

CITY OF BUTLER
MINUTES OF A MEETING OF THE CITY COUNCIL
December 7, 2010

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

ROLL CALL

David Brown	Harold Weil
Brian Phillips	Jim Fisher
Thom Burg	Brian Boyd
Pat Simons	Doug Wix

OTHERS PRESENT

Others present were Administrator Mark Arbuthnot, Police Chief Jim Garnett, City Attorney Tom Addleman, Officer Denny Rich, Public Works Director Trent Diehl and Barb Scrogam.

OTHER GUESTS

Eugene Miller, Linn Nitsche

APPROVE CONSENT AGENDA

Motion by Phillips, second by Wix to approve the minutes of the regular session of November 16, 2010. Motion passed unanimously with a show of hands. Motion by Wix, second by Brown to approve the bills, excluding Baker Distributing Co which was paid by councilman Simons and presented for payment. Motion passed unanimously with a show of hands. Motion by Wix, second by Phillips to approve the bill from councilman Simons. Motion passed unanimously by a show of hands with Simons abstaining.

APPROVAL OF AGENDA
ADDITIONS OR DELETIONS
JOHN MILLER
CLOSED SESSION

Motion by Boyd, second by Fisher to add a letter from John Miller, also to go into closed session to discuss litigation concerning the lawsuit brought against Police Chief Garnett, former Police Chief Blom and former Mayor Jerry Cook at the end of the regular meeting. Motion passed unanimously with a show of hands.

SCHEDULED GUEST
BRIAN BROWN ZONING
VIOLATION

Brian Brown spoke to council concerning zoning violations at his residence at 312 W. Ohio St. Mr. Brown stated he had received a ticket for parking on the sidewalk. Mr. Brown stated he does not park on the sidewalk. He parks in the street after his landlord informed him to no longer park on the sidewalk. Mr. Brown asked if the council would change it back to a parking area. After some discussion, council informed Mr. Brown he would have to park his vehicle somewhere else.

AWARD PRESENTATION
SERVICE AWARDS

Mayor Malan presented service award to Samuel D. Rich, 20 years (Police Officer). Those unable to attend Mary Jo Cook, 30 years (Office Manager) and Mike Casida, 10 years (Water Treatment Plant Operator).

COMMITTEES
NEIGHBORHOOD ADVISORY
COMMITTEE

Neighborhood Advisory Committee met December 6, 2010. Burg informed council there will be no meetings until next year.

FINANCE COMMITTEE

The City Council Finance Committee met at 6:00 p.m. on Tuesday before the regular City Council meeting to discuss 1)Cost of Service and Electric Rate Study and the proposed rate increases and 2)Proposed Electric Pole Attachment Ordinance. They recommended that the City Council consider approval of these two ordinances at their next meeting on December 21st.

BOARDS AND COMMISSIONS
PARK AND RECREATION

The Park and Recreation Commission met on Thursday, December 2nd at noon at City Hall. The commission discussed ways to reduce costs in the pool operations for next year. The Park and Recreation Superintendent, Scott Bitner, reviewed his monthly activity report at the Recreation Commission meeting.

REPORTS

CHIEF GARNETT

OFFICER WEISS AND SMOKEY

Chief Garnett reported Cass County requested the services of Officer Weiss and drug dog Smokey at a vehicle stop. Smokey found 51 pounds of marijuana soaked in diesel fuel. Officer Weiss and Smokey were also requested to search a vehicle at the scale house in Harrisonville. Nothing was found. Officer Weiss and Smokey go to Nevada once a month to do a search at the school which pays \$100.00 each trip.

CITY ATTORNEY

RESTITUTION FUND

City Attorney Addleman informed council there is a law enforcement restitution fund. It's a general fund and sometimes they add on charges if someone is charged with a possession charge. This may be a way of recouping money with Smokey being used by other agencies.

QUIET TITLE

City Attorney Addleman reported on the process of obtaining a quiet title. There is a \$98.00 filing fee and \$100.00 publication fee. A title history is done to see if there is anyone of interest. If there is no one of interest then he will file a petition of quiet title. Notice is put in the paper for 45 days and there is no response for this piece of property, it will be called up for hearing and if no one stakes claim to the property, then the Judge has the power to issue a peaceable title.

109 S. LYONS

City Attorney Addleman reported Mr. Klumb spoke with him concerning the property at 109 S. Lyons St. Mr. Klumb had purchased this property at the county tax sale. The City has a lean of \$10,000.00 on the property and it will be up for 3rd year tax sale for the City in 2011. Mr. Klumb inquired if the City would like to redeem the property or let it go into private ownership. After considerable discussion, a motion was made by Burg, second by Phillips to cut the City's loss and let the property go. Motion passed unanimously with a show of hands.

MR. WINTERS

City Attorney Addleman informed council a letter was sent to Mr. Winters informing Mr. Winters that he needs to contact City Attorney Addleman concerning commercial equipment being stored on the property which is creating a nuisance and it is a zoning violation.

CITY ADMINISTRATOR

OSAGE VALLEY RC&D GRANT

City Administrator Arbuthnot informed council the City has been notified that our private sewer line replacement grant application to Osage Valley RC&D was not approved as it did not meet the criteria as a nonpoint source pollution project. This is because private sewer systems that are connected to the City

sewer collection system which are considered a point source under the National Pollution Discharge Elimination System (NPDES). The discharge permit for the City Wastewater Treatment Plant is issued by MoDNR under the NPDES.

ELECTIONS

City Administrator Arbuthnot informed council that City Clerk, Mary Jo Cook, has advised that the City Council has four positions, one from each Ward, which will be up for election on April 5, 2011. Candidates may file to run for office at City Hall with the City Clerk between 8:00 a.m. and 5:00 p.m., Monday through Friday from Tuesday, December 14, 2010 through Tuesday, January 18, 2011. Current City Council members whose terms are up next April include: Ward 1 - Brian Phillips, Ward 2 – Pat Simons, Ward 3 – Harold Weil, Ward 4 – Doug Wix.

ELECTION BOUNDARY MAP

City Administrator Arbuthnot reported it was discovered, after an inquiry from a citizen, that the City election boundary map for the wards that the City is divided into was not accurate as it indicated. The boundary between Ward 3 and Ward 4 south of Nursery Street was Country Club Drive and it should be shown as the rear property line of the properties on the east side of Country Club Drive. The map has been revised to reflect this change. The Ordinance that establishes the wards also needs to be updated as it dates back to 1968. After considerable discussion, a motion was made by Burg, second by Phillips to leave the existing boundaries as they are in line with Fulton St. behind the houses. Motion passed unanimously with a show of hands. A new ordinance will be drafted to be voted on at the December 21, 2010 council meeting.

LARKING GROUP

City Administrator Arbuthnot reported Vance Neal, the engineer with the Larkin Group, has indicated that he will set up a tour of several Wastewater Treatment Plants to view their UV disinfection systems. We need to pick some dates that will work for the tours and then let him know so he can make the necessary arrangements. The date of January 13 was selected by the City Council.

MAYOR

Mayor Malan thanked Mayor Pro-Tem Wix for filling in during his absence. Mayor Malan expressed his appreciation to everyone for their work on the committees. It's a lot of work that people are not aware of.

COUNCIL MEMBERS

BROWN

Brown-complaint concerning the parking around Cox Feed Store visibility of oncoming traffic is hindered from the west. Brown would like Code Enforcement Officer Rich to speak to Mr. Cox and see if something could be done about the parking situation.

PHILLIPS

Phillips-hats off to Officer Weiss and Smokey.

BURG

Burg-everyone is welcome to come to the Neighborhood Advisory Committee and anyone in town is welcome to come to the meeting.

SIMONS

Simons-inquired about the cost of the taxi dinner. Simons stated the Mayor gave a good speech and the food was good but he is concerned that the dinner may be getting out of hand. It is intended for the taxi drivers, dispatchers and volunteers. Simons asked Public Works Director Diehl to figure the cost of

fuel used for the taxi and he suggested raising the cost to \$.50. Simons also had concerns on the line of sight at the corner of Ohio St. and Havannah St. concerned an accident could occur there at this intersection.

WEIL

Weil-had a complaint about the Christmas lights not being turned on. City Administrator Arbuthnot responded the lights are usually turned on after the Christmas Parade. Weil also had complaints about the leaves along the curb.

FISHER

Fisher- had no complaints.

BOYD

Boyd-inquired about the progress of the Scout Hall. It was reported that the City would be working on the ADA compliance issues. No report was available concerning the building committee.

WIX

Wix- no complaints.

NEW BUSINESS
JOHN MILLER ZONING

John Miller is requesting to move his place of residence to 108 E. Walnut because of health issues. 108 E. Walnut is zoned as commercial property. After discussion it was decided to inform Mr. Miller he will have to fill out an application and take his request before the Zoning Board of Adjustment.

**DOWNTOWN IMPROVEMENT
PROJECT**

Consider Supplemental Engineering Services Agreement with HNTB for the design changes in the Downtown Improvement Project. This is to revise the plans and specifications to remove the diagonal and east/west mid-block pedestrian crossings and include the lighting on the courthouse property and the benches to be placed in front of businesses around the square. This agreement provides for additional engineering fees of \$14,065.09 to be paid to HNTB and is subject to approval by MoDOT and would allow for utilization of the approved grant funds to pay 79% of these engineering fees and the City would pay the local match of 21%. Motion by Simons, second by Burg to accept the Supplemental Engineering Services Agreement with HNTB for the design changes in the Downtown Improvement Project. Motion passed unanimously with a show of hands.

ADJOURNMENT

There being no further business, motion was made by Wix, second by Fisher to adjourn the regular meeting and open closed session to discuss litigation concerning the lawsuit brought against Police Chief Garnett, former Police Chief Blom and former Mayor Jerry Cook. Motion passed unanimously with a show of hands.

ATTEST

Mayor Don H. Malan

City Clerk Mary Jo Cook