

FINAL
Regular Meeting

October 17, 2016

City Council met in Regular Session on Monday, October 17, 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 and 16 guests.

Agenda: Alderman Heilbrun requested to add Sewer Superintendent and appointing Court Clerk to the agenda. Mayor Daugherty questioned if Sewer Superintendent was an appointed position or by motion. City Attorney Mike Talley stated that it can be appointed by Mayor or by motion of the Board. 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 opened at 7:05pm (Continued from October 10th)
 - Rezoning of 3803 E. 7th Street from R-1 Residential to C-2 Retail Commercial

Public comments:

Aaron Garman – Owner of property at 3808 E. 7th Street, they are expanding their business. Aaron stated that they were advised to rezone 611 and 615 Walnut Ridge, but later found out they would not be able to since they would continue to have a residence. Alderman Ellsworth reported that the Planning and Zoning Commission voted to recommend the rezoning to commercial.

Public Hearing Closed at 7:12pm

Minutes: September 12 Regular Meeting: Mike Talley requested to strike the following line on page 4, 5th paragraph: City Attorney Mike Talley advised we should be able to disseminate information during election. Motion made by Barbara Welch, seconded by Gary Heilbrun, to approve minutes as amended. Ayes: Aldermen Heilbrun, Welch, Ellsworth. Nays: Bone. Motion carried.

September 29 Special Meeting: Motion made by Barbara Welch, seconded by Gary Heilbrun, to approve minutes as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

October 10 Regular Meeting: Motion made by Barbara Welch, seconded by Gary Heilbrun, to approve minutes as presented. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. 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: September Court Report was presented. Board approved report and filed for audit.

Police Report: Chief Kitch presented report. Officer Altic will be moving to part-time and Officer Blaukat will be moving to full-time. Motion made by Roger Bone, seconded by Barbara Welch, to move Officer Blaukat to \$14.75/hr beginning October 18th, 2016. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried. Motion made by Barbara Welch, seconded by Roger Bone, to move Officer Altic to \$13.00/hr beginning October 30th, 2016. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried. Chief Kitch informed the board that we have not renewed our Watchguard video system contract since June of 2015. Cost \$780/yr. There is a tech call scheduled for Wednesday due to the system being down. The board approved to renew contract up to \$1,500.

Bill Summary: Motion made by Barbara Welch, seconded by Roger Bone, to add City of Joplin Emergency Dispatch invoice of \$1,048.38 to the prepaid bills list. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried. Lisa Daugherty questioned the invoices from Allgeier Martin for All Seasons Signs. City Clerk Brandi Miller stated a letter was sent to the Garman's, but there has not been a response. Alderman Ellsworth stated that we should not pay the invoices yet. Aaron Garman requested we research where these charges originated. Motion made by Chris Ellsworth, seconded by Barbara Welch, to pay bills as amended. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Business Licenses: Two applications were presented: *Name Change:* Legacy Credit Union (3929 E. 7th St., Ste. A), and *Renewal:* Joplin Shrine Club (2873 Kenser Rd.). Motion made by Barbara Welch, seconded by Gary Heilbrun to approve business license application for Legacy Credit Union. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried. Motion made by Barbara Welch, seconded by Gary Heilbrun to approve business license renewal with alcohol sales for Joplin Shrine Club. Ayes, Aldermen Heilbrun, Welch, Bone. Nays: Alderman Ellsworth. Motion carried.

Update on Road Project: Mike Atkinson with Allgeier Martin shared that we are under budget on the street project. We still have Vogel and University Circle to pave as well as Crampton, Hylton, Orr and Waggoner Streets. In the end, the project will be at \$1.7 million, with \$41,000 of city funds. Mayor Daugherty asked about the dirt work going on in the city. Mike stated that the contractor is behind and they are working on it. Depending on weather, may end up holding until spring on dirt work.

Dana Calef – Flooding issue 4019 E. 14th Street, not present

Melissa Wakefield – Flooding issue 3801 E. 16th Street, provided documents to be stated for the record and included as an attachment to the minutes. Ms. Wakefield read her letter to the council. The council reviewed photographs provided by Ms. Wakefield of a flooding event. City Clerk Brandi Miller advised the board that she had searched the 2012 P&Z minutes and Council minutes, but was unable to locate anything about Melissa Wakefield or this storm water issue. Mayor Daugherty stated that she recalled voting to split the lot back in 2014. Lisa stated that the Storm water issue was not presented to the council in 2012. Mike Talley suggested Brian Stevenson, the Attorney for JML Inc., to speak to provide clarification on the matter. He stated that the lot split was approved in 2014, but has not yet been recorded with Jasper County. Mr. Stevenson shared a plat that was created by Allgeier Martin that was never submitted to the city due to a number of issues that made it cost prohibitive. They have no intention of moving forward with that plan. There is a family living in the home on the land in question. He was told verbally after the previous lot split, they would be prohibited to splitting the rest of the land into a maximum of 3 more lots. The owners would like to sell the entire land and be done with it. He has been taking offers, but he has notified potential buyers that it would require board approval. Mayor Daugherty questioned if potential buyers would need to be notified of the storm water issue as well. Mike Talley advised that anyone who builds on the lot has a legal obligation not to increase the flow of storm water unreasonably onto other properties per State law. Melissa stated that going forward, she just wants to make sure that whatever happens with this property is addressed and doesn't cause her additional flooding. Melissa had some specific questions for the board: 1. Will the City require something to protect her property if there's any building on the neighbor property? Mike Talley stated that cities do share storm water responsibilities in building and development. 2. Do they have a legal obligation to disclose storm water issues to potential buyers? Mike Talley stated that he was not sure of the answer, but he believed that concealing it from potential buyers could be an issue. Mike Talley requested it be stated for the record that the landowners were not present for the meeting. 3. Can Ms. Wakefield request to be notified of any future permits, buildings, lot splits? She would not be notified, but it would be posted on the P&Z agenda. 4. Will the City employee who has put a bid on the land and has been encouraging other buyers be required to disclose the Storm water issues? Mike Talley stated the city employee is not disabled from purchasing land, and that he would receive a copy of the minutes to notify him of the storm water issues on the property in question. Mayor Daugherty stated she sent an email that afternoon questioning if the city employee was purchasing the land for the City. Alderman Heilbrun stated David was willing to meet with anyone who had concerns on Friday at 5pm. Alderman Welch stated this may be an opportunity to address our storm water issues with a grant. Mike Talley advised Ms. Wakefield to seek her own counsel in this matter.

Aaron Garman – Setback Variance Request, he wrote a letter to the board. The variance was recommended by the Planning and Zoning Commission. Alderman Ellsworth stated

they felt the request was reasonable. Motion made by Chris Ellsworth, seconded by Barbara Welch, to allow the setback variance for 3803 E. 7th ST for 6 months as of October 18th, 2016. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-40 Amending Zoning District Map to rezone 3803 E. 7th Street from R-1 to C-2: Motion made by Barbara Welch, seconded by Roger Bone, to read Bill 16-40 by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-40 was read by title only. Motion made by Barbara Welch, seconded by Roger Bone, to accept first reading of Bill 16-40 and move to second and final reading by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-40 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 16-40 and adopt as Ordinance 315. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-41 Approving Change Order No 3 to Blevins Construction Contract (CDBG Street Project): Motion made by Barbara Welch, seconded by Gary Heilbrun, to read Bill 16-41 by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-41 was read by title only. Motion made by Barbara Welch, seconded by Gary Heilbrun, to accept first reading of Bill 16-41 and move to second and final reading by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-41 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 16-41 and adopt as Ordinance 316. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-42 Approving Amendment No 2 to Agreement with Allgeier Martin (CDBG Street Project): Motion made by Barbara Welch, seconded by Gary Heilbrun, to read Bill 16-42 by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-42 was read by title only. Mayor Daugherty asked about an email that stated there would be an increase to the grant administrator fee. Mike Talley advised that Sue Bacorn did not want an increase. Motion made by Barbara Welch, seconded by Gary Heilbrun, to accept first reading of Bill 16-42 and move to second and final reading by title only. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Bill 16-42 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 16-42 and adopt as Ordinance 317. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Resolution 16-08: Approving Amendment No. 3 to the City of Duquesne Employee Handbook. Mayor Daugherty stated she received an email from Barbara Welch in which Chris Ellsworth had requested employees who do not give a proper two-week's notice not be paid for their vacation time. Lisa stated for the record that previously there were issues in which there was a potential problem. Motion made by Barbara Welch, seconded by Chris Ellsworth, to approve Resolution 16-08. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Old Business: Update on FEMA/SEMA: David Weaver is not present to give update.

Other City Matters: Chris Ellsworth informed Board Planning & Zoning voted unanimously to reinstate the program to add two new fire hydrants per year based on the recommendation of the fire chief. They were provided with a list of the top 20 locations in need. Alderman Ellsworth asked if we had previously passed an ordinance. Alderman Welch questioned if it was a budget issue. Alderman Bone asked if we could add a line to the budget for the fire hydrants. Mayor Daugherty asked City Clerk to add a line item to the budget of \$9,000 for the fire hydrants. She requested we direct Cris Gurubel to contact Missouri American Water to get hydrant on E. 7th and Duquesne and in 6 months' time regarding E. 14th and Duquesne (Northeast corner). Mike Talley stated the budget would have to be amended by Ordinance, but we could just make an agreement now and amend the budget later. Motion made by Roger Bone, seconded by Barbara Welch to authorize the fire hydrants. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Updating Code Book: Mayor Daugherty advised we had received the Codification proposal from General Code that had been emailed to the board for feedback. City Clerk Brandi Miller shared the additional options on the proposal with the board. The board did not want any additional options. They agreed it needed to be signed and returned.

Appoint Sewer Superintendent: Mayor Lisa Daugherty stated for the record that she feels the Sewer Superintendent position is too much for Gary in conjunction with his position as Police Commissioner and Street Commissioner. She feels he should give up the Police Commissioner position to Roger Bone. Motion made by Barbara Welch, seconded by Chris Ellsworth, to appoint Gary Heilbrun as Sewer Superintendent. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Alderman Interaction: None.

Public Comment: Rick Gamboa, 4005 E. 20th Street, asked if the public will be able to look up code with the new company. Alderman Ellsworth advised yes. Mr. Gamboa asked if we can put up signs near the roundabout to help prevent trucks damaging the roundabout. Chief Kitch stated it would be MO-DOT. Would have to write a letter to MO-DOT to get permission from the City. Mike Talley suggested we do some studying before a motion is made. He suggested the Police Chief and Street Commissioner meet with Mr. Gamboa to determine exactly where signs are wanted and who has jurisdiction. Chief Kitch stated signs do not stop trucks. It is a max fine of \$225, and the truck drivers do not care about a fine that low. Mr. Gamboa feels we need to do something. He also asked what we are doing about posting minutes on the website. City Clerk Brandi Miller stated that she will post them online. Do we have a definition of what is a RV or a travel trailer or mobile home? Mike Talley stated it is not defined in our City Code. Our ordinance refers to mobile home, travel trailer and recreational vehicle. It does make a distinction between travel trailers/recreational vehicles and mobile homes. If a resident wants to store a travel trailer or RV on their property, they can as long as it is not being lived in or used as storage. Mike stated he took a brief look at the state statutes that define the differences minutely, but we do not have those definitions in our City code.

Tom Johnston, 3000 Duquesne Road, stated he did measure Esther Elliot's property regarding her desired lot split. He stated the Planning & Zoning Commission did not want to move forward at this time. They wanted to do more research. She has 135' frontage on the smallest piece of property. She did have a survey completed. The smallest plot would be .31 acres and the largest plot would be .57 acres. He feels we are not treating her fairly. Alderman Ellsworth pointed out that the discussion revolved around repealing the freeze. He requested repeatedly for a number to move forward with, but the discussion was halted. He wants the board to know that the P&Z is working on it.

Mickey Sherman, 825 S. Duquesne Rd, stated she halted the Ester Elliot issue at the P&Z because she wanted more information.

Kerry Divine, 314 Morgan, said she appreciates the new streets. She also appreciated the tone of the meeting tonight. Ms. Divine would like to address the street light issue on Foxfire Court. There is only one street light tucked into the cul-de-sac and it is very dark. She requested that we reserve the court room for the polling on Election Day.

Aaron Garman, wanted to clarify that he is requesting information on the Allgeier Martin invoices and where they came from. Mayor Daugherty advised him to come in and speak with Cris Gurubel and Brandi Miller.

New Business: DNR Letter, Mayor Daugherty stated the City needs to make a decision on whether to move forward with the Project for Gravity Sewer Collection Lines. She

thought this was to do sewer outside of city limits. Alderman Bone stated there were issues with easements and noncompliance. Board agreed nothing to be done.

Motion made by Roger Bone, seconded by Barbara Welch, to strike closed session for employment. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried.

Mike Talley advised we need to correct the Agenda line for the Closed Session relating to legal actions. Should read RsMo 610.021(1).

Consider Vote to Go into Closed Session (pursuant to RsMo 610.021(1) litigation): Motion made by Barbara Welch, seconded by Chris Ellsworth, to go into closed session for litigation. Roll call was taken. Ayes: Aldermen Heilbrun, Welch, Ellsworth, Bone. Nays: none. Motion carried. At 9:52 PM, Council entered closed session with City Attorney Mike Talley and City Clerk.

At 10:42 PM, Council returned to open session. Mayor stated no vote was taken during closed session.

Other Business: Mayor Daugherty asked Alderman Welch about the progress on the park. Barbara stated not too far.

Appoint Court Clerk: Mayor Daugherty stepped down. Gary Heilbrun presiding over meeting. Gary Heilbrun appointed Janet Stemm as Court Clerk. Motion made by Chris Ellsworth, seconded by Gary Heilbrun, to approve appointment. Ayes: Aldermen Heilbrun, Ellsworth. Abstained: Aldermen Welch, Bone. Tie broken by Aldermen Heilbrun. Motion carried.

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 10:45PM, meeting adjourned.