

**CITY OF BUTLER  
MINUTES OF A MEETING OF THE CITY COUNCIL  
JULY 3, 2012**

The Butler City Council met in regular session on Tuesday, July 3, 2012 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	Terry Agnew-Absent
Thom Burg	Brian Boyd
Pat Simons	Doug Wix

**OTHERS PRESENT**

Others present were City Administrator Mark Arbuthnot, Fire Chief Jim Henry, Police Chief Jerry Boyd, City Attorney Tom Addleman, City Clerk Mary Jo Cook and Barb Scrogam.

**OTHER GUESTS**

Eugene Miller, Michael Keaton, David Schwarzkopf, Todd Wilhelmus, Jon McCoy, Mike Gallagher, Bob Hardie, Andrew Culbertson and Butch Beeman.

**APPROVE CONSENT AGENDA**

Motion by Phillips, seconded by Wix to approve the minutes of the regular session of June 19, 2012 and minutes of the closed session of June 19, 2012. Motion passed unanimously with a show of hands. Motion by Wix, seconded by Phillips to approve the bills presented for payment. Motion passed 6 to 1 with Simons voting nay. Motion by Wix, seconded by Simons to approve travel/training. Motion passed unanimously with a show of hands. Motion by Boyd, seconded by Wix to approve training for Payne & Berry. Motion passed unanimously with a show of hands.

**APPROVAL OF AGENDA-  
ADDITIONS OR DELETIONS**

Motion by Boyd, seconded by Brown to add Chief Henry to the agenda to present a report, add training for Payne and Berry and add a closed session called for by City Attorney Addleman. Motion passed unanimously with a show of hands.

**SCHEDULED GUEST  
ANDREW CULBERTSON  
90 DAY EXTENSION BUILDING  
PERMIT**

Andrew Culbertson provided an update on the improvements to his property located at 206 N. Fulton St. City Council approved a 90 day extension to his building permit on April 3, 2012. Mr. Culbertson is seeking a 90 day extension. Motion by Burg, seconded by Simons to approve another 90 day extension. Motion passed unanimously with a show hands

**ATTORNEY TODD  
WILHELMUS/EUGENE MILLER  
VARIANCE REQUEST**

Attorney Todd Wilhelmus, was present representing Eugene Miller regarding a driveway variance request that was presented at the June 19, 2012 City Council meeting which was denied. Mr. Wilhelmus informed council Mr. Miller has complied with a previous variance request to put gravel in the back yard. The gravel has been put down in the back yard since the last council meeting. Mr. Wilhelmus explained Mr. & Mrs. Miller are both handicapped and it is difficult for them to enter their home from the back yard and, therefore, is requesting to park in front of their home. Motion by Simons, seconded by Wix to approve variance request. Motion passed unanimously with a show of hands.

**JON MCCOY & MIKE**

**GALLAGHER/MCKINSTRY  
AGREEMENT**

Jon McCoy and Mike Gallagher with McKinstry presented their agreement for services in the amount of \$182,506.00 to complete the energy improvements to City facilities. These improvements will be financed with low interest loans in the amount of \$190,073. that were approved by the Missouri Department of Natural Resources. The energy cost savings from making these improvements is guaranteed by McKinstry and will be used to pay back the loans. Motion by Burg, seconded by Simons to approve the agreement with McKinstry. Motion passed unanimously with a show of hands.

**MICHAEL KEATON/ALLGEIER,  
MARTIN & ASSOCIATES  
AGREEMENT**

Michael Keaton with Allgeier, Martin and Associates, presented the engineering services agreement for the design and bidding of Inflow and Infiltration repairs to the City sanitary sewer lines. The contract is for an amount not to exceed \$30,000.00. The areas for repairs will be based on the camera inspection and cleaning of the sewer lines that the City has completed over the past two years. Estimated cost for the repairs is \$300,000 that will be financed with lease purchase financing with MPOA. The sewer line repairs will reduce I&I and provide for compliance with the City's I&I Reduction Plan that has been approved by the Missouri Department of Natural Resources. Motion by Simons, seconded by Wix to approve the agreement with Allgeier, Martin and Associates. Motion passed unanimously with a show of hands.

**BUTCH BEEMAN/AUDIT**

Butch Beeman with Trout, Beeman & Co. P.C. presented the City's FY 2011-2012 annual audit to council. Motion by Wix, seconded by Boyd to accept the FY 2011-2012 audit. Motion passed unanimously with a show of hands.

**NEIGHBORHOOD ADVISORY  
COMMISSION**

Councilman Burg reported the Neighborhood Advisory Commission meeting had been cancelled, due to several members that were unable to attend.

**UNFINISHED BUSINESS  
R-2 SINGLE FAMILY  
RESIDENTIAL DISTRICT TO C-3  
HIGHWAY COMMERCIAL  
DISTRICT**

Al Hellebuyck, property owner at 904 W. Ft. Scott St., spoke to the Planning Commission at the April 10<sup>th</sup> meeting concerning rezoning his property from R-2 Single Family Residential District to C-3 Highway Commercial District. The Planning Commission held a Public Hearing on Tuesday, May 8<sup>th</sup> at 7:30 p.m. at City Hall to consider the rezoning of Mr. Hellebuyck's property and other properties in this area that are located on the north side of West Ft. Scott Street going east beginning at Rice Road to Prospect Avenue from a R-2 Single Family Residential District to a C-3 Highway commercial District. Eight property owners from this area attended the hearing and asked questions on how the proposed change in zoning would affect their residential properties. After the public hearing the Planning Commission made a recommendation for City Council to approve the proposed rezoning for these properties.

City Council held a public hearing at their meeting on Tuesday, June 19<sup>th</sup> at 7:00 p.m. and the public hearing notice was sent to property owners and published in the newspaper. At the close of the public hearing the council asked the City Attorney, Tom Addleman, to research questions that were brought up by property owners who attended the public hearing. A proposed Ordinance for City Council consideration to rezone the property located at 904 W. Ft. Scott St. from a R-2 Single Family Residential District to a C-3 Highway Commercial District is included in the meeting packet.

**BILL NO. 2012-12  
ORD NO. 950  
1<sup>ST</sup> READING**

Motion by Phillips, seconded by Wix for the first reading by title only of **BILL NO. 2012 -12 ORDINANCE NO. 950**

**AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY WITHIN THE CITY OF BUTLER, MISSOURI.**

Motion passed with the following votes:

David Brown-Aye	Harold Weil-Aye
Brian Phillips-Aye	Terry Agnew-Absent
Thom Burg-Aye	Brian Boyd-Aye
Pat Simons-Aye	Doug Wix-Aye

**BILL NO. 2012-12  
ORD NO. 950  
2<sup>ND</sup> READING**

Motion by Phillips, seconded by Brown for the second reading by title only of **BILL NO. 2012 -12 ORDINANCE NO. 950 AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY WITHIN THE CITY OF BUTLER, MISSOURI.**

Motion passed with the following votes:

David Brown-Aye	Harold Weil-Aye
Brian Phillips-Aye	Terry Agnew-Absent
Thom Burg-Aye	Brian Boyd-Aye
Pat Simons-Aye	Doug Wix-Aye

**BILL NO. 2012-12  
ORD NO. 950  
ADOPTION**

Motion by Wix, seconded by Phillips to adopt **BILL NO. 2012 -12 ORDINANCE NO. 950 AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY WITHIN THE CITY OF BUTLER, MISSOURI.**

Motion passed with the following votes:

David Brown-Aye	Harold Weil-Aye
Brian Phillips-Aye	Terry Agnew-Absent
Thom Burg-Aye	Brian Boyd-Aye
Pat Simons-Aye	Doug Wix-Aye

**REPORTS  
POLICE CHIEF**

**CITY ATTORNEY**

Chief Boyd reported the Diversity class went well. Chief Boyd also reported the snow plow has been removed from the city building.

**CITY ADMINISTRATOR**

City Attorney Addleman reported on two ordinances, one concerning responsibility for care of Street Parks, Public Right of Ways and Easements, and the second ordinance is establishing conditions on lots or land that constitute public nuisance. City Attorney Addleman also informed council he would like to get the JIS court system going in the Municipal Court.

City Administrator Arbuthnot and Fire Chief Henry met with KBRPC staff and CDBG staff to review and discuss the City's unsafe structure demolition grant application on Wednesday, June 27<sup>th</sup> in Butler. As part of the meeting a tour of the community to view the proposed 21 unsafe structures for demolition was conducted. Butler was selected as one of the final six applications being considered for approval and funding. A final decision on the City's application will be made in approximately 90 days. The CDBG staff indicated that they have approximately \$1.5 million in application funding requests but only \$750,000 in funding available.

City Administrator Arbuthnot informed council a copy of the letter that was sent by the City Attorney Addleman, to Jim Zellmer regarding the use of his property at 512 W. Pine Street is included in the council packets.

City Administrator Arbuthnot informed council two proposed Ordinances have been drafted by City Attorney Addleman, regarding mowing of properties and maintenance of the street park areas based on discussion with the City Council.

City Administrator Arbuthnot informed council the problem that was reported by Sam Fuller who lives at 109 S. High St. regarding the discharge of sanitary sewer on the property at 107 S. High St. has been repaired by a plumber.

City Administrator Arbuthnot explained that with the higher than normal temperatures the Light Plant operated on Friday June 29, 2012 when they were notified by MoPEP. This also served as the City's capacity test run for the year.

**CODE ENFORCEMENT**

**FIRE CHIEF**

City Administrator Arbuthnot gave Code Enforcement Officer Wheatley's report to Mayor and Council.

Fire Chief Henry reported to council about the training exercise at Wilson Tire parking lot. Chief Henry stated it was a county wide challenge with Butler winning the traveling trophy. He said they received a lot of positive feedback on the event. Chief Henry explained Deputy Bennett put together the event which included exercises such as a water log-hose line practice, ropes & knots, ladder truck pull and more exercises. Chief Henry reported to council they will be working on informing the community concerning the need for the 1/8<sup>th</sup> percent sales tax on the August ballot.

**MAYOR**

**COUNCIL MEMBERS**

**BROWN**

Mayor Malan received a request concerning the bushes by the trail of memories being removed.

**PHILLIPS**

Received complaint concerning trees needing to be trimmed in the alley way between Water St. and Fulton St.

**BURG**

Stated the trees for north field are ready to be planted.

**SIMONS**

**WEIL**

Nothing to report.

**AGNEW**

Stated house on West St. and North St. is using cattle panels as a fence.

**BOYD**

Nothing to report.

**WIX**

Absent.

Audit-commended all of the utility and office personal for a job well done.

**NEW BUSINESS**

**LIGHT PLANT STATION POWER BATTERIES**

Called for a Finance Committee meeting on July 17, 2012 at 6:30pm.

As part of the scheduled testing of the switchgear and equipment at the Light Plant, the station power batteries were tested and has been determined that they need to be replaced. These batteries were installed in 2000 and there are 72 batteries that need to be replaced. These batteries provide power for switching and starting the generators if there is a power outage. Consider low bid of \$11,342.40 from Weisler & Associates, Inc. for replacement of station

power batteries. Another bid of \$22,680.00 was also obtained from Batteries Plus. The City budgeted \$15,000.00 this year for a water/oil separator for storm water discharged from the Light Plant, but due to the need of replacing the batteries it is recommended that these funds be used for this replacement. The water/oil separator will be included in the budget for installation next year. Motion by Phillips, seconded by Wix to accept low bid on batteries based on light plant personnel recommendation, if needed. Motion passed unanimously with a show of hands.

**CLOSED SESSION**

Motion was made by Wix seconded by Brown to go into closed session to discuss matters of litigation, legal actions and/or communication from the City Attorney as provided under RSMO section 610.021 (1) after the regular session. Motion passed unanimously with a show of hands.

**ADJOURN**

There being no further business, motion was made by Boyd, seconded by Wix to adjourn the regular meeting. Motion passed unanimously with a show of hands.

ATTEST:

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City Clerk Mary Jo Cook

Mayor Don H. Malan