

FINAL  
Regular Meeting

July 11, 2016

City Council met in Regular Session on Monday, July 11, 2016, at 7:01 PM. Acting President of Board of Aldermen Gary Heilbrun called meeting to order. Gary thanked Janet Stemm and Terry Ingram for work to balance court and city records. David Weaver gave benediction.

Roll call was taken. Present were Aldermen Gary Heilbrun, Barbara Welch, Chris Ellsworth and Roger Bone. Absent: Mayor Lisa Daugherty. Also present were City Attorney Mike Talley, David Weaver and 16 guests.

Agenda: Motion made by Roger Bone, seconded by Barbara Welch, to approve agenda as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Minutes: June 13 Regular Meeting: Open Session: City Attorney asked clarification be added to page one, in reference to documents being added as attachments by Mayor or Board members. It was possible to do, but would not be official City document. Also, on page 3, Road Project, to state Mike Atkinson with Allgeier Martin & Associates was responsible for change order information and City Attorney would draft ordinance based on information provided for Board's consideration. Further, Mike Atkinson informed Mike Talley change order information would not be available until August meeting. Motion made by Roger Bone, seconded by Chris Ellsworth, to approve clarified minutes. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

June 13 Regular Meeting: Closed Session: Minutes presented by City Clerk. Motion made by Roger Bone, seconded by Barbara Welch, to approve minutes as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Financial Report and Budget Summary: No report was presented.

Court: April and May Court Reports were presented. Board approved court reports and filed reports for audit. June Court Report was presented and approved at June meeting.

Police Report: Chief Kitch presented report. It had been determined new Ford, purchased January 2016, had not been titled. It had been sent to state but did not contain all necessary documents and was returned to City. City will face penalty for late filing. Copy of thank you note presented to Board was from two kids who brought police officers cookies to show appreciation. Round cookie said "You're Life Matters." Gesture was very much appreciated and enjoyed.

Appoint Superintendent of Sewage Works and/or Water Pollution Control: Mike Talley explained City Code, Chapter 715: Utilities, defined position. Absence of appointment Mayor would be responsible as part of day-to-day operations. Motion made by Barbara Welch, seconded by Chris Ellsworth, to appoint Gary Heilbrun as Superintendent. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill Summary: Three utilities invoices were not available prior to meeting (Mediacom, Sprint and US Cellular). Chris Ellsworth asked about Seagate Recovery of police data. Chief said company was able to retrieve most of department's data and only charged \$49. (Invoice paid by VISA). Chris also asked about KPM CPAs invoice for \$800 as to what it covered. David Weaver explained auditor met with him and City Clerk Terry Ingram to review some issues Terry had discovered and steps taken to correct errors. Auditor said detailed investigation concerning tax penalties, if part of next audit, City could avoid costly interim audit. Motion made by Barbara Welch, seconded by Roger Bone, to pay outstanding bills of \$13,637.19 plus Mediacom, Sprint and US Cellular when received for City; and Sewer outstanding bills of \$197.95 as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Gary Colson – Sewer Issue: Property on 13<sup>th</sup> was not installed to meet City requirements, mandatory rock was not under sewer line. Building Inspector Cris Gurubel had informed just 3 weeks ago that he could not connect to City line. He said he had passed rough-in inspection and did not understand why he was just being told at that point he could not connect. Cris Gurbel stated he was "ordered by Mayor to approve hookup to city sewer." Alderman Gary Heilbrun stated he was with Cris when Mayor Daugherty gave that order to Chris via phone while he stood at hook up site. Cris told Mayor Daugherty it did not meet code. Cris Grubel stated Mayor Daugherty ordered Cris to issue permit anyway.

He had obtained permit to install sewer lines on rental property, passed inspection and received permit from City. He had signed agreement over year ago, submitted it to City and asked to receive copy signed by Mayor, which he never received. Mayor had agreed to waive connection fee and reimburse him for expenses to make cut across Nola Drive, which he had received check #17482 for \$562.18, dated April 5, 2016.

He had signed agreement with effective date of April 23, 2015, with estimated time to complete project of 2 months. He had contracted with two different contractors but neither one showed up, so he installed line himself. He had previously installed sewer lines elsewhere in City and other communities. He failed to see any problem since he was responsible for his line on his property and any problems would be his problem. Mayor had agreed that City was only responsible for main sewer line, not any line on private property. He had obtained permit on April 28, 2016, and that he was ready to connect he was told he could not.

Mike Talley stated that agreement he referred to was submitted to Mayor as draft agreement over one year ago. That to be effective, it required Board approval and ordinance authorizing Mayor to sign agreement. Agreement also called for 2 attachments, neither of which were included with copy current City Clerk was able to locate. As part of City policy, plans (exhibit "B") would have to be reviewed and approved by City Engineer Allgeier Martin & Associates (AMA), prior to install of line and line would have to be installed to City requirements. According to letter from AMA (copy had been given to Mr. Colson), line was installed incorrectly and was "woefully inadequate" and should not be allowed to connect to City system. Line was too small, no rock was placed under sewer pipe, etc. Further, City had responsibility to protect its system and City of Joplin. AMA letter detailed inadequacies and gave 60 days to remedy. Mike Talley concluded by saying Mr. Colson had to meet City's requirements and make corrections outlined by AMA. Joplin was not involved yet, but because Joplin plants treated City sewer, it could become necessary to get Joplin involved. Mr. Colson said there was no need to get Joplin involved, he would make necessary corrections; but questioned how come it took so long for City to notify him of problems with line.

Sonny Garman – Sewer Billing: He was not present.

Old Business: Update on FEMA/SEMA: David Weaver updated Board on FEMA projects. David was scheduled to meet with David Burgan, Andy Papen, Sallie Hemingway and others in Jefferson City on Wednesday, July 13, 2016, to review P.4s per FEMA/SEMA's specific requirements so City could be reimbursed. He asked Board to reimburse him for his one night lodging. Board agreed to reimburse for lodging and food amounts supported with receipt.

Road Project: Asbill Construction took longer than expected. There were two more culverts to install before paving would begin in 3<sup>rd</sup> or 4<sup>th</sup> week of July and would take approximately 2 weeks to complete once asphaltting began. Allgeier Martin had estimated about \$90,000 to add Morgan Court, Fox Fire, Cresswell and Walnut Ridge; to also add University Circle and Vogel Drive cost would bring cost to \$145,000. Barbara Welch committed on Mayor's press release wherein Mayor had stated she planned to use funds to pave Morgan Court, Walnut Ridge, Cresswell Avenue, Fox Fire and Rex Avenue. Barbara pointed out David Weaver and Mike Atkinson had assessed roads and made recommendation to Board about adding roads to current project, which was up to Board to approve.

Chris Ellsworth informed Board Roger Sapp had resigned for Planning & Zoning Commission, effective immediately. Kathy Hudson was elected Vice-President and Tom Johnson's term was set and will expire in 2019.

Barbara Welch asked Roger Bone about Gary Colson check to reimburse him for street cut associated with his connection to sewer line across road. Roger said was usually presented with several checks to sign and had not reviewed check.

Bill to Amend & Rename Section 205.480 Animal Abuse & Neglect: Bill would also repeal Section 205.490. City Attorney Mike Talley said he was asked to draft bill based on Joplin Code. Except for adopting as needed to meet City's Code, it was verbatim. Board decided to place on August agenda for consideration.

Mike Talley said August meeting would have bill to repeal Ordinance 284 Proposition 1 for November ballot passed earlier as it was no longer needed. State already continued application and collection of sales tax on out-of-state purchase of specified items for another two years.

Aldermen Interaction: Barbara thanked Terry Ingram and Janet Stemm for their efforts to reconcile City and Court accounts.

Business License: Ambassador Stone had submitted new application to reflect change of ownership. Board had already approved business. Motion made by Roger Bone, seconded by Barbara Welch, to approve application. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Discussion about limiting Mayor's ability to approve expenditures was held. Board only knows about expenditures after-the-fact, when it is too late to deny expense. Roger Bone asked City Attorney Talley if that was normal to limit Mayor and grant Alderman greater purchasing authority. Mike Talley said it was up to Board to determine thresholds, state statute dictated how to handle purchases over \$3,000, which this change would not impact. Further, Mayor would still be able to authorize purchases in emergency situation.

If reference to agreement Mr. Colson had mentioned earlier, Mike said alleged agreement with Gary Colson was sent to Mayor as draft in email over one year ago. Email clearly stated agreement was draft only. Email also stated agreement, if approved by Board, required ordinance to authorize Mayor to sign agreement. None of that happened and copy of document on file only contained Mr. Colson's signature.

Barbara was also frustrated that only after Sunshine Law request for copy of document was draft copy produced. She wanted to know where Board needs to go from here. Did Board need to ask Mayor to resign? Barbara viewed this as serious matter and Mayor was not acting in best interest of City. City Code clearly outlined requirements for road cuts.

Gary Heilbrun and Building Inspector Cris Gurubel had been told by Gary Colson about contract, that Mayor Daugherty had waived connection fee and agreed to reimburse him

for cost to cut street. Mr. Colson said Mayor also told him he would not need to make street repair. Road would be fixed when street was paved.

Mike Talley said matter might be headed for litigation. Original email with draft agreement was sent April 17, 2015. Mr. Colson signed and delivered signed copy of draft agreement to City on April 23, 2015, and estimated time to complete project was 2 months. Current City Clerk found document unfiled in City offices. Gary Heilbrun pointed out check was written day April election.

Public Comment: Jane Baine, 4250 E 13<sup>th</sup>, said Colson's property on 13<sup>th</sup> Street had sewer issues for years, which Board could verify with previous elected officials, ex-Mayor Denny White and ex-Alderman Dale Daniels. Contract was maybe not in City's best interest because she and everyone else had to pay for inspection and connection if not done in timely manner.

Rick Gamboa, 4008 E 20<sup>th</sup>, had several questions about last month's meeting. He asked about status of request for additional lighting on Fox Fire Court. David Weaver said he had reviewed lighting on Fox Fire and found current lighting was fairly representative with other streets. Therefore, no additional lighting would be installed. Mr. Gamboa asked about status of Gary Jackson sewer billing problem. Building Inspector had verified no utilities were installed to ancillary building. City Clerk will notify Joplin of findings and request bill be waived with no future billing. Mr. Gamboa also asked if City Attorney had reviewed drug letter. Mr. Talley said he had and had recommended revision be made to letter and reissued to be compliant with City policy. He expressed dissatisfaction with Mayor Daugherty's actions and disregard of City policy, specifically paying vacation pay to two former employees who quit without notice and such payment of vacation time was contrary to City policy; and not approved by Board members. Her purchase of large screen TV that was never used and waiving connection fee for certain people.

Bill Sherman, 825 S Duquesne asked for clarification on road project. Culvert installation would be completed prior to paving and project should be completed in next three to four weeks.

New Business: Gary Heilbrun said City Clerk had showed him paystub for Chief Kitch that indicated intent to pay him for 112 hours of unused vacation time accrued from 2015 but because no rate was entered, no money was paid. Due to shortage of officers, Chief was unable to use very much of his earned vacation time in 2015. Barbara said it was earned and needed to be paid with 40 hours carried over to 2016. Motion made by Barbara Welch, seconded by Chris Ellsworth, to pay Chief Kitch 112 of vacation pay. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-14 Add Title VIX. Public Information Officer: Sections 115.350 & 115.360: Motion made by Chris Ellsworth, seconded by Barbara Welch, to read Bill 16-14 by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-14 was read by title only. Attorney Talley stated Aldermen Heilbrun and Welch has asked him to draft ordinance. Motion made by Chris Ellsworth, seconded by Barbara Welch, to accept first reading of Bill 16-14 and move to second and final reading by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-14 was read second and final time by title only. Motion made by Barbara Welch, seconded by Chris Ellsworth, to approve second and final reading of Bill 16-14 and adopt as Ordinance 289. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried. Board proceeded to appoint Public Information Officer. Barbara Welch made recommendation and motion to appoint David Weaver to position. Motion was seconded by Chris Ellsworth. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-15 Amend and Rename Section 720.050 Billing & Collection Procedures: Motion made by Roger Bone, seconded by Chris Ellsworth, to read Bill 16-15 by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-15 was read by title only. Attorney Talley said proposed ordinance mirrored Joplin's procedures and, since City used Joplin for billing, it made sense to mirror Joplin; and City's current section was outdated as it referred to Missouri-American Water. He added, reference to landowners and tenants being jointly responsible for 90 days for unpaid bill was state statute whether City had it as part of its Code Book or not. Barbara said she had been actively working with Leslie Haase, Joplin Financial Director, to obtain list of delinquent customers, most of whom were on private wells. Therefore, Missouri American Water Company would not be able to provide any billing information.

Joplin has no way to know if account name is landowner or renter. She recommended landowners notify Joplin that property was rental property and get on as second contact for billing issues. Once Barbara has completed address verifications, Leslie will be able to print out invoices City requested. Chris asked Mike about next step. Mike replied to go to court as batch of delinquent accounts, but he would want to coordinate with Joplin since majority of delinquent amount was Joplin's money. Motion made by Roger Bone, seconded by Barbara Welch, to accept first reading of Bill 16-15 and move to second and final reading by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-15 was read second and final time by title only. Motion made by Roger Bone, seconded by Chris Ellsworth, to approve second and final reading of Bill 16-15 and adopt

as Ordinance 290. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Resolution 16-06 Limit Mayor's Authority to Approve Expenditures to \$250: City Attorney Talley stated Aldermen Heilbrun and Welch had asked him to draft ordinance. Roger Bone asked if this was normal. Mike said it was unique to Duquesne and not required by state statute. Requirement for outside bidding for amounts estimated greater than \$3,000 was based on state statute. Proposed resolution did not change that or remove Mayor's authority to approve emergency purchases. Roger asked what advantage was there in approving resolution. It would prevent checks being written without Board knowledge until after it was done, like Gary Colson's reimbursement for street cut and vacation checks issued to employees who left without 2-week notice. Motion made by Chris Ellsworth, seconded by Barbara Welch, to approve resolution. Ayes: Aldermen Heilbrun, Welch, Ellsworth. Nays: Alderman Bone. Motion carried.

Consider Vote to Go into Closed Session (pursuant to 310.021.3 personnel matters): Motion made by Roger Bone, seconded by Barbara Welch, to go into closed session for personnel matters. Roll call was taken. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried. At 10:05 PM, Council entered closed session with City Attorney Mike Talley, David Weaver (head of HR), Police Chief Kitch and City Clerk.

At 10:25 PM, Council returned to open session. President of Board of Aldermen Heilbrun stated no vote was taken during closed session. Board discussed personnel issues. Terry Ingram had submitted her resignation as City Clerk and her last day was scheduled for July 25. Mike Talley said Board discussed proceeding with hiring replacement, which needed to be done as soon as possible. Motion made by Roger Bone, seconded by Chris Ellsworth, to hire Brandi Miller at \$16 per hour as City Clerk, subject to background and credit checks. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Motion made by Barbara Welch, seconded by Chris Ellsworth, to give Terry Ingram \$2 per hour raise for balance of her time. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Other Business: none

As there was no further business, motion made by Roger Bone, seconded by Barbara Welch, to adjourn. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried. At 10:40 PM, meeting adjourned.