

City Council for City of Duquesne met in Regular Session at 7:00 p.m. on Monday, June 9, 2014, at City Hall.

Mayor Denny White called meeting to order. David Weaver gave invocation.

Roll call was taken. Mayor Denny White, Aldermen Frank Herron, Barbara Welch, Roger Bone, Lisa Daugherty were present. Absent: none. City Attorney Mike Talley, David Weaver, Police Chief Kitch and 18 visitors were also present.

Agenda: Motion made by Lisa Daugherty, seconded by Frank Herron, to approve agenda. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Rezoning Public Hearing for 808 Walnut Ridge: At 7:05 PM, Mayor opened public hearing. As there were no comments, public hearing was closed at 7:07 PM.

Minutes from May 12 Regular and May 22 Special Meetings were presented. Motion made by Barbara Welch, seconded by Frank Herron, to approve minutes as presented. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Financial report for May was presented. As there were no changes or corrections, report was approved and filed for audit. Budget Summary was also presented. Motion made by Roger Bone, seconded by Frank Herron, to approve financial report and budget summary. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried. Board agreed to set maintenance employee's hours at 59% street / 41% city. Adjusting general entry had already been made for FY2013 and would be made for current fiscal year.

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

At 7:15 PM, Mayor opened Rezoning Public Hearing for Katherine Estates, Tract 2. Bryan Jones with Midcontinent Equity Holdings addressed Board. Original rezoning application was for 4.44 acres. Within legal description for Houk property there was an exception of 125'x125' or .36 acre parcel, because Houk had purchased it as separate parcel from larger parcel (2.69 acres). Graves property totaled 1.76 acres. All three parcels land mass must be included to equal 4.44 acres as original application indicated. Tract 2 was excluded in error and current rezoning request was to correct error. At one point, Midcontinent thought it would be able to avoid building on parcel and, therefore, not pursue correction. However, slope of land and location of Katherine prevented rearranging community and accessory building, playground and holding pond. Part of community building has been erected on part of 125'x125' parcel. Therefore, company has requested rezoning from R1 Single Family Residential to R3 Multi-Family Residential.

Anthony Storie, 3502 Bunny Lane, suggested variance be granted instead of rezoning.

Cinda Sweet, 3711 E 13th, said developer had stated he would not need to build on 125'x125' parcel when omission had been pointed out previously.

Debra Giddens, 3838 E 16th, felt city building inspector should have noticed part of community building was being erected on 125'x125' parcel.

Bryan Jones readdressed issue. Since all surrounding properties owned by Midcontinent had been rezoned R3, he wanted omitted parcel rezoned to correct an honest mistake and basic typo error. Original rezoning intent included .36 acres (125'x125') to equal 4.44 acres.

Other questions and comments not related to public hearing were made. Public hearing for rezoning issue closed at 8:25 PM.

Public Comments: Paula Bone, 2501 Freeport Drive, handed out information about MoDOT open house for transportation matters. She would verify times and inform city office.

Stella McGowen, 3604 E 16th Street, asked if Schroeder property at 16th & Katherine could be requested to cut foliage 12' back from roadway. Because property belongs to LLC, it is difficult to issue citation; but nuisance hearing could be scheduled. Police Chief agreed to post property on Tuesday for nuisance hearing.

Cinda Sweet expressed concern about appointment of George Reeve to Planning & Zoning Commission when she felt there were other applicants available.

Debra Giddens wanted ordinance restricting only one living quarters per parcel to remain.

Bill 14-06 Repeal Ordinance 206 Interference by Board Member: Motion made by Lisa Daugherty, seconded by Roger Bone, to read Bill 14-06 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-06 was read by title only. Motion made by Lisa Daugherty, seconded by Barbara Welch, to accept first reading of Bill 14-06 and move to second and final reading by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-06 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 14-06 by title only and adopt as Ordinance 235. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-07 Establish Duties of Street Commissioner: Motion made by Lisa Daugherty, seconded by Barbara Welch, to read Bill 14-07 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-07 was read by title only. Motion made by Lisa Daugherty, seconded by Roger Bone, to accept first reading of Bill 14-07 and move to second and final reading by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-07 was read second and final time by title only. Motion made by Lisa Daugherty, seconded by Roger Bone, to accept second and final reading of Bill 14-07 by title only and adopt as Ordinance 236. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-08 Amend Fireworks Selling Dates to June 26 through July 7: Motion made by Lisa Daugherty, seconded by Roger Bone, to read Bill 14-08 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-08 was read by title only. Motion made by Lisa Daugherty, seconded by Roger Bone, to accept first reading of Bill 14-08 and move to second and final reading by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-08 was read second and final time by title only. Motion made by Lisa Daugherty, seconded by Roger Bone, to accept second and final reading of Bill 14-08 by title only and adopt as Ordinance 237. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-09 Rezone 808 Walnut Ridge from R1 Single Family Residential to C1 Commercial: Motion made by Lisa Daugherty, seconded by Barbara Welch, to read Bill 14-09 by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-09 was read by title only. Motion made by Lisa Daugherty, seconded by Barbara Welch, to accept first reading of Bill 14-09 and move to second and final reading by title only. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-09 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 14-09 by title only and adopt as Ordinance 238. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Bill 14-10 Rezone Katherine Estates Tract 2 from R1 Single Family Residential to R3 Multi-Family Residential: Motion made by Frank Herron to read Bill 14-10 by title only. Lisa Daugherty said Board has two options: approve rezoning application or have structure (community building) torn down. City Attorney stated he did not recommend having building torn down as it could be considered arbitrary and capricious action and failure to act on application at all would leave applicant in limbo and subject City to probable litigation. City attorney would not be able to represent City as he would be considered key witness by both parties. City's insurance would not cover litigation costs and individual Board members could be held liable. City attorney also pointed out all parties with vested interest in project could sue City for injury as City lacks good reason to deny rezoning request. It was technical mistake that needs corrected. If no one seconds motion to place on first reading by title, no action can be taken.

Lisa Daugherty asked if variance could be granted or partial rezoning for portion of 125'x125' parcel where part of building was erected. City Attorney stated City's variance procedure was inapplicable to this situation and could not be used without inventing new procedure unsupported by City Code. Inventing such code would undermine integrity of City and its Codes. Rezoning portion built on as R3 Multi-Family Residential and leaving remaining portion as R1 Single Family Residential would render R1 portion too small to use and deny owner any use property and, thus be actionable.

Barbara Welch asked Bryan Jones if he planned to build on 89' strip of property currently being used as temporary access. He stated property has 15-year land use restriction in place by Missouri Housing Development Commission. Barbara Welch seconded motion. Ayes: Aldermen Herron, Welch. Nays: Aldermen Bone, Daugherty. Mayor broke tie and voted in favor. Motion carried.

Bill 14-10 was read by title only. Barbara Welch stated since Code did not allow for partial rezoning or variance and building removal did not make sense, she saw no other option but to approve rezoning application. Motion made by Frank Herron, seconded by Barbara Welch, to accept first reading of Bill 14-10 and move to second and final reading by title only. Ayes: Aldermen Herron, Welch. Nays: Aldermen Bone, Daugherty. Mayor broke tie and voted in favor. Motion carried.

Bill 14-10 was read second and final time by title only. Motion made by Frank Herron, seconded by Barbara Welch, to accept second and final reading of Bill 14-10 by title only and adopt as Ordinance 239. Ayes: Aldermen Herron, Welch. Nays: Aldermen Bone, Daugherty. Mayor broke tie and voted in favor. Motion carried.

Joplin Special Road District (JSRD) 5-Year Agreement (Renewal of Previous Agreement): Mayor had spoken with Randy Cossey, District Superintendent, who said it would cost \$1,100 for snow removal of all city streets. Agreement stated City would be responsible for material expenses. JSRD does not clean whistles as that was considered private matter and landowners' responsibilities. JSRD has mowed 13th, 20th and Duquesne ditches 2-3 times each year. Major road repairs would be preapproved by Duquesne. Motion made by Lisa Daugherty, seconded by Roger Bone, to authorize Mayor to sign agreement. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Army Corps of Engineers: Application for Construction Permit: Allgeier Martin & Associates had drafted permit for City's signature. Motion made by Roger Bone, seconded by Frank Herron, to authorize Mayor to sign agreement. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Business License Application: Military Fireworks at 3702 E 7th Street was presented. Motion made by Lisa, seconded by Frank Herron, to approve application. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Old Business: Lisa Daugherty asked Bryan Jones, with Midcontinent Equities, for copy of survey of purchased properties. She also requested copy of letter on file with City submitted by Ken Ansley earlier concerning location of 125'x125' parcel.

New Business: Police Department Monthly Report: Chief presented monthly report. He reported vehicle from state will cost about \$750 less than reported last month. However, vehicle will need video system, approximately \$4,750, which was not included with last month's estimate. Motion made by Roger Bone, seconded by Frank Herron, to approve additional cost for video system. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Two GPS options for maintenance truck were presented. One option required monthly download fee. Motion made by Lisa Daugherty, seconded by Roger Bone, to purchase GPS system without monthly fee. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Board requested Chief obtain cost for GPS for maintenance truck.

Bill Summary: May outstanding bills of \$46,032.13 and Sewer \$20,235.75 were presented. Motion made by Lisa Daugherty, seconded by Barbara Welch, to exclude \$1,592.50 in Allgeier Martin invoices (part of invoice 430-47 and all of invoice 430-50). Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried. Motion made by Frank Herron, seconded by Roger Bone, to pay remaining outstanding bills as presented. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Tornado Damaged Foundations: David Weaver reported Chief Kitch, Ken Ansley (City building inspector) and he had reviewed foundations remaining from May 2011 tornado. Ken determined 5 foundations could not be built on and needed to be removed. David asked Board's permission to notify landowners of 5 foundations in question that these needed to be removed. Motion made by Lisa Daugherty, seconded by Roger Bone, to grant permission to do so. Ayes: Aldermen Herron, Welch, Bone, Daugherty. Nays: none. Motion carried.

Other Business Deemed Necessary: Lisa asked about possibility of rescheduling July's meeting. As other members and city attorney had scheduling conflicts for alternative dates, July meeting was left alone.

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

Terry Ingram, City Clerk