

DRAFT ONLY – SUBJECT TO CHANGE.
Regular Meeting

May 13, 2013

City Council for City of Duquesne met in Regular Session at 7:00 p.m. on Monday, May 13, 2013, at City Hall.

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

Roll call was taken. Mayor Denny White, Aldermen Dale Daniels, Frank Herron, Lisa Daugherty, Roger Bone were present. Absent: none. City Attorney Mike Talley, Police Chief Kitch, David Weaver and 58 visitors were also present.

Agenda: Mayor requested Charles Patterson with Allgeier Martin & Associates be added to agenda after Business License to discuss Stormwater permit and give update on University Circle Stormwater study. Motion made by Dale Daniels, seconded by Roger Bone, to approve agenda as modified. Ayes: Aldermen Daniels, Herron, Daugherty, Bone. Nays: none. Motion carried.

Minutes from April 8 Regular and April 26 and May 6 Special Meetings were presented. No changes or corrections, minutes were approved as presented.

Financial report for April was presented. As there were no changes or corrections, report was approved and filed for audit.

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

Approve Certified Election Result: Clerk read result: Special Election was held on April 30 to break tie from April 2 General Election. Alderman Ward 1: Incumbent Frank Herron 59 and challenger Barbara Welch 55. Frank Herron declared winner. Motion made by Lisa Daugherty, seconded by Roger Bone, to accept and approve election results. Ayes: Aldermen Daniels, Herron, Daugherty, Bone. Nays: none. Motion carried. City Clerk administered oath to Frank Herron. Clerk had administered oath to Mayor at Freeman Hospital on April 3.

Elect Acting President of Board: Alderman Daugherty nominated Alderman Roger Bone. Alderman Frank Herron nominated Alderman Dale Daniels. Mayor took vote. Aldermen Daugherty and Bone voted for Alderman Bone. Aldermen Herron and Daniels voted for Alderman Herron. Mayor broke tie and voted for Alderman Daniels to one year term.

Business License: J & J Auto Sales, 3602 E 13th, was presented to Board for approval. Adams Automotive, 741 Orr, was not received prior to meeting. Motion made by Frank Herron, seconded by Lisa Daugherty, to approve application. Ayes: Aldermen Daniels, Herron, Daugherty, Bone. Nays: none. Motion carried.

Allgeier Martin & Associates Update: Charles Patterson updated Board on MS4 Stormwater documents. Part III – Minimum Control Measures (copy distributed to each member) outlines City's responsibilities for recordkeeping, public awareness, outfall

inspections, etc. Bill 13-03 Maintenance of Permanent Stormwater Controls was given for Board to review. It needs to be approved by July 1 for DNR compliance. He also recommend Board adopt Stormwater Management/BMP Facilities Agreement for landowner/developer who disturbs acre or more of land and City that is filed with County and transfers with property. Board will consider at June meeting.

He also updated Board on status of University Circle Floodplain Study. AMA will issue elevation certificates for each property, once study is completed. He estimates 5-7 homes will be able to get removed from floodplain status. Remaining homes should be able to get status changed from 100-year to 500-year classification. Landowners will have to file Letter of Map Amendment (LOMA) for their properties to get FEMA change.

Public Comment: Ray Tupper, 4471 E 26th, asked about use of City personnel and equipment by Board member. Mayor stated City maintenance employee used Mayor's building to detail two police cars to prep for selling. Office chairs had to moved outside to allow vehicle to be worked inside building. Mayor stated use of employee was more economical than using detail shop at \$65 per hour. City employee Cris Gurubel asked to address matter. He goes to Mayor's place of business every morning to get work assignments. Cars were worked on between 8 and 9 a.m. before business opens.

:Lynn Clark, 3052 Blake Street, presented Board with petition signed by all but two homeowners and all but one were not in favor of City sewer being constructed in area. Board thanked her for time and effort obtaining signatures.

Cinda Sweet, 3711 E 13th, had questions about traffic study submitted to Board for Katherine Estates project. Study is scheduled later in meeting and, if she has additional questions then, she can readdress Board at that time.

Carla Arnold, 4025 E 24th, who lives west of lot split for 4027 (vacant lot) and 4029 E 24th (house for sale), complained about construction debris and weed nuisance. Chief confirmed owner has received citation, but has attorney representation. She also read City ordinance 404.030, which states commercial property that butts against residential property must have buffer of 8' fence, 6' vegetation or combination of two. She pointed Mayor's business at 2301 S Duquesne Road does not have such fence. Items stored behind building is eyesore. Denny agreed it needed some attention, but some items stored there belonged to City and City employee would need to work on that portion.

Connie Moore asked if Board would consider approaching gun manufacturers interested in relocating to area to consider Duquesne. These companies have agreed to pay 110% wage rate as part of tax considerations by state.

Bill Summary: Alderman Daugherty asked about Chamber of Commerce annual banquet bill. Clerk stated Denny White and David Weaver attended and were paid for by City. Cathy White also attended and City was reimbursed for her ticket. NOTE: Lisa Daugherty and Roger Bone also attended and were reimbursed for their tickets. April outstanding bills of \$24,429.44; and \$281.59 for Sewer and Wastewater Fund were presented. Motion made by Dale Daniels, seconded by Lisa Daugherty, to pay outstanding bills as presented. Ayes: Aldermen Daniels, Herron, Daugherty, Bone. Nays: none. Motion carried.

Old Business: Update on City Matters: Update on tornado project work summary: City Clerk provided Board with spreadsheet outlining FEMA approved amounts, amounts received and total requested for consideration with explanation of reasons for additional funds. Patrick Duncan with SEMA had met with City Clerk previous week wherein all PW's except PW for road repairs (which have not been done) were closed out and are now in review by state.

Traffic Study for Katherine Estates: Summary of Findings and Recommendations were presented to Board. Copy of full report available at City Hall during regular business hours. Alderman Herron stated he had witnessed several occasions where someone was out there counting. He did not noticed in across-road counters.

Consider Vote to Go into Closed Session Pursuant to RSMo 610.021.1 Litigation: Katherine Rezoning and Issues Raised during April Board Meeting: City Attorney Talley presented Board with his findings. He confirmed there were indeed three properties, for various reasons, were not mailed notices. However, these properties represented approximately 18.2% of total 185' circumference that could protest rezoning request. None of those properties notified filed protest. Conclusion, City ordinance requires at least 30% of eligible property owners must present written protest to Board – no such protest was submitted. Public Hearing was duly advertised in Joplin Globe at least 15 days prior to hearing. Only 2 of 3 properties on development site were rezoned. Third property, .36 acres, was inadvertently omitted. However, no construction is planned for that area. Developers may petition for rezoning of said .36 acres later just to cleanup zoning. Notification of property owners is City ordinance, not state mandated, and failure to receive notice does not invalidate action taken by City. He concluded with litigation potential should City decide to nolle its earlier rezoning decision. Such litigation could easily bankrupt Duquesne and include elected officials in any suit. He advised any further discussion be done in closed session. Board did not go into Closed Session.

Cinda Sweet asked to readdress Board. She asked about citizens pursuing legal action. Gary Heilbrun, 4015 E 25th, asked about sending survey postcard to in 185' zone. Clerk asked for what purpose. Board need not request such postcards be sent.

New Business: Police Department Monthly Report: Chief Kitch presented report. 812 had received damage to front. Estimate to repair is \$1,500 and claim was submitted to insurance company. 813 siren box was out with estimated cost at \$600. Officer McKinney, per his request, has been placed to part-time status and will be scheduled for 24 hours per week. Hiring Board interview A Anthony Johnson. He will graduate May 16 and Chief asked for Board approval to hire him at \$13.50 per hour with 90-day probation. Motion made by Dale Daniels, seconded by Frank Herron, to approve hiring at \$13.50 with 90-day probation. Ayes: Aldermen Daniels, Herron, Daugherty, Bone. Nays: none. Motion carried. No anomalies were reported.

Adopt Stormwater Management Plan (SWMP): July 2013 – June 2018 MS4 Permit Cycle: Motion made by Frank Herron, seconded by Roger Bone, to adopt SWMP. Ayes: Aldermen Daniels, Herron, Daugherty, Bone. Nays: none. Motion carried.

Consider Vote to Go into Closed Session Pursuant to RSMo 310.021.3 Personnel: Matter resolved during open session. Closed session was not needed.

Consider Vote to Go into Closed Session Pursuant to RSMo 310.021.2 Real Estate: Motion made by Dale Daniels, seconded by Frank Herron, to go into Closed Session to discuss real estate matter. Ayes: Aldermen Daniels, Herron, Daugherty, Bone. Nays: none. Motion carried. At 8:45 p.m., Board went into Closed Session after 5-minute break.

At 9:00 p.m., Board returned to open session. Mayor stated Board had discussed possible of purchase of property and any further comment might effect outcome. No formal action was taken during Closed Session.

Consider Vote to Go into Closed Session Pursuant to RSMo 310.021.1 Litigation: Lisa Daugherty v. Denny White: City Attorney asked Mayor White and Alderman Daugherty to step down and join audience. Both did so and Acting President Daniels presided over meeting. Mike Talley stated he had received word from insurance today stating it would cover Mayor White's defense and obtain Kansas City attorney to represent him in this matter. City of Duquesne will be responsible for \$5,000 deductible. To discuss matter further, motion made by Dale Daniels, seconded by Frank Herron, to go into closed session. Ayes: Alderman Daniels, Herron. Nays: Alderman Bone. Motion carried. At 9:10 p.m., Board adjourned into closed session that included Aldermen Daniels, Herron, Bone, City Attorney Mike Talley, Police Chief Tom Kitch and City Clerk Terry Ingram.

At 9:30 p.m., Board returned to open session wherein Acting President Daniels stated while in closed session, pending litigation was discussed and no formal action was taken. Acting President then turned meeting back over to Mayor and he and Alderman Daugherty rejoined Board.

Reports of Special Boards, Committees & City Officers: none.

Other Business Deemed Necessary: Mayor announced Dale Daniels formally resigned from Planning & Zoning Commission. Dale Daniels recommended and motioned for George Reeve to be appointed to Commission. Alderman Herron seconded motion. Ayes: Aldermen Daniels, Herron, Bone. Nays: none. Abstain: Alderman Daugherty. Motion carried.

As there was no further business, motion was made by Lisa Daugherty, seconded by Frank Herron, to adjourn meeting. Ayes: Aldermen Daniels, Herron, Daugherty, Bone. Nays: none. Motion carried. At 8:20 p.m. meeting adjourned.

Terry Ingram, City Clerk