

FINAL
Regular Meeting

May 13, 2019

City Council met in Regular Session with Public Hearings at 7:00 PM on Monday, May 13, 2019. Mayor Gary Heilbrun called meeting to order. Melody Cundiff, City Clerk gave the invocation.

Roll Call was taken. Present were Aldermen Jane Baine, Barbara Welch, Adam Hogan, Chris Ellsworth, and Mayor Gary Heilbrun. Absent: none. Also present was City Attorney Mike Talley, David Weaver who arrived at 8:25 p.m. and approximately 8 guests.

Agenda: Motion made by Jane Baine, seconded by Barbara Welch, to approve the agenda as amended to move A Squared Art down from new business licenses to business license renewals. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

Public Hearing: Amendment to Zoning Regulations:

Opened at 7:03pm

Public Comments: None

Public Hearing closed at 7:03pm

Public Hearing: Code of Ordinances for the City of Duquesne:

Opened at 7:03pm

Public Comments: None

Public Hearing closed at 7:04pm

Public Hearing: Rezoning Application – Hervey Lane from R-1 to R-2:

Opened at 7:04pm

Public Comments: Alderman Chris Ellsworth stated that the P & Z Commission approved this rezoning 6-1.

Public Hearing closed at 7:05pm

Public Hearing: Rezoning Application – Walnut Ridge and East 7th St. from R-1 to R-3 Lots 2 & 3:

Opened at 7:05pm

Public Comments: Alderman Chris Ellsworth stated the P & Z Commission approved the zoning 7-0. Mayor Gary Heilbrun stated that there should be a change noted that this is really only for Lot 2.

Public Hearing closed at 7:07pm

Public Hearing: Rezoning Application – Walnut Ridge and East 7th St. from R-1 to R-3 Lot 1:

Opened at 7:08pm

Public Comments: Alderman Chris Ellsworth stated that the P & Z Commission approved this rezoning 7-0.

Public Hearing closed at 7:08pm

Public Hearing: Municipal Code amending Title IV, Land Use, Chapter 420 Subsection B Lot Splits:

Opened at 7:08pm

Public Comments: City Attorney Mike Talley stated that this was an addition to the lot line adjustments to the Lot Split provisions in the city code. Alderman Chris Ellsworth stated that the P & Z Commission approved this 7-0.

Public Hearing closed at 7:09pm

Minutes: April 8th Regular Meeting: Motion made by Barbara Welch, seconded by Adam Hogan, to approve minutes as presented. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

Financial Report and Budget Summary: Approved and filed for audit.

Bill Summary: Motion made by Jane Baine, seconded by Barbara Welch, to pay all bills as presented. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: None. Motion carried.

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

PD Monthly Report: Chief Kitch presented. Chief Kitch spoke briefly about the items on the police report. Chief Kitch asked for the Council to approve the purchase of a new AED. Motion made by Chris Ellsworth, seconded by Adam Hogan to approve the purchase of the new AED. Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried.

Darrell Baumann to Address the Council: Darrell Baumann addressed the council about the public nuisance at 3624 Johnson St. Joplin, MO 64801. Mr. Baumann stated that this house is owned by a city employee who rents to too many people for a 3 bedroom house, usually 5-7 young men. He stated that there is usually 25-30 people in this house during parties which causes a lot of noise, causes constant traffic issues and blocks the mailboxes on the street because they park on one half of the street. He is concerned for his safety because of all the people that frequent this "illegal frat house". Mr. Baumann stated that he has complained about this issue several times in the past but he feels the Police Department and the City Attorney have done nothing about this issue because the owner is a city employee so they dismiss the reports and are playing favorites. Mr. Baumann feels that the city employee will not be prosecuted and requests that this employee should be removed from his position with the City. He feels this employee uses his position to get away with situations like this, that he interferes with the police complaints and destroys anything that he has ever filed or signed. The Mayor responded by telling Mr. Baumann that an investigation was started after he came in to meet with the city officials, that the city is going to deal with the issue wherever it may take us and once the investigation is complete, the City will notify Mr. Baumann. The Mayor promised that he will be notified of the result of the investigation. Alderman Jane Baine asked Mr. Baumann where he was located around this house and he said across the street at 3621 Johnson St.

New Business Licenses: Mayor Gary Heilbrun asked for a motion to approve the new Business Licenses as listed on the agenda. Motion made by Jane Baine, seconded by Barbara Welch to approve the new business license as listed on the agenda. Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried.

Business License Renewals: Mayor Gary Heilbrun asked for a motion to approve the Business License renewals as listed on the agenda. Alderman Adam Hogan requested to step down and refrain from voting. Motion made by Barbara Welch, seconded by Jane Baine, to approve the Business License renewals as listed on the agenda. Ayes: Aldermen Baine, Welch, and Ellsworth. Nays: none. Motion carried.

Business License with Alcohol Sales: Mayor Gary Heilbrun asked for a motion to approve the Business License with alcohol sales as listed on the agenda. Motion made by Barbara Welch, seconded by Jane Baine, to approve the Business License with alcohol sales as listed on the agenda. Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried.

MediaCom Agreement: This is a new facilities agreement. Alderman Chris Ellsworth had no issues with the new 3 year agreement for services to the city.

Joplin Special Road District: Mayor Gary Heilbrun stated that this agreement was the first of its kind that he has ever seen.

Bill 19-05: Adopting the new Codification Manual for the City of Duquesne: Motion made by Jane Baine, seconded by Barbara Welch, to read Bill 19-05 by title only.

Bill 19-05 was read by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept first reading of Bill 19-05 and move to second and final reading by title only.

Bill 19-05 was read second and final time by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept second and final reading by title only of Bill 19-05 and assign Ordinance #395. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Bill 19-06: Rezoning Property on Hervay Lane from R-1 to R-2: Motion made by Jane Baine, seconded by Barbara Welch, to read Bill 19-06 by title only.

Bill 19-06 was read by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept first reading of Bill 19-06 and move to second and final reading by title only.

Bill 19-06 was read second and final time by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept second and final reading by title only of Bill 19-06 and assign Ordinance #396. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Bill 19-07: Rezoning Property on Walnut Ridge and East 7th St. Lots 2 & 3 from R-1 to R-3: Motion made by Jane Baine, seconded by Barbara Welch, to read Bill 19-07 by title only.

City Attorney Mike Talley stated that his recommendation is not to mess with the legal description as listed on the warranty deed that they provided and not to go with the description on Beacon because it is not official. Since the property owners provided the information that we have then we should go with that information. Alderman Chris Ellsworth stated that the P & Z approved the changes as it was presented to them.

Bill 19-07 was read by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept first reading of Bill 19-07 and move to second and final reading by title only.

Bill 19-07 was read second and final time by title only. Motion made by Jane Baine, seconded by Chris Ellsworth, to accept second and final reading by title only of Bill 19-07 and assign Ordinance #397. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Bill 19-08: Rezoning property on Walnut Ridge and East 7th St. Lot 1 from R-1 to R-3: Motion made by Jane Baine, seconded by Barbara Welch, to read Bill 19-08 by title only.

Bill 19-08 was read by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept first reading of Bill 19-08 and move to second and final reading by title only.

Bill 19-08 was read second and final time by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept second and final reading by title only of Bill 19-08 and assign Ordinance #398. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Bill 19-09: Amending Title IV, land Use, Chapter 420 to allow Lot Line Adjustments: Motion made by Jane Baine, seconded by Barbara Welch, to read Bill 19-09 by title only.

Bill 19-09 was read by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept first reading of Bill 19-09 and move to second and final reading by title only.

Bill 19-09 was read second and final time by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept second and final reading by title only of Bill 19-09 and assign Ordinance #399. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Bill 19-10: Approving a Business Facilities Agreement with MediaCom: Motion made by Jane Baine, seconded by Barbara Welch, to read Bill 19-10 by title only.

Bill 19-10 was read by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept first reading of Bill 19-10 and move to second and final reading by title only.

Bill 19-10 was read second and final time by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept second and final reading by title only of Bill 19-10 and assign Ordinance #400. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Bill 19-11: Agreement between the City of Duquesne and the Joplin Special Road District: Motion made by Jane Baine, seconded by Barbara Welch, to read Bill 19-11 by title only.

Bill 19-11 was read by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept first reading of Bill 19-11 and move to second and final reading by title only.

Bill 19-11 was read second and final time by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept second and final reading by title only of Bill 19-11 and assign Ordinance #401. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Bill 19-12: Amending Chapter 605, Section 605.035 Late Fees: Motion made by Jane Baine, seconded by Barbara Welch, to read Bill 19-12 by title only.

Bill 19-12 was read by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept first reading of Bill 19-12 and move to second and final reading by title only.

Bill 19-12 was read second and final time by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept second and final reading by title only of Bill 19-12 and assign Ordinance #402. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Old Business:

Update on CDBG Housing Project: David Weaver updated the Council that the house at 4910 E. 27th St. Ledford Construction broke ground on. We are committed to \$50,000 to this home which leaves \$15,000 with a possible additional \$10,000 that could be used on another home and we have an individual waiting on that.

Response to Council in response to Baumann complaints: City Attorney Mike Talley wanted to respond to the Council in regards to some comments that was made earlier in the meeting by Mr. Baumann concerning complaints. Mr. Baumann is a name familiar to me as a prosecutor and I have seen one, two or three complaints over the years. As prosecutor I evaluate the nature of the complaint, provability, whether an offense has been committed, whether we can be successful in prosecuting and the credibility of the person filing the complaint. Mike Talley stated that he has not seen hundreds of complaints or anything like that which Mr. Baumann made reference to. One criteria in consideration of prosecution that he does not use is where the defendant or potential defendant is an employee of the city. He wanted to assure the Council that that did not enter into any decision to prosecute either for Mr. Baumann or anyone else. As far as the one, two or three complaints from Mr. Baumann, he did not prosecute because he did not feel there were good reasons to do so.

Aldermen Interaction: Alderman Chris Ellsworth asked about Stow A Way Storage – the area is zoned for C-2 retail business but their original license was for not selling anything. If he is going to be selling U-Hauls then he needs to get a retail business license. Alderman Jane Baine asked about the travel trailer on the north side of 4110 E. 10th. Chief Tommy Kitch responded that trailer belongs to Mr. Ansel and he will get a hold of him and check into it. Alderman Chris Ellsworth inquired about the work being done at the stop light at 13th and Duquesne. Chief Kitch responded by telling the Council of the work that had been done to change the timing on the stoplight, they had to get a new lock on the control box and they discovered a large amount of ants inside the control box so had to get that sprayed to get rid of those.

Public Comments: June McKibbon 1331 E. 13th, Joplin, MO 64801 spoke to the Council about the RV that is parked behind her – there is someone living there – lots of traffic and there is now a second trailer. She wants to know what type of ordinances and laws that the city has concerning when someone that lives on property like this that is not a resident because there are no houses on these lots. City Attorney Mike Talley asked her to leave all her information with the City Clerk so that he can get with the police chief concerning this situation.

New Business:

Emergency Sewer Repairs: Mayor Gary Heilbrun stated that the sewer main by Caseys at 20th and Duquesne was hit while AT&T was laying new line. When they hit the line it blew rock 20 feet into the line. Caseys had to have a plumber come to the store two different times and putting off these repairs would have caused more issues for them. The company doing the boring chose not respond to our calls. This went over the Mayor's

normal spending limit by \$300 but under Emergency Finances 135.070 it allows the Mayor to authorize approving emergency spending. City Attorney Mike Talley inquired as to why he thought this was an emergency and Mayor Gary Heilbrun responded by stated that Caseys had to call people out two different times and the second time they ran a camera down into the pipe and discovered all the rock issue. City Attorney then asked the Mayor if his decision was based on the fact that the damage was done on the city sewer which is the city's responsibility and the Mayor responded by saying yes, this issue was the City's responsibility because it is the city's sewer. The City Attorney then replied that the requirements of 135.070 have been fulfilled. Alderman Chris Ellsworth thanked the Mayor for getting this issue resolved as quickly as possible. The Mayor also added that we are working with AT&T and they have asked us to forwarded this information to their risk management department so that a claim can be started for reimbursement.

Reappoint Kerry Divine to Board of Adjustments: Motion to reappoint Kerry Divine to another term on the Board of Adjustments from 5/13/2019 to 5/13/2023 was made by Jane Baine, seconded by Barbara Welch. City Attorney Mike Talley brought up the fact that when people are reappointed they are appointed for a 5 year term. A motion was made by Jane Baine, seconded by Barbara Welch to amend the 4 year term to a 5 year term lasting from 5/13/2019 to 5/13/2024. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Accept the Resignation of Kenan Klein from P & Z: Motion was made by Chris Ellsworth, seconded by Barbara Welch to accept the resignation letter from Kenan Klein from the P & Z commission effective 5/6/2019. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: none. Motion carried.

Update on Commissions and Committees: Alderman Chris Ellsworth stated to the Council that Rick Gamboa had been elected acting secretary for the P & Z Commission to replace Kenan Klein.

Other Business Deemed Necessary: Alderman Chris Ellsworth stated that he is still working on the new website but the process is a detailed one since it is a .gov website. The Mayor stated that the newsletter was well received.

As there was no further business, motion made by Adam Hogan, seconded by Jane Baine, to adjourn. Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried. At 8:41 PM, meeting adjourned.