

CITY OF BUTLER
MINUTES OF A MEETING OF THE CITY COUNCIL
APRIL 6, 2010

The Butler City Council met in regular session on Tuesday, April 6, 2010 at 7:00 p.m. in the Council Chambers at City Hall, 22 West Ohio with Mayor Cook presiding. The following Councilmen were present:

ROLL CALL

David Brown	Don Malan
Brian Phillips	Jim Fisher
Justin Osburn	Bob Schnoebelen
Pat Simons	Doug Wix

OTHERS PRESENT

Others present were Police Chief Garnett, City Administrator Mark Arbuthnot, City Clerk Casey Koehn, City Attorney Tom Addleman, Public Works Director Trent Diehl and Barb Scrogam

OTHER GUESTS

Others guest present to observe the proceedings were Eugene Miller Jr., Dave Malone, Edwin Nelson, Terrence Wilson, John Golliday, Lance Sargent, Marie & Jo Carmichael and Pat Decker.

APPROVE CONSENT AGENDA

Motion by Schnoebelen, seconded by Phillips to approve the minutes of the regular session of March 16, 2010. Motion passed unanimously by a show of hands. Motion made by Phillips to accept bills. Simons questioned as to why we were being billed by Scott Friedrich when the former City Attorney Diana Thomas was on retainer and should be taking care of City business. Phillips rescinded the motion to accept the bills. Simons made a motion to withhold the amount of Friedrich's bill from former City Attorney Diana Thomas's retainer in lieu of Attorney Thomas being unable to fulfill her obligation for the month of March. Motion failed. It was stated that Scott Friedrich had been approved by Council to fill in when Attorney Thomas was unable to fulfill her obligations. Attorney Addleman stated there needs to be some guidelines set in place. Motion by Phillips, seconded by Brown to approve bills, excluding Butler Tow and Bates County Fire Safety presented for payment. Motion passed with a vote of 7 to 1 vote, with Simons voting nay. Motion by Schnoebelen, seconded by Fisher to approve the bills from Butler Tow and Bates County Fire Safety. Motion passed unanimously by a show of hands with Osburn and Wix abstaining.

PLAQUE PRESENTATION

Mayor Cook presented a plaque to Bob Schnoebelen for his service as 4th ward councilman for the City of Butler from April, 2004 to April, 2010 and to Justin Osburn for his service as 2nd ward councilman for the City of Butler from April, 2008 thru April, 2010. City Administrator Mark Arbuthnot presented a plaque to Mayor Jerry Cook

for his service as Mayor for the City of Butler, April, 2002 thru April, 2010.

ADDITIONS

Addition of delinquent real estate and personal taxes. Motion made by Osburn, seconded by Malan to accept the addition to the agenda. Passed unanimously with show of hand.

SCHEDULED GUEST
PAT DECKER

Pat Decker, Executive Director for the Butler Area Chamber of Commerce, requested permission to hold the annual Car Show event on the courthouse square on Saturday, June 5, 2010. Motion made by Malan, seconded by Brown to approve request. Motion passed unanimously by a show of hands.

COMMITTEE REPORTS
FINANCE COMMITTEE

The Finance Committee met at 6:30 p.m. before the regular City Council meeting to discuss the possibility of refunding the Certificates of Participation for the Aquatic Park. The City Administrator discussed this last year with Carl Simpson and A.G. Edwards and, at that time, it was not feasible to do a refunding. Several weeks ago Dave Malone, a financial advisor with DeWaay Financial Network, was in and we discussed doing the refunding. He ran the numbers to see if it was feasible and there is the potential for the City to save some money by doing the refunding at this time. The City Administrator requested that Dave Malone attend the committee meeting and review his estimates as to the potential cost savings. If it is decided to consider doing the refunding then A.G. Edwards or any other financial institution should be requested to submit a refunding proposal for the City to consider. Motion made by Simons, seconded by Osburn to request proposal. Motion passed unanimously with show of hands.

BOARDS AND COMMISSIONS
AIRPORT COMMISSION

Airport Commission met on March 18th at 6:30 p.m. at City Hall. They 1) approved the FY 2009-2010 Airport Budget Amendment for \$9,000, 2) approved the FY 2010-2011 Airport Budget, 3) approved the agreement for engineering services with Burns and McDonnell for the micro-seal project. They also discussed having the rotating beacon checked out as it was not working.

PARK AND REC COMMISSION

Park and Recreation Commission met on April 1st at noon at City Hall. The Park and Recreation Superintendent reviewed activities for the department which included getting the Aquatic Center ready for the summer, setting up applicant interviews for the Aquatic Center, mowing in the parks, working at the ball diamonds, completing the department inventory, distributing portapies for the season and working on bids for concession supplies.

Consider extension of the Option Agreement between the City and Affordable

UNFINISHED BUSINESS

Homes from April 30, 2010 to June 30, 2010. The agreement states that the City will provide to Affordable Homes (19) lots for construction of homes for low to moderate income families in Park West Estates II.

The extension is needed due to the delay in approval for the project from the Missouri Housing Development Commission in approving the tax credit program to be used by Affordable Homes for this development.

Joe & Marie Carmichael, with Affordable Homes, met to discuss the project with the City Council and the steps they have taken in trying to utilize local contractors for the construction of the new homes. Joe Carmichael had a meeting with local contractors at City Hall on March 24th to review the project and to provide bidding information. They sent notices to contractors about the meeting and had also published a notice in the News Xpress.

Joe Carmichael reported 16 different companies attended, to inquire about the bidding. Each company had 6 days to submit its bid. The results are 9 pieces of the 19 bidding projects would be done locally. Their goal is to use more local companies, but the bids submitted were too high. Lower bids were received by contractors in Springfield. After much discussion the Mayor asked for a motion to extend the Option Agreement. No motion was made.

Joe Carmichael stated they would proceed with the project.

BILL NO. 2010-3 ORD NO. 907
1st READING

Motion by Osburn, seconded by Wix for the first reading of
BILL NO 2010-3 ORD NO 907 AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT AND BINDING UNILATERAL AGREEMENT WITH ALLTEL COMMUNICATIONS, LLC, AND RELATED ENTITIES RELATING TO PAYMENT OF BUSINESS LICENSE TAXES.

Motion passed with the following votes:

Brown-Aye	Malan-Aye
Phillips-Aye	Fisher-Aye
Osburn-Aye	Schnoebelen-Aye
Simons-Aye	Wix-Aye

BILL NO. 2010-3 ORD NO. 907
2nd READING

Motion by Wix, seconded by Brown for the second reading of
BILL NO 2010-3 ORD NO 907 AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT AND BINDING UNILATERAL AGREEMENT WITH ALLTEL COMMUNICATIONS, LLC, AND RELATED ENTITIES RELATING TO PAYMENT OF BUSINESS LICENSE TAXES.

Motion passed with the following votes:

Brown-Aye	Malan-Aye
Phillips-Aye	Fisher-Aye
Osburn-Aye	Schnoebelen-Aye
Simons-Aye	Wix-Aye

BILL NO. 2010-3
ADOPT ORD NO. 907

Motion by Wix, seconded by Phillips to adopt **BILL NO 2010-3 ORD NO 907 AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT AND BINDING UNILATERAL AGREEMENT WITH ALLTEL COMMUNICATIONS, LLC, AND RELATED ENTITIES RELATING TO PAYMENT OF BUSINESS LICENSE TAXES.**

Motion passed with the following votes:

Brown-Aye	Malan-Aye
Phillips-Aye	Fisher-Aye
Osburn-Aye	Schnoebelen-Aye
Simons-Aye	

REPORTS
POLICE CHIEF

Chief Garnett reported the contracts had been delivered to the three veterinarians. When Chief Garnett went to pick up the contracts, Dr. Welborn declined the contract. Dr. Callahan stated he had been visited by a councilman and he declined the contract. Dr. Sage stated he would not sign the contract, but would continue to provide service to the city and would bill when it was convenient. Chief Garnett requested to invite the three local veterinarians to the next council meeting, the consensus was to proceed with the invitation. Chief Garnett reported a beagle was picked up Saturday afternoon, and Sage Vet Clinic was closed. The dog was caged at the old police station. The PD received 25 or more calls because of the Beagles barking. Chief Garnett stated Roger Cecil has a kennel for sale for \$350.00. It can be set at the old dog pound, so in the future when the Vet clinic is closed a dog can be taken to the old pound. Chief Garnett reported Roger Cecil took a stress test in connection with the report of a dog being shot with a pellet gun by Mr. Cecil; Mr. Cecil passed the stress test. The test was administered in Harrisonville and read by the Harrisonville PD. Motion was made by Phillips, seconded by Wix to purchase the kennel from Roger Cecil for \$ 350.00. Motion passed with a 7 to 1 vote with Simons voting nay.

CITY ATTORNEY

City Attorney Addleman reported he has met with the Police Dept, and the Judge. Addleman stated the court is \$231,286.00 in debt and \$144,000.00 in unpaid fines. Addleman stated he is working on several changes to come.

CITY ADMINISTRATOR

Sproules Construction has been issued the notice to proceed on the street improvement project for the Park West Estates.

A notice has been published in the newspaper to request bids for the City property that can be utilized for crop/hap production. The bids are due back on April 8th and will be provided at the April 20th City Council meeting for

consideration. There has not been any additional information provided to the City regarding the solar farm proposal for the Industrial Park property.

The City Administrator had a meeting with the engineers with HNTB regarding the downtown improvement project. There are still some environmental approvals that are needed and they are working with MoDOT to get these approved for the project. The tentative schedule is for the notice to request bids to be published on April 12th and the bids due back May 12th and then considered by the City Council at the May 16th council meeting so the notice to proceed would be issued on June 7th. The project will not conflict with the Chamber Car Show which is scheduled for Saturday, June 5th to be held around the courthouse square.

Included in the packet is the response from Osage Valley Electric Cooperative declining the request to accept the transfer of Barbara Aaron's electrical service to their system. A copy of this letter and the letter that was sent to Osage Valley concerning compensation requested by the City was also provided to Barbara Aaron.

Donna Gregory the Presiding Bates County Commissioner, met with the City Administrator and discussed economic development for the County. She also inquired if the City would be willing to work jointly with them and the other cities in the county to help promote economic development. It was also discussed that a meeting between representatives of the cities and the County Commission should be held to see what the interest level was in doing this and then proceeding accordingly. The consensus was to proceed.

The cleaning, televising and smoke testing of the sewer lines by Mid-America Pipe Services has been completed. Kurt Higgins, with Allgeier, Martin and Associates, is reviewing their reports that have been submitted regarding this completed work. He will be scheduled to make a presentation at a future City Council meeting regarding his findings from the inspection reports. Trent Diehl is also reviewing the reports.

A law suit has been filed against the City of Butler with regard to the vehicle accident that occurred on October 20, 2008 between David R. Robey and Patricia Wartenbee at the (3) mile corner south of Butler on Hwy. 71. The law suit claims negligence on the part of David R. Robey in his operation of the City vehicle.

The law suit states that Patricia Wartenbee has sustained damages in excess of \$25,000 as a result of the accident. This has been turned over to the City insurance carrier for follow up.

The City wide clean-up will be held the weeks of May 10th (North of Ft. Scott) and May 17th (South of Ft. Scott). The Street Department and Bates County Disposal are agreeable with these dates for clean-up. The Chamber City Wide Garage Sale is scheduled for Saturday, May 8th.

Property inspections have been completed on 305 North Lyon Street and 604 East Dakota Street. Based on these inspections, notices of violations will be

sent as required in the Code to advise the property owners that they have (15) days to submit a plan of action for cleanup, repairs, or demolition of the structures to the City. If no plan is submitted then the City Administrator will schedule an administrative hearing to determine what action will be taken to bring the property into compliance.

The City Administrator will be working with the City Attorney to determine what action can be taken in regard to the demolition of the structure located at 307 West Pine Street. This demolition has been postponed because the property owners filed bankruptcy and the property ownership reverted to the mortgage company but they have not responded to inquires from the City concerning the demolition of the structure.

A letter from the Bates County Commission about the formation of the Bates County Coalition to address poverty, unemployment and jobs creation, enhanced local economy, youth opportunities and health and wellness is included in the packet. There next scheduled meeting is Tuesday, April 20th at 6:30 p.m. at the Bates County Health Department.

Buried cable that was installed across part of the Cemetery property to serve the old abandoned missile base has been removed by the City and sold for salvage. The City received \$2,541.

The placement of political signage for the April 6th elections has resulted in some problems with the City sign regulations as they relate to trailer mounted signs and whether or not these are permitted in residential areas and under what conditions. The City Administrator discussed this with the City Attorney and agreed to allow the trailer mounted political signs to be used for this election but that the sign regulations need to be reviewed and clarified and also brought into compliance based on First Amendment Rights of property owners. The City Clerk, Casey Koehn contacted the Missouri Municipal League and they provided an article and case law that needs to be considered when developing municipal sign regulations.

This information will be provided to the City Attorney as well as additional Missouri Municipal League information that was provided to the previous City Attorney by the City Administrator in July of 2008 for review when there were other issues regarding the City regulations and the location of political signs.

MAYOR

Mayor Cook expressed his thanks and appreciation to the Councilmen, the Police Dept and Chief Garnett, City Administrator Mark Arbuthnot, City Clerk Casey Koehn and C.A. Moore.

BROWN

Complaints-308 W. Harrison sewer issues, Austin & Mill trash issues. Brown stated it has been a pleasure working with Mayor Cook and Councilmen Schnoebelen and Osburn.

PHILLIPS

No Complaints. Phillips expressed under Mayor Cook's leadership the City of Butler has made great strides and would continue to do so. Phillips also expressed that Mayor Cook would be missed.

OSBURN

Osburn thanked the Mayor. Osburn commented on the power outage on Easter Sunday. Osburn congratulated Councilman Malan on being elected the new Mayor of Butler.

SIMONS

Simons thanked the Mayor, Osburn, and Schnoebelen for their hard work for the City of Butler.

Complaints-Gregory St. needs to have the sweeper run down the street. Ditches and gutters have leaves that need to be cleaned out.

MALAN

Malan expressed it had been a pleasure working with Mayor Cook, and he appreciated Councilman Osburn comments.

Complaint-Street light on Fawn Dr.

FISHER

Fisher commented he enjoyed working with Mayor Cook and Councilmen Schnoebelen, and Osburn.

Complaint-a resident in ward 3 has a possum that he was unable to catch.

SCHNOEBELEN

Schnoebelen expressed his pleasure working with Mayor Cook.

No complains. Schnoebelen commented on the old Millers Greenhouse. He said the Code Enforcement officer had been in contact with the owner and progress is in the works.

WIX

Wix stated he will miss Mayor Cook and has enjoyed working with him, also commented it's been good working with Schnoebelen and Osburn.

NEW BUSINESS

Consider agreement with Burns & McDonnell to provide engineering services for design and bidding the micro-seal project for the taxi way and apron areas at the Butler Memorial Airport for the amount of \$24,820. Construction observation costs are proposed at \$15,374 and will be submitted under a separate contract. The estimated total cost of construction for the project is \$82,564. The project will be funded 95% through MoDOT and 5% with City funds. Motion made by Osburn, seconded by Schnoebelen to accept agreement with Burns & McDonnell. Motion passed unanimously with show of hands.

ADJOURNMENT

There being no further business, motion was made by Malan, seconded by Osburn to adjourn meeting.

Mayor Jerry L. Cook

ATTEST

City Clerk Casey Koehn