

Arvada City Council Meeting Workshop, April 13, 2015

Notes taken by Susan Shirley

Councilmember Don Allard remained under the weather, bringing Council attendance to six: Mayor Marc Williams, Mayor Pro Tem Mark McGoff, and Councilmembers Bob Dyer, Bob Fifer, Jerry Marks, and John Marriott.

Citizen attendance at 6 p.m. was 9.

Tonight's workshop was to bring information to Councilmembers about Arvada's emergency management plans. City Attorney Chris Daly said that the idea behind the discussion is to prepare Councilmembers in advance, rather than in the midst of an emergency.

Arvada's Emergency Management Coordinator Jim Lancy and Deputy Emergency Management Director Bruce Holloman gave a presentation covering the various phases of a disaster or other emergency, from preparedness beforehand, to the final stages of recovery. For more information, see http://www.arvadarecords.org/councilpacket/current_week/02.A.%20Emergency%20Management.pdf

After 9/11, emergency preparedness has undergone a major overhaul. During that time, it was found that agencies had difficulty cooperating for a number of reasons, including not having the same terminology for personnel and equipment across the country. That has all changed, and with it the plans which were previously considered ample for disaster response.

By State law, every jurisdiction is required to have an emergency management plan in place. These plans would be activated with or without the Governor declaring the State's emergency plan. In June of 2007, Arvada's City Council adopted Arvada's emergency ordinance.

In the event of a disaster or emergency, the City Manager has plenary (absolute) authority to make decisions and to declare an emergency, and when. This authority lasts for seven days and extends to such things as curfews, closing streets, controlling distribution and sale of goods, and entering private property. After seven days, the City Council can extend the City Manager's authority for a longer time.

Once a disaster is declared, the City has immediate access to TABOR emergency funds and its own emergency funds. Depending on the severity of the emergency, the county, state, and/or federal agencies may also become involved to some degree. Some agencies are for support only, while others are task forces which are trained and equipped to take action on behalf of the City if necessary.

Councilmember John Marriott wondered why those who crafted Arvada's ordinance didn't give the authority to the Mayor, as the City's highest elected official. Daly said the State statute calls upon the Chief Executive Officer of each jurisdiction to have authority; Arvada has a City Manager form of government, which means that the City Manager is the Chief Executive Officer here.

Councilmember Bob Fifer asked about what would happen in the event the City Manager was handling an emergency in a way Council didn't agree with; what checks and balances are there to prevent or correct that situation? Daly said that when the ordinance was adopted, there was extended discussion along those lines. Within the seven days, Council could be giving some direction to the City Manager; and worst case, they could fire the City Manager and hire one who would do what Council wanted.

Otherwise, the City Manager has full authority and his or her orders have the force of law. For example, if there is looting, orders can be given to the police to enter private property without other permission.

Continuing the line of questioning, Fifer said, "Not to be a conspiracy theorist, but if the City Manager deems it appropriate, he has the authority to arrest City Council; that's a lot of authority over the City." Fifer asked about the Council's role in directing the City Manager. Daly said there can be telephone meetings, or they can meet in person either within or outside the city. Fifer asked if the City Manager is required to give updates to City Council. Daly said there is nothing specifically in the ordinance, but that it's implied; if the City Council gathers during that time, they can go from there.

Councilmember Dyer suggested that maybe there should be a sunset provision in the ordinance, so that it needs to be revisited from time to time. He went on to say that someone does need to call the shots in an emergency, and the last thing that person needs is to have seven people telling him what to do all at once. Dyer said such things as major tornadoes are unlikely here, but a realistic scenario might be a large-scale train derailment, especially involving tanker cars. He remembered that former City Manager Craig Kocian was deputy director in Oakland, California, during that city's 1989 earthquake. The City Manager was out of town, and Kocian was next in line. Dyer said it's good to have the plan defined ahead of time.

Deven said he would want to keep his job after the disaster, and so would any City Manager. He pointed out that, in times of emergency, resources need to get to the affected areas as quickly as possible, and things are happening "fast and furious," so there is no time to go to City Council for authority. He said he would not take the plenary authority lightly, and reminded Council of the many times he has contacted them late at night or early in the morning, saying that it's part of his job to keep City Council informed.

Fifer said he didn't mean his questions personally against Deven, but was wondering in general terms about checks and balances, for a time when Deven and Fifer no longer occupy their seats, but other people do--people unknown to us right now.

Lancy said he encourages the Council and Deven to have deeper conversations on these matters. He and Holloman then went over the various levels of involvement by county, state, and federal agencies, and talked about the floods here in 2013. They said the recovery from that flood is continuing, with about 18,000 people having been displaced, and about 8,000 residences affected.

Holloman said that usually it would be the City Manager who declares emergencies, and that can be done verbally, but later needs to go through the City Clerk. Also, part of the city or area can be declared a disaster area, with authorities making clear to the public that the rest of the area is fine. Declaring an emergency allows for state and county support, financial or otherwise. State-declared emergencies are for up to 30 days, with the option to extend that time if necessary. In large-scale

disasters, the Governor can request a Federal declaration, through the 1988 Stafford Act. Many different Federal programs are available, but only certain ones would be activated in each type of emergency.

Debris management is one expensive and complex problem in disasters. EPA laws and other environmental or health laws continue to apply throughout the time of the emergency. Holloman said cities need to prepare in advance a debris management plan, which will allow them later to collect reimbursement for a large portion of those costs.

With respect to public interaction by the City, Lancy stressed the importance of listening to people in the community, as well as carrying a positive message (e.g., we will get through this, we will be OK) and speaking with one, coordinated voice. Councilmember Jerry Marks asked what Council should do if social media is down. Lancy said the responders would have radios, or could even use runners to carry information; the important thing is to have the ability to solve problems as they happen. Holloman said also the State agencies can forward information if the internet is only down locally.

Marriott said that he'd still feel better if the Mayor had the authority, but that the State must have felt it was important for the CEO to have it instead. Mayor Marc Williams responded that he would much rather have "the pros" making the decisions.

Deven said, "Part of the reason for this discussion is for us all to understand the issues. If you said you wanted me to consult with you before declaring an emergency, unless I couldn't get ahold of you, I would do that." Fifer said he still had some reservations, for what happens after he and Deven are gone. He'd like to see something in writing.

Deputy City Manager was in charge of the City during the September, 2013 flood. City Manager Mark Deven was out of town at that time. Ray said his primary means of communication was email, and he at one point had about fifteen minutes to decide what to do about an imminent breach of the Croke Canal. A disaster was declared in order to go onto private property to prevent the breach. Ray said, "I thought that wise--otherwise the Canal would have failed."

Dyer said that Rule 1B of City Council meeting rules addresses declared emergencies. It says that if necessary, the posting requirements can be waived. The Mayor can call a meeting at any time, as can two or more Councilmembers. He went on to say that he had handled a situation when he was Mayor Pro Tem and the Mayor was away, as was the City Manager. He said what's often needed is for the City Manager to tell Councilmembers where to be. In the case of the 2013 flood, Dyer said he was all over--Simms, Ward, Indiana, at 67th Drive where the creek was on the verge of topping bridges. He believes some training would help with everyone understanding how to stay informed, what to do about press conferences, that type of thing.

Councilmember Mark McGoff said the important thing is for Councilmembers to await direction and questions from the City Manager, who he would hope is 100% occupied taking care of the disaster, not the Council. Mayor Williams said the first rule is stay out of the way, and let the pros work. Then, listen, be compassionate and positive. He said he would expect at appropriate times, staff would give Council information they can relay to the public. He quoted Craig Kocian, saying the first information is typically wrong: examples are Sheriff John Stone's initial remarks about Columbine, and the first news reports on 9/11. McGoff said the importance of listening to people in the community extends beyond empathy, but also gives the ability to review policies later once the emergency is over.

Councilmember Fifer said it might be very helpful to have a short course on these subjects for new councilmembers.

The Emergency Management portion concluded, there was a brief discussion about offering water conservation incentives to HOAs and large commercial users of water. These would be given to those who installed infrastructure to minimize the usage of water. Some Councilmembers felt that the water savings should be the incentive, or that once the water saving measures aged they might be replaced with regular equipment and the water usage would go back up. Others pointed out the need for very long-term conservation here, and that it might be a real bargain to do this now before it's a case of water just plain not being available at any price.

At 8:10, Council went back into Executive Session pursuant to legal instructions to negotiations, as well as the Arvada Center Cooperative Agreement.