

MINUTES OF CITY COUNCIL MEETING: January 27, 2015

1. Call to order: Mayor Tommy Muska called the meeting to order at 6:00 PM.
2. Roll Call: Council members that were present – Jay Gerik, Cheryl Marak, Brian Muska, Al Vanek, Steve Vanek, and Mayor Tommy Muska.
3. Executive Session: Under the provisions of Government Code 551, the Council will meet in Executive Session to discuss:
  - 1.) *Executive Session:* A closed meeting will be held pursuant to *Section 551.074 of the Government Code (V.C.T.A.)* to discuss: consideration and action on appeal of personnel decision.
4. Discussion, consideration, action, if any, re: consideration and action on appeal of personnel decision.

Chief Hudson demoted Officer Barton from Lieutenant to patrol officer because he violated the department's policy against using city computer for personal Internet use. Barton appealed the demotion to the council and brought his attorney, Christopher Livingston of Dallas with him to the specially called meeting. Barton's attorney stated that his client would like to have the discussion about him held in public, not in executive session as planned.

Chief Hudson briefed the council on Barton's internet usage. One of Barton's duties was to update the police department's Facebook page. Hudson received numerous complaints from other officers stating that Barton was spending too much time on the city computer in the patrol office. Chief Hudson installed software on two computers within the patrol room to monitor activity on all of the police officers. Chief Hudson had binders of information with all of the websites that Barton had visited. Some were police related, and others were not. Chief Hudson had met with Lt. Barton on two occasions in December 2014. Hudson also had posted on the bulletin board in the patrol room to stay off city computers for personal use. Hudson also held two departmental meetings prior to him being demoted.

Barton's attorney Mr. Livingston told council members that they violated Barton's right to due process and that under the Texas Government Code 614.023 a police officer must receive a written signed complaint before disciplinary action can be taken. The complaint must be investigated and there must be evidence to prove the allegation of misconduct. Livingston stated that there was never a warning and that the actual demotion of Lt. Barton was illegal.

Alderman Cheryl Marak asked if there was a signed reprimand in Officer Barton's file. The answer was no. Marak also asked if a witness had signed it. Again the answer was no. Marak had a copy of the City of West employee handbook and went through the steps to be taken for disciplinary action.

Alderman Cheryl Marak made a motion to reinstate Barton back to his Lieutenant position. No one seconded the motion so it was killed with lack of second.

Alderman Jay Gerik asked Officer Barton if he used the city computer for personal use. Officer Barton indicated by his verbal response that he did use the city computer for personal use.

At one point during the meeting, Mayor Muska noted that the computer Barton used did have a virus. He asked how a computer gets a virus. Alderman Cheryl Marak replied when you connect to the internet.

Mayor asked to convene into executive session but Barton's attorney stated that it must be public.

Alderman Cheryl Marak made a motion to reinstate him to his Lt. Position and Steve Vanek seconded. All in favor, motion passed.

5. On a motion by Steve Vanek, seconded by Cheryl Marak the meeting adjourned at 7:51 p.m.

  
Shelly Nors, City Secretary

  
Tommy Muska, Mayor