

CITY OF BUTLER
MINUTES OF A MEETING OF THE CITY COUNCIL
FEBRUARY 5, 2013

The Butler City Council met in regular session on Tuesday, February 5, 2013 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
Thom Burg	Brian Boyd
Pat Simons	Doug Wix

OTHERS PRESENT

Others present were City Administrator Mark Arbuthnot, Police Chief Randy Beshore, City Attorney Tom Addleman, Officer Jim Wheatley, Officer Jerret Wheatley and Barb Scrogam.

OTHER GUESTS

Linn Nitsche, Heather Diehl, Andrew Diehl, Lee Ullman, Tom Davis, Jovanna R. Longo, Joe Bearden, Shannon Barth, Robin Thurman and John Pursley.

APPROVE CONSENT AGENDA

Motion by Phillips, seconded by Wix to approve the minutes of the regular session of January 15, 2013. Motion passed unanimously by a show of hands. Motion by Wix, seconded by Boyd to approve the bills presented for payment. Motion passed unanimously by a show of hands. Motion by Wix, seconded by Phillips to approve travel/training. Motion passed unanimously by a show of hands.

**APPROVAL OF AGENDA-
ADDITIONS OR DELETIONS
CLOSED SESSION**

City Administrator Arbuthnot requested a closed session to discuss Matters Of Litigation, Legal Actions and/or Communication From The City Attorney As Provided Under Section 610.021 (1). Motion by Phillips, seconded by Wix to add a closed session to the agenda. Motion passed unanimously by a show of hands.

COMMITTEES

**FINANCE COMMITTEE
OSAGE VALLEY ELECTRIC
CATALYTIC CONVERTERS
FY 2013-2014 BUDGET**

Councilman Wix reported the Finance Committee met prior to the council meeting at 6:00pm. The topic of discussion was a proposal from Osage Valley Electric to merge with the City to provide electricity for the City. The consensus was not to proceed with a merger at this time. Also discussed was the installation of catalytic converters on two of the generators at the light plant. The next item discussed was updated information received from City Administrator Arbuthnot concerning the interconnection between the Solar Farm and the City. The last item for discussion was the 2013-2014 budget.

**BOARDS AND COMMISSION
PLANNING COMMISSION
VACATING COMMERCE DRIVE
AND PROGRESS ROAD**

The Planning Commission met on Tuesday, January 29, 2013 at 7:30 p.m. A public hearing was held to consider vacating the platted but unopened and unimproved right of way for Commerce Drive and Progress Road and designated utility easements on Lots 4, 5, 6, 7 and 9 in the Butler Industrial Park 2nd Addition. Vacating these streets and utility easements is needed to allow the development of the 3 MW Solar Farm on this property. The Planning Commission is recommending that these be vacated.

**POLICE PERSONNEL BOARD
INTERVIEWS**

The Police Personnel Board met on Thursday, January 31, 2013 at 6:00 p.m. to interview two applicants for Police Officer. Both candidates were certified by

PUBLIC HEARINGS
VACATE MAPLE STREET

the board as qualified to be hired to fill any open positions.

Mayor Malan opened the public hearing on the request to vacate Maple Street North of Lee Street. Attorney John Pursley spoke on behalf of Robin Thurman who is requesting Maple Street not to be vacated. Heather Diehl spoke to council explaining the reasons her husband, Andrew Diehl and herself would like to have Maple Street vacated. Mayor Malan closed the hearing. City Attorney Tom Addleman recommended doing nothing at this time. Motion by Simons, seconded by Brown to heed City Attorney Tom Addleman advice and to do nothing at this time. Motion passed unanimously by a show of hands.

**VACATE COMMERCE DRIVE
AND PROGRESS ROAD**

Mayor Malan opened the public hearing on the request to vacate Commerce Drive, Progress Road and Utility Easements in the Butler Industrial Park 2nd Addition. There being no public comments, Mayor Malan closed the public hearing.

BILL NO. 2013-2
ORD NO. 963
1ST READING

Motion by Phillips, seconded by Simons for the first reading by title only of

BILL NO. 2013-2 ORDINANCE NO. 963

AN ORDINANCE VACATING THE UNOPENED AND UNIMPROVED RIGHT OF WAY FOR COMMERCE DRIVE AND PROGRESS ROAD AND DESIGNATED UTILITY EASEMENTS ON LOTS 4, 5, 6, 7, AND 9 AND RETAINING DESIGNATED UTILITY EASEMENTS ON LOTS 4, 5, 6, 7, 8 AND 9 IN THE BUTLER INDUSTRIAL PARK 2ND ADDITION WITHIN THE CITY OF BUTLER, MISSOURI.

Motion passed with the following votes:

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

BILL NO. 2013-2
ORD NO. 963
2ND READING

Motion by Phillips, seconded by Simons for the second reading by title only of

BILL NO. 2013-2 ORDINANCE NO. 963

AN ORDINANCE VACATING THE UNOPENED AND UNIMPROVED RIGHT OF WAY FOR COMMERCE DRIVE AND PROGRESS ROAD AND DESIGNATED UTILITY EASEMENTS ON LOTS 4, 5, 6, 7, AND 9 AND RETAINING DESIGNATED UTILITY EASEMENTS ON LOTS 4, 5, 6, 7, 8 AND 9 IN THE BUTLER INDUSTRIAL PARK 2ND ADDITION WITHIN THE CITY OF BUTLER, MISSOURI.

Motion passed with the following votes:

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

BILL NO. 2013-2
ORD NO. 963
ADOPTION

Motion by Wix, seconded by Phillips to adopt.

BILL NO. 2013-2 ORDINANCE NO. 963

AN ORDINANCE VACATING THE UNOPENED AND UNIMPROVED RIGHT OF WAY FOR COMMERCE DRIVE AND PROGRESS ROAD AND DESIGNATED UTILITY EASEMENTS ON LOTS 4, 5, 6, 7, AND 9 AND RETAINING DESIGNATED UTILITY EASEMENTS ON LOTS 4, 5, 6, 7, 8 AND 9 IN THE BUTLER INDUSTRIAL PARK 2ND ADDITION WITHIN THE CITY OF BUTLER, MISSOURI.

Motion passed with the following votes:

David Brown-Aye

Harold Weil-Aye

Brian Phillips-Aye

Terry Agnew-Aye

Thom Burg-Aye

Brian Boyd-Aye

Pat Simons-Aye

Doug Wix-Aye

REPORTS

POLICE CHIEF

CITY ATTORNEY

Police Chief Beshore gave the monthly police report.

**CITY ADMINISTRATOR
ATRAZINE CLASS ACTION
SETTLEMENT**

City Attorney Tom Addleman informed council the City received payment from the atrazine class action suit.

**CHAMBER OF COMMERCE
PROGRAM**

City Administrator Arbuthnot informed council the City has received a check in the amount of \$87,247.59 as part of the City's claim from the Atrazine Class Action Settlement Fund. These funds will be designated for future purchase of membranes for the Water Treatment Plant.

MoDOT

City Administrator Arbuthnot and Mayor Malan presented the program at the Butler Chamber of Commerce monthly lunch meeting on Thursday, January 24, 2013 regarding the Solar Farm, Downtown Improvement Project and the proposed ½ cent Capital Improvement Sales Tax.

CODE ENFORCEMENT

City Administrator Arbuthnot informed council MoDOT has developed a proposal to fund future transportation needs in the State of Missouri by requesting approval of a temporary 10-year, one-cent general sales/use tax dedicated specifically to transportation needs that would be shared between the state, cities and counties.

MAYOR

Code Enforcement Officer Wheatley gave the code enforcement report.

**COUNCIL MEMBERS
BROWN**

Mayor Malan expressed his thanks and appreciation to City Administrator Arbuthnot for all his hard work.

PHILLIPS

Brown thanked City Administrator Arbuthnot for all his hard work. Brown stated there are lights out on Pine & Broadway.

BURG

Phillips thanked City Administrator Arbuthnot for all his hard work. Phillips stated he received a complaint concerning the traffic issues on Ft. Scott St. during the morning and afternoon school hours.

SIMONS

Burg had nothing to report.

WEIL

Simons stated Danny Cox is unable to mow behind his business due to the rough ground. Simons reported Sunset St. is cracking on both sides due to tractor trailer trucks using this street. Simons also asked about getting the trash picked up from the roadsides of Sunset St.

AGNEW

Weil thanked City Administrator Arbuthnot for all his hard work.

BOYD

Agnew thanked City Administrator Arbuthnot for all his hard work.

WIX

Boyd thanked City Administrator Arbuthnot for all his hard work. Boyd stated we need to put emphasis on qualifying for the demolition grant.

NEW BUSINESS
MC POWER SOLAR FARM

Wix thanked City Administrator Arbuthnot for all his hard work. Wix inquired about leveling the bricks on the square.

RESOLUTION NO. 394

Consider an Interconnection and Operation Agreement between the City and MC Power Companies, Inc. for the 3 MW Solar Farm to be constructed at the Butler Industrial Park.

Motion by Phillips, seconded by Simons to pass **RESOLUTION NO. 394**
A RESOLUTION AUTHORIZING THE CITY OF BUTLER TO ENTER INTO AN INTERCONNECTION AND OPERATING AGREEMENT WITH MC POWER COMPANIES, INC. FOR THE 3 MW SOLAR FARM TO BE CONSTRUCTED AT THE BUTLER INDUSTRIAL PARK AND FOR IT TO BE CONNECTED TO THE CITY'S ELECTRICAL DISTRIBUTION SYSTEM AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

Motion passed unanimously by a show of hands

RESOLUTION NO. 393

A Resolution also needs to be considered authorizing the sale of City property to MC Power Companies, Inc. for the development of a 3MW Solar Farm and authorizing the Mayor to execute the deed for the property transfer at the closing for the purchase of the property. Motion was made by Wix, seconded by Simons to pass **RESOLUTION NO. 393**

A RESOLUTION AUTHORIZING THE SALE OF CITY OF BUTLER PROPERTY TO MC POWER COMPANIES, INC. FOR CREATION OF A 3 MW SOLAR FARM AND AUTHORIZATION FOR THE MAYOR TO EXECUTE A DEED FOR SAID PROPERTY TRANSFER.

Motion passed unanimously by a show of hands

HEISE-MEYER AGREEMENT

Consider extension of real estate broker agreements with Heise-Meyer LLC for the Butler Industrial Park Spec. Building and other property. Motion by Wix, seconded by Simons to approve the extension of real estate broker agreements with Heise-Meyer LLC for the Butler Industrial Park Spec. Building and other property. Motion passed unanimously by a show hands.

CLOSED SESSION

Motion by Wix, seconded by Brown to enter into a closed session for Litigation, Legal Actions and/or Communication From The City Attorney As Provided Under Section 610.021 (1).

Motion passed with the following votes:

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

ADJOURN

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

ATTEST:

City Clerk Casey Koehn

Mayor Don H. Malan

