (Leadership) Compliance," as distributed by Councilmember Baughn during the March 27, 2015 meeting, to the investigator for inclusion in the investigation, and to require that all Oak Ridge Police Department Administrative Policies and City of Oak Ridge policies regarding personnel be submitted to the investigator for consideration during the review of the Oak Ridge Police Department passed by board vote with Councilmembers Callison, Hensley, Hope, Mayor Pro Tem Smith, and Mayor Gooch voting "Aye," Councilmember Chinn voting "Nay," and Councilmember Baughn abstaining.

No further motions were introduced during this item.

RESOLUTION NO. 03-30-2015
A RESOLUTION ACCEPTING A PROPOSAL FROM THE MUNICIPAL TECHNICAL ADVISORY SERVICE FOR A REVIEW OF THE OAK RIDGE POLICE DEPARTMENT WITH A PARTICULAR FOCUS ON TURNOVER, MORALE AND ADMINISTRATIVE POLICIES.

Councilmember Smith moved, seconded by Councilmember Hensley that the resolution be adopted.

City Council discussed the merits of accepting the MTAS proposal and potentially others that were received by the Council. Additional, discussions occurred regarding the receipt of the MTAS proposal

through Councilmember Callison.

In regards to specific details regarding the MTAS Proposal, Mrs. Margaret Norris, MTAS Consultant, explained that Mr. Barton provided the proposal, but could not attend the meeting to provide specifics.

Mr. Chuck Agle, 101 West Melbourne Avenue, recited information from MTAS regarding their mission statement, services, and purpose noting their assistance to cities and counties, and commended their assistance provided regarding several past Charter amendments during his service on the last Charter Commission. Mr. Agle concluded with commenting about his support of their proposal.

Mr. William Kane, 410 Sherwood Circle, Clinton, presented concerns regarding Mr. Rex Barton's possible conflict of interest with his ties to the Tennessee Chiefs of Police organization and concerns regarding how the proposal was received.

The following residents expressed their support for the MTAS Proposal:

Ms. Tracy Stout Powers, 103 Norton Road
Mr. David Kitzmiller, 144 Wellington Circle
Mr. Matt Bailey, 17 Riverside Drive

Ms. Christen Thomas, 182 Wade Lane, expressed her concern over the MTAS proposal.

Ms. Myra Mansfield, 103 Hendrix Drive, expressed her concerns over the MTAS proposal and the manner in which the proposal was received.

Mr. Leonard Abbatiello, 110 Dover Lane, suggested the formation of a committee to review this procedure.

Mr. Anthony Allan, 109 Bedford Lane, commented that he supports an investigation as opposed to a review, and expressed a concern over the proposal from MTAS since a limited number of proposals were received.

The resolution, as presented, passed by board vote with Councilmembers Callison, Chinn, Hensley, Mayor Pro Tem Smith, and Mayor Gooch voting "Aye," Councilmember Baughn voting "Nay," and Councilmember Hope abstaining.

*Request for the agenda of the special meeting requested on [for]** March 27 to include selection of a reviewer to conduct the police review approved in February.*

This item was not considered based on the aforementioned action by City Council to accept Resolution No. 03-30-2015.

To discuss & possibly vote on the merits of placing the Chief of Police on administrative leave for the duration of the investigation.

Councilmember Baughn moved, seconded by Councilmember Hensley to discuss and possibly vote on the merits of placing the Chief of Police on administrative leave for the duration of the investigation; however, Councilmember Hensley withdrew his second to which Mayor Gooch seconded the motion to continue with discussions.

Mr. Chuck Agle, 101 West Melbourne Avenue, cited the Charter provision that grants the City Manager authority over personnel and remarked about Councilmember Baughn's removal on City Council for introduction of the motion.

Mr. Percy Brewington, 1074 West Outer Drive, expressed his opposition to the motion based on the

implications and commented that he is satisfied with the work that he has witnessed of the Police Department.

Ms. Hillary Williams Burgin, 675 Morganton Square Drive, Maryville, Tennessee 37801 Drive, Representative of Andrews & Burgin Law Office, representing the Chief of Police, expressed her perspective that the City Council does not have the authority to place the Chief of Police on administrative leave as outlined in the City Charter.

Ms. Myra Mansfield, 103 Hendrix Drive, commented in regards to city administration handling the administrative leave and remarked that Lieutenant Robin Smith could oversee the department in the Chief of Police's absence given his experience with the Tennessee Valley Authority (TVA) Police Department.

Ms. Emily Smith, 118 Underwood Road, remarked about her understanding that the TVA Police Department received fewer calls than the Oak Ridge Police Department.

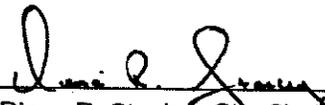
The City Attorney opined that the City Council can direct the City Manager regarding placing employees on administrative leave, but the City Council does not have authority to place the Chief of Police on administrative leave. The City Attorney explained that the motion is a recommendation of City Council. Councilmember Baughn clarified that the motion is not a directive for the City Council or the City Manager to place the Chief of Police on administrative leave; it is based on the merits.

The motion to vote on the merits of placing the Chief of Police on administrative leave for the duration of the investigation failed by board vote with Councilmembers Callison, Chinn, Hensley, Hope, Mayor Pro Tem Smith, and Mayor Gooch voting "Nay," and Councilmember Baughn voting "Aye."

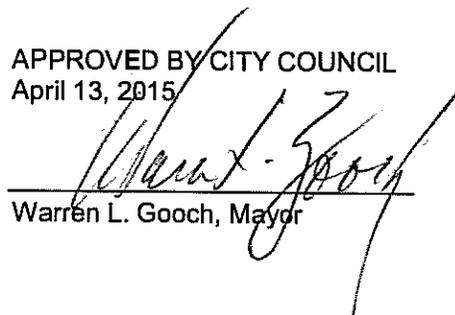
(** The added verbiage in brackets [] presented above as part of consideration of items was provided for clarification as provided by the City Clerk.)

ADJOURNMENT

The meeting adjourned at 8:35 p.m.


Diana R. Stanley, City Clerk

APPROVED BY CITY COUNCIL
April 13, 2015


Warren L. Gooch, Mayor