

City Council for City of Duquesne met in Regular Session at 7:00 p.m. on Monday, September 8, 2014, at City Hall.

Acting President of Board of Aldermen Roger Bone called meeting to order. David Weaver gave invocation.

Roll call was taken. Aldermen Frank Herron, Barbara Welch, Roger Bone, Lisa Daugherty were present. Absent: Mayor Denny White. City Attorney Mike Talley, David Weaver, Police Chief Kitch and 26 visitors were also present.

Agenda: Motion made by Lisa Daugherty, seconded by Barbara Welch, to strike Bill 14-16 and Bill 14-18 from agenda. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried. Motion made by Lisa Daugherty, seconded by Barbara Welch, to approve modified agenda. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Minutes from August 11 Regular Meeting with Closed Session and August 13 and August 20 Special Meetings were presented. After discussion, minutes were approved.

Financial report for August was presented. As there were no changes or corrections, report was approved and filed for audit. Budget Summary was also presented.

Court report for August was presented. As there were no changes or corrections, report was approved.

Alderman Daugherty returned to discuss the minutes which had been approved earlier and which contained quoted statement by Chief concerning his request to be relieved as Street Commissioner. Alderman Daugherty asked Chief about his comment at August 13 meeting wherein he stated he found internal politically driven circumstances distasteful. He stood by his comment. She asked about attachments to minutes. City Attorney Talley stated attachments to minutes were not generally good idea as it encumbers minutes, but that attachments would be kept in separate file as public record. She asked Chief who brought asbestos situation to Board's attention. Chief stated he had contacted David Weaver, as Mayor's Assistant, who contacted Alderman Bone. Chief, David and Roger, along with City employee Cris Gurubel, met on August 5 to discuss matter. Mayor had instructed Cris to start demolition of garage structure. When outer shell of metal siding on part of building was removed, old siding was revealed. Chief had Cris stop demolition and took sample to Mid-American Environmental Services for testing. Lisa stated she was out of town when this occurred and was not asked to attend meeting.

Missouri Department of Natural Resources (DNR) called Chief, after DNR was contacted. Chief emailed DNR pictures for its review on August 13. Board asked if house was also tested. Work order was for garage only, as handwritten by City Clerk, per Mayor's instruction. Mayor was concerned about whether taking samples constituted disturbing structure and, if asbestos was found, would require demolition of house. Alderman Welch asked if Mayor had authority to demolish City asset without Board's approval. City Attorney asked if garage had any value, that is, whether it was considered asset or actually

a liability. City Attorney agreed that Mayor should have Board approval before disposing of City assets.

Mayor's absence from meeting: Lisa wondered if Mayor was medically unable to preside over Board meetings, perhaps he was also not able to handle day-to-day responsibilities. Attorney responded that those two were separate responsibilities. Attorney Talley stated board meetings were extremely stressful and tense, and might very well be detrimental to person's health – especially someone already in poor health. However, day-to-day responsibilities might very well involve less stress and not be detrimental to Mayor's health. Lisa felt like Mayor Pro-Tem should take over day-to-day activities until such time as Mayor could attend meetings.

Some Board members expressed concern over communication by Mayor with Mayor Pro-Tem Bone or other Board members. David met with Mayor earlier today to discuss City matters and Mayor asked David to read his attorney's response to last month's allegations. Barbara questioned whether response should be read. When City Attorney was asked about his previous recommendation not read any document that might contain slanderous, scurrilous or defamatory comments. He had read response, written by Attorney Chuck Brown, and stated it did not contain such dialogue. Letter was not read.

Consider Vote to Go into Closed Session: Council to Discuss Mayor: City Attorney Talley pointed out discussion about Mayor does not qualify as personnel exception under Sunshine Law and closing meeting for such discussion would be illegal closed session. Lisa wanted closed session to decide which avenue to pursue. Attorney reiterated situation did not qualify under Sunshine Laws for personnel matters and he saw no reason why discussion could not continue in public session. No motion or vote taken to go into closed session.

Frank Herron asked Board it could not end constant fighting and jumping to conclusions and work together. After May 2011 tornado, truckloads of debris from destroyed homes were taken to landfills that probably contained some asbestos materials.

Impeachment of any elected official was lengthy and costly process. Mayor's term would expire April 2015. Barbara would prefer to give Mayor opportunity to resign. Motion made by Barbara Welch, seconded by Roger Bone, to request Mayor's resignation because he did not do his due diligence, ordered demolition of city asset, instructed employee to remove asbestos materials, okayed dump trucks, lack of communication with Mayor Pro-Tem or other Board members. Ayes: Aldermen Welch, Bone, Daugherty. Nays: Alderman Herron. Motion carried.

Call for Special Meeting for Mayor's Resignation: Motion made by Barbara Welch, seconded by Roger Bone, to schedule special meeting for 6PM on Wednesday, September 10, for "Determination of Mayor's Status". Ayes: Aldermen Welch, Bone, Daugherty. Nays: Alderman Herron. Motion carried.

Bill 14-13 Absence of Appointed Board & Commission Members: Motion made by Lisa Daugherty, seconded by Barbara Welch, to read Bill 14-13 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-13 was read by title only. Motion made by Lisa Daugherty, seconded by Barbara Welch to accept first reading of Bill 14-13 and move to second and final reading of Bill 14-13

by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-13 was read second and final time by title only. Motion made by Lisa Daugherty, seconded by Barbara Welch, to accept second and final reading of Bill 14-13 and adopt as Ordinance 242. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-14 Weeds & High Grass Abatement: Motion made by Lisa Daugherty, seconded by Barbara Welch, to read Bill 14-14 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-14 was read by title only. RSMo 71.285 required 4-day notice before hearing and 5 days thereafter to abate, which was in current code. RSMo 67.398, also available, required no hearing, but it did require 7 days' notice to abate nuisance. Proposed ordinance gave City ability to apply either remedy, as situation warranted. Motion made by Lisa Daugherty, seconded by Barbara Welch to accept first reading of Bill 14-14 and move to second and final reading of Bill 14-14 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-14 was read second and final time by title only. Motion made by Lisa Daugherty, seconded by Barbara Welch, to accept second and final reading of Bill 14-14 and adopt as Ordinance 243. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-15 Industrial Physical Therapy Agreement for Police Department Testing: Motion made by Lisa Daugherty, seconded by Barbara Welch, to read Bill 14-15 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-15 was read by title only. Motion made by Lisa Daugherty, seconded by Barbara Welch to accept first reading of Bill 14-15 and move to second and final reading of Bill 14-15 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-15 was read second and final time by title only. Motion made by Lisa Daugherty, seconded by Barbara Welch, to accept second and final reading of Bill 14-15 and adopt as Ordinance 244. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-17 Appoint City Officers: Motion made by Lisa Daugherty, seconded by Barbara Welch, to read Bill 14-17 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-17 was read by title only. Chief had served as Traffic Engineer for day-to-day situations, but referred to City's engineering firm when professional services were needed. Mayor Pro-Tem appointed Chief Kitch as Traffic Engineer. Motion made by Lisa Daugherty, seconded by Barbara Welch, to accept appointment and amend bill. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried. Motion made by Lisa Daugherty, seconded by Barbara Welch to accept first reading of Bill 14-17 and move to second and final reading of Amended Bill 14-17 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Amended Bill 14-17 was read second and final time by title only. Motion made by Lisa Daugherty, seconded by Barbara Welch, to accept second and final reading of Bill 14-17 and adopt as Ordinance 245. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Business License and Peddlers/Solicitors Applications: New application from Casey's at 3950 E 20<sup>th</sup> Street was presented; as well as tabled applications Vivint, home security monitoring business based out of Utah, and ARM Security, door-to-door sales of security system, also based out of Utah. Motion made by Lisa Daugherty, seconded by Barbara Welch, to approve Casey's application. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried. Board asked Chief results of investigation of two tabled applications. He had stated Vivint was parent company of ARM Security and, according to Better Business Bureau in Utah, there were about 3,500 complaints filed against company. No criminal actions were known. Vivint had opened storefront business in Joplin.

Concern about granting peddler's license gave permission for someone to come onto private property. Chief warned of liability issue by restricting freedom of commerce. Homeowner had right to ask person to leave. City Attorney Talley stated if Board denied application, by City's Codes, it would have to give specific reason(s). Our current chapter on peddlers and solicitors was dated and he would contact Missouri Municipal League for possible model ordinance. Motion made by Frank Herron, seconded by Lisa Daugherty, to table Vivint and ARM Security applications. After further discussion, Lisa withdrew second and motion died for lack of second. Motion made by Lisa Daugherty, seconded by Barbara Welch, to table ARM Security application for further investigation. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried. Motion made by Lisa Daugherty, seconded by Barbara Welch, to approve Vivint application. Ayes: Aldermen Welch, Bone, Daugherty. Nays: Alderman Herron. Motion carried.

Public Comments: Cinda Sweet, 3711 E 13<sup>th</sup> Street, expressed concern over mud and rocks in roadways from Katherine Estates and Braurer Supply locations. She also expressed concern over additional construction at Katherine Estates when at last rezoning hearing it was stated there would be no additional structures. It was explained original building permit included 3 apartment complexes, community building and several ancillary buildings, which included pavilion, dumpster enclosure and utility/maintenance shed.

George Reeve, 4460 E 26<sup>th</sup> Street, suggested Board learn parliamentary procedures, as motions were on table.

William Shumate, 4441 E 24<sup>th</sup> Street, stated he would like to see Casey's stock more food.

Old Business: none.

Update on City Matters: David Weaver stated there were 2 utility easements not acquired yet for Largent line. City of Joplin had received \$14 million for infrastructure grant. David was researching into possible application for \$3 million similar grant for City's roads. CDBG \$500,000 Community Disaster Loan Program funds were committed. David stated was working to obtain funding to construct additional 15 homes, including administrative fees. New grant allowed minimum square footage requirement Board might want to consider. David was continuing to fight with FEMA over tornado PW reimbursement for capping sewer lines.

Repeal Ordinance 201: Ordinance established tiered system for Mayor's salary, based on years of service, beginning at \$200 to maximum of \$1,000 per month. Motion made by Lisa Daugherty, seconded by Barbara Welch, to direct City Attorney to draft ordinance to repeal Ordinance 201 and set flat salary at \$1,000 per month, effective October 1; although, Mayor's salary could not change during current term. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Special Meeting: Motion made by Lisa Daugherty, seconded by Barbara Welch, to schedule special meeting for 6PM on Monday, September 22, to review budget. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

New Business: Police Department Monthly Report: Chief presented monthly report. August 11, police vehicle received minor damage (estimated \$2,200) at Southwest Missouri Bank parking lot. Originally, Chief thought matter would be settled without incident by insurance company of individual who struck patrol car. City could either have Chief file with Small Claims Court for \$75 filing fee, at which Chief would represent City; or have City's insurance company subrogate claim. Board instructed Chief to contact City's insurance to handle matter.

New 2014 Dodge Charger was picked up on Friday, September 5. Hum V had been received as surplus vehicle. Chief had not received any documents yet. Sergeant Houdyshell's last full time work day was September 2 and he has requested to remain as part-time officer. Chief recommended Board keep him as part-time officer at \$11 per hour. Officer Ahmad Johnson, who was on military leave, was scheduled to return to work within next two weeks. He was in training when deployed. Sprint contract ends September 30. City needed to participate in Missouri state contract by deadline to keep virtual private network. Motion made by Lisa Daugherty, seconded by Barbara Welch, to have information for September 22 special meeting. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried. GPS system for maintenance truck not installed yet.

Retain Officer Houdyshell as Part-Time Officer: Motion made by Lisa Daugherty, seconded by Barbara Welch, to accept Chief's recommendation and retain Officer Houdyshell as part-time employee at \$11.00 per hour, effective immediately. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill Summary: August outstanding bills of \$16,215.86 and Sewer \$301.57 were presented. Motion made by Lisa Daugherty, seconded by Barbara Welch, to pay outstanding bills. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Fiscal Year 2013 Outside Audit: Copies of audit completed by Mense, Churchwell & Mense was distributed to Board members. Motion made by Lisa Daugherty, seconded by Roger Bone, to accept audit. Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

As there was no further business, motion was made by Roger Bone, seconded by Lisa Daugherty, to adjourn meeting. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried. At 10:20p.m. meeting adjourned.

Terry Ingram, City Clerk