

Minutes
Special Called Meeting
Bluff City Board of Mayor and Aldermen
October 19, 2009

Mayor Malone called the meeting to order at 7:00 p.m.

Members present were Melvin Carrier, J C Gentry, Robert Miller, Mark Weaver and Irene Wells.

Also present: City Attorney Paul Frye and Police Chief David Nelson.

Prayer was given by Mayor Malone followed by the Pledge of Allegiance.

Mayor Malone stated that he had asked the Board to consider hiring a part time City Manager. Mayor Malone explained that when he ran for Mayor he had a second shift job and was able to come into City Hall during the day. Mayor Malone reported that he had changed careers in June and now has a first shift job. Mayor Malone stated that he had had two people inquire about the job, the City Recorder and Don Weaver. Mayor Malone opened the floor for discussion. Alderman Carrier stated that Judy Dulaney could do the job and still have the same salary as she has had experience at it for years. City Attorney Paul Frye advised the Mayor that the position needed to be advertised. Mayor Malone asked if it could not be an appointed position. Mr. Frye stated that yes it was an appointed position. Mayor Malone stated but we have to advertise it. Alderman Gentry said, even if it is an interim. Mayor Malone asked if you could hire an interim. Mr. Frye stated that part time or whatever they are hiring, they have to have the qualifications, what they are looking for and advertise it. Alderman Gentry said (unclear) you appoint an interim position. Mr. Frye said that if you are going to hire a person it would be whatever you want them, ten hours, twenty hours, forty hours or whatever you want the position to be. Mayor Malone said okay. Alderman Weaver said, so is that out stating the Charter and the Handbook. Alderman Weaver stated that he was under the assumption that there were two positions that was not that way and the City Manager was one of them and was that wrong. Mr. Frye stated that it would have to be advertised and the reason that you advertise the position, other than getting a bigger field, is to be in compliance with some of our bond covenants and our grant requirements showing that we do follow all the federal guidelines on hiring people. Alderman Carrier stated that he thought that the Mayor had asked them to have a workshop on it instead of a regular called meeting. Mayor Malone stated that the reason that he had asked for this type of meeting was if they had any action we could vote one way or the other, and he guessed they were going to have to, run this in the paper. Alderman Miller stated that he would prefer a workshop before the next meeting. Mr. Miller stated that this way some of the finer details such as salary and hours could have been worked out prior to simply showing up and voting on it. Mr. Miller stated that aside from the letter he had received from Ms. Dulaney, he had no idea the other field of candidates and had no idea that Mr. Weaver was pursuing the position. Mayor Malone stated that at this point, the reason that he called this Special Called Meeting was we are going to have to vote one way or the other to run this in the

paper, and if they do not want to run this in the paper then it is done and if they want to run it in the paper then someone is going to have to vote to do this. Mayor Malone stated that he felt, in his opinion, that this position needs a twenty hour a week person to run the city for it to be effective. Alderman Carrier made a motion to run it in the paper so it would be legal. Lacking a second, motion failed. Alderman Miller stated that he was not opposed to having a workshop on it for further discussion. Mayor Malone asked if he wanted to have a workshop on it. Mr. Miller stated sure. Mayor Malone asked when they wanted to have it. Mr. Miller stated whatever time suits everyone else as he is free most evenings. Mayor Malone stated, "Let's have it on Friday evening". Alderwoman Wells stated that she could not do it on Friday. Mayor Malone asked when she could do it. Mrs. Wells told the Mayor that she could do it on Thursday. Alderman Carrier stated that they could not hear her. Mrs. Wells stated that she could do it on Wednesday. Mayor Malone stated Wednesday or Thursday. Alderman Weaver stated that Wednesday would be better for him but he would do whatever. Mayor Malone set the meeting for Wednesday at 6:30.

Mayor Malone opened the floor for Discussion and Action on City Attorney which was asked by Alderman Weaver to be put on the Agenda.

Alderman Weaver stated that the reason that he had this brought up was that he had been asked by a couple of people, have we ever looked in to what we could find a city attorney, cost wise, and he has found someone and he was giving them his resume that has all the qualifications and could save the city a considerable amount of money. Alderman Miller asked how much was considerable. Mr. Weaver stated anywhere between five and nine thousand depending on what the city attorney today charges on litigations. Mr. Weaver stated definitely five and it could be as much as nine. Mr. Miller stated, based on litigations. Mr. Weaver stated yes. Mr. Weaver stated that he would accept the job for twenty five thousand (25,000), ten (10) percent, which is law for back taxes he gets, and any litigations would be brought before the board to be voted on, any extended litigations. Alderman Miller stated that his second question was why this was a special called item and not a part of a regular meeting and he understands that he wants to pursue looking at other candidates for City Attorney. Mr. Miller states "Frankly I think Paul Frye serves the city well. He is a long serving public servant and has been with us a long time and provides sound advice and I have never heard a complaint spoken to me, from this board based on his professionalism or the advice he has given to the city". Mr. Miller stated "I fail to understand what is time sensitive about the matter that would require us to have a special called meeting based on it, and it not be a regular Agenda item". Alderman Weaver stated "I really don't think it matters special called or not. The point is the savings, I think, says it all. Any time you can save five to nine thousand dollars (\$5,000 to \$9,000), to me that's a lot of money". Mayor Malone asked for any other discussion. City Attorney Paul Frye asked if he could inquire as to the figures that they have on the floor, did they say twenty five thousand dollars (\$25,000). Mr. Weaver said yes and his is right at thirty to thirty four if litigation is correct. Mr. Weaver said if it

is at twenty five and it is only thirty, that's (sentence ended) City Attorney Paul Frye stated "I would do it for twenty five, I would collect the taxes for ten percent (%10) and litigation, I would bring any litigation before the board. I would be willing to do that". Alderman Weaver stated "To me, we had somewhat had this prior back on figures, and I guess what I am trying to say is I think maybe it is time for a change". Alderman Miller said "Make that your first selling point if that's what it's going to be. Don't try to sell us on cost savings and when there is a match offered, flip your story". Alderman Weaver said "You can take it however, whether it be money savings, to me that's a big point". Alderman Miller said "I think Mr. Frye just addressed the money savings". Mr. Miller stated that this was never an issue at any budget meetings or workshops that he attended, and does not recall this being a point of contention for anyone. Mr. Weaver said that he was one of the ones that said that this was something that they overlooked when he brought it up at a meeting, and he would like to definitely (sentence ended) It absolutely had to be of some concern. Mr. Miller stated that he felt that it needed to be, because the budget was dependant on passing it. Mr. Miller stated that it had to be a line item in the budget and it would have required a budget amendment and of all the workshops that they had it was never brought up at all. Mr. Miller stated that it was brought up at the very last moment and by then it was beyond discussion. The point of the matter doesn't seem to be whether or not it is a money saving issue at this point it seems to be that you just want to change Paul Frye from this position, in which case I would have to say under what circumstance has he proven to be worth replacing, what has he done to warrant replacement for the simple matter of replacing him". Mr. Weaver said that one thing was the money saved. Mr. Miller stated that he offered tonight so the money savings is a mute point now. Mr. Weaver asked why he could not have done that when he first started. Mr. Miller stated that he did not think that we asked him. Due to laughter in the audience Mayor Malone called for order and said that they were discussing this and expected respect for the board and anymore and he would clear the room. Mr. Weaver stated that the charter says it's a position of the board and he is part of this board, was he not. Mr. Miller said that this was not the point of argument. Mr. Weaver stated "However you want to take it I am making a motion to do that and the board can vote on it how they wish". Mr. Miller said that he agreed with him but it would seem to make more sense to attempt to sway the votes of the board by actually presenting points of interest as to why he would need to be replaced suddenly and at a Special Called Meeting instead of at a regular agenda item and with no other prior notice. Mr. Miller stated that if cost savings were the issue, his contract would have been renegotiated over the numerous budget workshops held prior to, and if cost savings were the key issue, Mr. Frye obviously stated that he would not mind sitting back down at the table and renegotiating his salary. Mr. Weaver said I take you what you say is correct. Mr. Miller asked Mr. Frye how many years had he served this city. Mr. Frye stated over fourteen years. Alderman Carrier asked Mr. Frye if he said that he was willing to negotiate his salary to twenty five thousand (25,000). Mr. Frye said yes sir. Alderman Carrier made a motion to keep him as

is. Alderman Miller made a second. Vote went as follows: Melvin Carrier – yes, J C Gentry – no, Robert Miller- yes, Mark Weaver- no and Irene Wells – no.

Mayor Malone stated that we had a motion to leave him as is and the motion failed. Alderman Weaver said he makes a motion and Mayor Malone instructed him to wait a minute. Mayor Malone asked Mr. Frye if that had removed him as City Attorney right now. Mr. Frye said in affect yes. Mr. Frye stated “Is that what the intent, if that’s what the intent of the people who voted is”. Mayor Malone asked if that was the intent. Mr. Weaver stated that his intent was to remove and hire Shawn McDaniel. Mayor Malone asked Mrs. Wells if that was her intent. Mrs. Wells stated yes. Mayor Malone turned to Alderman Gentry and stated to remove. Mr. Gentry stated yes. Mayor Malone stated that we don’t have a City Attorney at this point and called for any other discussion. Aldermen Miller stated that he was very upset that the other two Aldermen present didn’t voice any opinion or pose any questions. Mr. Miller stated that he was bum-fuzzled as they sit there in silence and cast a vote with no discussion at all. Mr. Miller stated that it would seem to be a matter of some importance and that they might at least want to talk about it, especially in front of the people and he hated to point that out, but it is an eight hundred pound gorilla in the room. Mayor Malone asked if there was any other discussion. Mayor Malone stated that the city has to have an attorney; it is required, and called for a motion. Alderman Weaver made a motion to hire Shawn McDaniel for the figures that were stated twenty five thousand dollars (\$25,000) and he gets his ten percent (%10) by law and any lengthy litigation is brought before the board. Mr. Weaver stated that any paperwork or documents that Mr. Frye has, he has five (5) days to return it. Mayor Malone asked what the litigation per hour fee would be. Mr. Weaver asked if he was asking him. Mayor Malone stated yes sir. Mr. Weaver stated it’s not been decided. Mayor Malone said “You haven’t discussed that yet, Okay”. Mayor Malone called for a second. Alderman Gentry made a second. Mayor Malone called for discussion. Alderman Miller asked aside from Mr. Weaver, who else has spoken with Mr. McDaniel. Mayor Malone stated no one that he was aware of. Mr. Miller stated “We have a Motion and a Second to hire an attorney that no one knows or has spoken to other than I presume Mr. Weaver who single handedly negotiated this contract”. Mayor Malone stated that at this point we have to have a city attorney. Mr. Miller stated that he understood that, but that does not make voting for Mr. McDaniel the obvious point. Mayor Malone asked for other discussion. Alderman Carrier stated that he could not vote for someone that we don’t know how much he is going to charge for litigation fees. Alderman Miller stated that he did not know the first thing about Mr. McDaniel aside from the paper that was handed to him one hundred and twenty (120) seconds before the meeting began. Mr. Miller asked if he had any experience as a City Attorney as he did not see it on the resume. Alderman Weaver stated that he was definitely qualified. Mr. Carrier asked who told him he was. Mr. Weaver stated that he did some research for one thing, and he asked around. Mr. Carrier if he researched with him (Mr. McDaniel). Mr. Weaver stated no. Mr. Miller

stated “No need to shop around, he is giving us the best deal, he promises”. Mr. Weaver said correct. Alderman Carrier said that if that was the way it is he thinks that they need to shop around to see if they can find somebody cheaper than that. Alderman Miller stated that he would like to hear from Mr. Gentry, who seconded the motion to hire Mr. McDaniel, why he feels that he is the best replacement, if he would be so kind. Alderman Gentry said no. Mr. Miller said that he didn’t imagine that he would. Mr. Gentry stated that he did his own research. Mr. Miller said “Pardon me, How did you know that we were going to hire Mr. McDaniel, if you’ve done your own research. How did you” (sentence ended). Mr. Gentry stated that he heard from a citizen. Mr. Miller said that he didn’t hear that we were going to hire Mr. McDaniel and he would imagine that it would be common knowledge amongst citizens and he had not heard it. Mr. Miller stated “I think it is very interesting that private research and background has been conducted on someone who we had no idea was even going to be brought before the board as a matter of being hired”. Mayor Malone called for other discussion. Alderman Miller asked if there were any of his merits upon his research that he would like to comment on. Alderman Gentry and Alderman Weaver said (unclear) audience said they could not hear anything out here. Mayor Malone said that he said no. Mayor Malone called for any more discussion. Alderman Miller said that there had been very little discussion. With a motion and a second on the floor the vote went as follows: Melvin Carrier – no, J C Gentry – yes, Robert Miller – no, Mark Weaver – yes, Irene Wells – yes. Motion carried.

Mayor Malone reported that we were going to have a workshop this Wednesday, October 21, 2009 at 6:30 on the City Manager.

With no other business, Mayor Malone adjourned the meeting at 7:29 p.m.

Todd Malone, Mayor

Attest:

This 19th day of October, 2009

Sandy Harkleroad,
City Recorder/Pro-Temp