

FINAL  
Regular Meeting

September 12, 2016

City Council met in Regular Session on Monday, September 12, 2016, at 7:00 PM. Mayor Lisa Daugherty called meeting to order and gave invocation.

Roll call was taken. Present were Aldermen Gary Heilbrun, Barbara Welch, Chris Ellsworth, Roger Bone and Mayor Lisa Daugherty. Also present were City Attorney Mike Talley, David Weaver and 17 guests.

**Agenda:** City Attorney Mike Talley requested bills be moved to after bill summary as per City code. Bill 16-34 was added to the agenda. Gary Heilbrun requested to remove the closed sessions from the agenda. He also requested to remove Wrobleskie and Johnson Court discussions from New Business. Motion made by Barbara Welch, seconded by Gary Heilbrun, to approve agenda as modified. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

**Public Hearings:**

- Public Hearing 1 opened at 7:08pm
  - Rezoning of 3737 E. 20<sup>th</sup> St. from C-1 Commercial to C-2 Retail Commercial

Public comments:

None.

Alderman Ellsworth reported that the Planning and Zoning Commission voted to recommend the rezoning.

1<sup>st</sup> Public Hearing Closed at 7:11pm

- Public Hearing 2 opened at 7:11pm
  - Rezoning of 3801 E. 20<sup>th</sup> from R-1 Residential to C-2 Retail Commercial.

Public comments:

None.

Alderman Ellsworth reported that the Planning and Zoning Commission voted to recommend the rezoning.

2<sup>nd</sup> Public Hearing Closed at 7:12pm

**Minutes:** July 11 Regular Meeting: Motion made by Gary Heilbrun, seconded by Chris Ellsworth, to approve minutes as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth. Nays: Bone. Motion carried.

Mayor Daugherty wanted to state for the record that Roger Bone was not allowed to review video from meeting before the vote. She additionally wanted the record to state that Cris Gurubel stated he did not make the statement in the minutes at the last meeting.

She additionally stated that these minutes are from a meeting that she was not in attendance. Motion made by Barbara Welch, seconded by Gary Heilbrun to move to next item on the agenda. Ayes: Aldermen Heilbrun, Welch, Ellsworth, and Bone. Nays: None. Motion carried.

August 8 Regular Meeting: Closed Session: Minutes presented by David Weaver. Motion made by Barbara Welch, seconded by Gary Heilbrun, to approve minutes as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

August 8 Regular Meeting: Mayor Lisa Daugherty wanted to state for the record the contradiction in the 4<sup>th</sup> paragraph of page 1 on the July 11<sup>th</sup> minutes. Motion made by Barbara Welch, seconded by Gary Heilbrun, to approve minutes as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

August 18 Special Meeting: Open Session: Motion made by Barbara Welch, seconded by Gary Heilbrun, to approve minutes as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: None. Motion carried.

September 2 Special Meeting: Open Session: Motion made by Barbara Welch, seconded by Gary Heilbrun, to approve minutes as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth. Nays: None. Alderman Bone abstained from voting because he was not present at the meeting. Motion carried.

**Financial Report and Budget Summary:** David Weaver requested a copy of the current Balance Sheet. City Clerk Brandi Miller agreed to provide the report. Board approved reports and filed for audit.

**Court:** August Court Report was presented. Board approved report and filed for audit.

**Police Report:** Chief Kitch presented report. Board authorized Chief Kitch to purchase ammo of \$700.00. Mayor Lisa Daugherty asked for reports in advance of council meeting. Chris Ellsworth asked about Heun showing up on car wash invoices, Chief Kitch stated it is the vehicle. He stated he can get it changed. Mayor Daugherty asked Chief Kitch about a previous employee. She wanted to know if everything had been returned by the officer. Additionally she questioned about rehiring individuals who previously failed the physical test. Chief Kitch and council agreed that if a person fails the test can always reapply, but does not guarantee they will be hired.

**Bill Summary:** Gary Heilbrun questioned some notes written on the BCBS Anthem invoice. He wanted to know if there was anything the board needed to act on. City Clerk Brandi Miller advised that there is a letter to be addressed during New Business requesting an additional two months premium be credited to the City. Motion made by

Chris Ellsworth, seconded by Barbara Welch, to pay bills as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-31 Proposal for Codification Services between the City and General Code, LLC: Motion made by Barbara Welch, seconded by Chris Ellsworth, to read Bill 16-31 by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-31 was read by title only. Motion made by Barbara Welch, seconded by Gary Heilbrun, to accept first reading of Bill 16-31 and move to second and final reading by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-31 was read second and final time by title only. City Attorney Mike Talley advised that \$12,500 is the estimated cost and is not firm. David Weaver also stated the project will take a year and a half, so cost will be divided between two budget years. Motion made by Barbara Welch, seconded by Gary Heilbrun, to approve second and final reading of Bill 16-31 and adopt as Ordinance 306. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-32 Amending Zoning District Map to Rezone 3737 E. 20<sup>th</sup> Street from C-1 to C-2: Motion made by Barbara Welch, seconded by Roger Bone, to read Bill 16-32 by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-32 was read by title only. Motion made by Barbara Welch, seconded by Roger Bone, to accept first reading of Bill 16-32 and move to second and final reading by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-32 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 16-32 and adopt as Ordinance 307. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-33 Amending Zoning District Map to Rezone 3801 E. 20<sup>th</sup> Street from R-1 to C-2: Motion made by Barbara Welch, seconded by Roger Bone, to read Bill 16-33 by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-33 was read by title only. Motion made by Barbara Welch, seconded by Gary Heilbrun, to accept first reading of Bill 16-33 and move to second and final reading by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-33 was read second and final time by title only. Motion made by Barbara Welch, seconded by Gary Heilbrun, to approve second and final reading of Bill 16-33 and adopt as Ordinance 308. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-34 Amending Title I Governmental Code: Chapter 110: Mayor and Board of Aldermen, Article I. Mayor and Board of Aldermen – Generally, Section 110.105: Annual Audit: Motion made by Barbara Welch, seconded by Gary Heilbrun, to read Bill 16-34 by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-34 was read by title only. Motion made by Barbara Welch, seconded by Chris Ellsworth, to accept first reading of Bill 16-34 and move to second and final reading by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-34 was read second and final time by title only. Motion made by Barbara Welch, seconded by Roger Bone, to approve second and final reading of Bill 16-34 and adopt as Ordinance 309. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

**Old Business:** Update on FEMA/SEMA: Will discuss during new business.

Road Project: David Weaver stated work would continue on to Duquesne Road this week. Petromat will be laid on Wednesday and should not be driven on for at least 30 minutes. Wrobleskie is not in city limits. We could not get the easements. There were a few streets that were paved that were not in city limits. The asphalt project should be finished by early next week.

Other City Matters: Chris Ellsworth informed Board Planning & Zoning met on Thursday and had a work session on the long-term development plan. They are trying to determine the best way to get public input. Also considering a newsletter or postcard. David Weaver stated they had an informal town hall meeting and publicized by word of mouth/media.

Updating Code Book: Discussed during work session

Outsourcing Payroll: Discussed during work session. Chris Ellsworth asked about how checks will be disseminated. Brandi Miller explained that we only have two employees who currently receive paper checks. We can either print the checks or have them mailed to us. Motion made by Barbara Welch, seconded by Chris Ellsworth to select Intuit to outsource payroll. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Aldermen Bonding: Motion made by Roger Bone, seconded by Chris Ellsworth to move forward with bonding positions instead of individuals for Mayor, President of the Board of Aldermen, Aldermen Alternative, City Clerk and Court Clerk. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

**Alderman Interaction:** Mayor Lisa Daugherty asked about an invoice from Mike Talley. There was a line about a conversation with Gary Heilbrun regarding supervision of City

Clerk. City Attorney Mike Talley stated that he advised Alderman Heilbrun that the Mayor supervises City officers in day-to-day matters. Mayor Lisa Daugherty also disseminated a copy of an email sent by Gary Heilbrun to Allgeier Martin. She felt that it was unprofessional and should not have been sent to people outside of the City. Mike Talley encouraged the board to avoid email exchanges on these types of matters.

**Public Comment:** David Steele, 3201 13<sup>th</sup> Street, asked David Weaver about paving outside of the City limits. He asked if Jasper County was paying for part of it. David stated that the city paid for the paving and was part of the signed contract.

Tom Johnston, 3000 Duquesne Road, stated he is new to the P&Z Commission. He wanted to know why Esther Elliott wasn't on the agenda for her lot split. It brought to his attention that her area was under a freeze on lot splits, but he thought the freeze had been lifted. The other issue that wasn't on the agenda is that there appears to be too few fire hydrants in the City. Tom visited Missouri American Water and learned the price of a hydrant was \$4,000 each. The budget used to include 2 hydrants per year but it has been removed. Mayor Daugherty stated that she had been told by the Duenweg Fire Chief that they had installed new fire hydrants in the last two years. She additionally stated that we have not received P&Z minutes in months. City Attorney Mike Talley stated there was a lot split freeze placed on the EDR area with Ordinance 195. There have been 3 or 4 ordinances that have been passed since then that narrowed the original ordinance, but it has never been lifted. The freeze was always intended to be temporary. There was an attempt to remove a few years ago, but it was not successful. If the freeze were lifted, the process is handled through the City Clerk and City Engineer, not through the Board of Aldermen. Tom asked Mike what we can do to change this. Mike stated the solution is to lift the freeze by ordinance. The board discussed several possibilities and options for allowing the lot split. Tom stated he would have to go measure to make sure there is enough frontage. Tom questioned requesting a variance. Mike explained that the variance procedure does not cover lot splits. Mike stated that we could draft an ordinance for pre-existing homes in the EDR area that allows a lot split if the smallest lot has an 85' frontage, but he questioned if that would work for this particular situation. Mike still recommends the freeze be lifted. If we do go with a special ordinance, we will still have to have a formal public hearing at the P&Z and City Council meeting. Tom stated he would go take the measurements and bring them to the next P&Z meeting. Chris Ellsworth stated that he wants to help Esther Elliott, but he wants us to be careful about how we proceed because it will be exploited. Chief Kitch spoke with the Duenweg Fire Chief and he confirmed it has been three years since a new hydrant has been installed.

Rick Gamboa, 4005 E. 20<sup>th</sup> Street, stated there is an easier way to handle this Esther Elliot situation. He stated you can throw out the freeze completely, but pass an ordinance that doesn't allow anyone to build on anything less than ½ an acre, commercial or residential. Mike Talley questioned about existing lots that meet the 85' frontage that don't currently have anything built on them. We would be restricting them being able to

build. We could create that ordinance, but we would have to grandfather in existing lots. Mr. Gamboa asked how the rezoning applications got on the agenda. He wanted to know if it came from Planning & Zoning. Brandi Miller explained that they submitted a rezoning application to the City. Mr. Gamboa stated that Esther Elliot was not on the agenda because she had not yet submitted an application. Mike Talley stated that lot splits are not considered by the Board of Aldermen, which is why it was not on the agenda. Mr. Gamboa went on to question what information from the August 8<sup>th</sup> meeting would be available after 72 hours and how they would get it. Mike Talley advised to ask City Clerk and she can provide the record of action taken. Mr. Gamboa also asked why the personnel issue was not handled outside of the meeting instead of brought up during the council meeting. He additionally asked for the total amount of tax penalties charged to the city this year. Barbara Welch advised a little over \$4,000. Mr. Gamboa additionally stated he recently asked about vacation pay given to former employees. He said he was told it could not be provided due to possible pending litigation. Do we still have possible pending litigation? Mayor Daugherty stated vacation pay is a matter of public record and could be provided by City Clerk. He additionally stated that the Mayor said she got the city almost \$2 million for the roads. Does the mayor still maintain she is the one who got the funds for the City? Mayor Daugherty stated she made the call. He believes it is bologna.

Ray Brown, 3615 Johnson Drive, formally requested internet access at City Hall to be able to work on P&Z business. Ray additionally apologized for the last minute notice on the bike tour. When they were heading south on Duquesne toward 7<sup>th</sup>, the assumed the right lane went straight through the intersection. It needs a sign that stated the Right lane must turn right. Mayor Daugherty stated the traffic officer is Chief Kitch and would be in charge of signage.

Alderman Chris Ellsworth wanted to talk about P&Z. There's confusion about how communication happens between the P&Z Commission and the council. Mayor Daugherty advised if City needs to provide information to the P&Z, it goes through the City Clerk. Brandi Miller stated she emails information to Ray Brown. Chris requested that it be emailed to the entire commission. Brandi requested a list of email addresses. Mayor Daugherty stated that Chris is responsible for bringing information from P&Z to the Council. Chris stated that he has been on the commission for two years, but he has never been advised to communicate with council. Chris needs to communicate items from P&Z that need to be on the council agenda.

**New Business:** Anthem BCBS letter: Mayor Daugherty asked if the council was okay with her signing the letter. Barbara Welch asked why she had not already signed it. Lisa stated that she isn't signing anything without the council's approval. Barbara Welch stated to Mike Talley that she is concerned that the mayor is not signing documents without council approval and that day-to-day business is not being conducted. Mike

stated that he has always encouraged mayors to be transparent and if there is a question to get board approval. The board agreed that the mayor should sign the letter.

Allgeier Martin Storm Water issue: Mayor Lisa Daugherty stated that Brandi Miller spoke with AMA regarding this project. David Weaver pointed out that there have been three years of notices that have been ignored. Lisa stated that in emails it showed former City Clerk Terry Ingram had been working on it. David Weaver does not believe the City Clerk should be solely responsible for this project. Someone else needs to head it up. Mayor Daugherty stated she believes that is what Allgeier Martin will be doing. Barbara Welch stated Allgeier Martin has offered to go to the DNR on our behalf and see if they can have some of the requirements waived. Mayor Daugherty wanted the record to state that the first missing report was due in July of 2014 when Mayor Denny White was in office. Motion made Barbara Welch, seconded by Gary Heilbrun to allow Allgeier Martin to contact DNR on our behalf. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried. Motion made by Barbara Welch, seconded by Gary Heilbrun put Mayor Daugherty in charge of MS4 project. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

FEMA Project Completion and Certification Report (P.4): Mayor Daugherty asked the council to determine if she can sign the P.4. David Weaver said he would have to look at the P.4 and let us know if it has been completed correctly. David also provided new documents that we received today. We will be getting two checks in the next few weeks. One for about \$22,000 and one for about \$14,900. David stated the 2<sup>nd</sup> appeal would hopefully be done by the end of October hopefully. We can't move forward until this issue has been decided.

Planning and Zoning Commission Application: Mayor Daugherty submitted for council to approve Robert Guarino. Motion made by Roger Bone, seconded by Gary Heilbrun to appoint Robert Guarino to the P&Z Commission. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Stronghold Data: Mayor Daugherty stated we are at our limit data with Stronghold and monthly amount will be going up from \$75.00 to \$100.00/month. Going from 10gb to 25gb.

City Officer Discussion: Mayor Lisa Daugherty provided the board with her recommendations for city officers. Barbara Welch stated she has no desire to be the street commissioner and asked to be removed from list. Lisa stated that she would like to appoint Chris Ellsworth then. Chris stated that he is not available during the day which is why he is not serving as an officer. Mike Talley stated he believes Superintendent of Sewer should be added to the list. Barbara Welch felt that the police commissioner should continue to be Gary Heilbrun and not Roger Bone. Barbara stated that Roger was previously Street Commissioner, but had to step down due to not having time. Roger

stated he is available now. He does not want to be Superintendent for Sewer. Chris Ellsworth stated that the Board appointed the police commissioner and street commissioner last year. Motion made by Barbara Welch, seconded by Roger Bone to appoint Gary Heilbrun as Police Commissioner. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Mike Talley asked if any other changes need to be made to the ordinance. His suggestion was to wait until the special meeting to pass the ordinance with the other budget ordinances before October 1<sup>st</sup> since it wasn't on the agenda for tonight. He will not be available during the last week of September. Special Meeting was set for September 29<sup>th</sup> at 5:30pm. The Court Administrator will have to be a separate motion by Gary and Chris. Lisa will email the suggested salary sheet to the rest of the board.

Other Business: none

As there was no further business, motion made by Chris Ellsworth, seconded by Barbara Welch, to adjourn. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried. At 10:00 PM, meeting adjourned.