

**CITY OF BUTLER
MINUTES OF A MEETING OF THE CITY COUNCIL
APRIL 16, 2013**

The Butler City Council met in regular session on Tuesday, April 16, 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, City Attorney Tom Addleman, Public Works Director Trent Diehl, City Clerk Mary Jo Cook, Deputy City Clerk Barb Scrogam and Chief Randy Beshore.

OTHER GUESTS

Ted Easley, Karen Berry, Carmin Gregory, Jovanna R. Longo, Joe Bearden and Linn Nitsche were also in attendance.

APPROVE CONSENT AGENDA

Motion by Phillips, seconded by Wix to approve the minutes of the regular session of April 2, 2013. Motion passed unanimously with a show of hands. Motion by Wix, seconded by Simons to approve the bills presented for payment. Motion passed unanimously with a show of hands. Motion by Boyd, seconded by Brown to approve Travel/Training. Motion passed unanimously with a show of hands. Motion by Phillips, seconded by Wix to accept Certified Election Results. Motion passed unanimously by a show of hands.

**APPROVAL OF AGENDA-
ADDITIONS OR DELETIONS**

Motion by Simons, seconded by Burg to add guests Carmin Gregory and Karen Berry to the agenda, to add ordinance 970 Solar Access and second amendment extension for the purchase agreement with MC Power. Motion passed unanimously by a show of hands.

**BILL NO. 2013-6
ORD NO. 967
1ST READING**

Motion by Phillips, seconded by Boyd for the first reading by title only of
**BILL NO. 2013-6 ORDINANCE NO. 967
ORDINANCE DECLARING THE RESULTS OF THE ELECTION
HELD IN THE CITY OF BUTLER, MISSOURI ON APRIL 2, 2013**

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. 2013-6
ORD NO. 967
2ND READING**

Motion by Brown, seconded by Wix for the second reading by title only of
**BILL NO. 2013-6 ORDINANCE NO. 967
ORDINANCE DECLARING THE RESULTS OF THE ELECTION
HELD IN THE CITY OF BUTLER, MISSOURI ON APRIL 2, 2013**

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. 2013-6
ORD NO. 967
ADOPTION**

Motion by Wix, seconded by Brown to adopt.

**BILL NO. 2013-6 ORDINANCE NO. 967
ORDINANCE DECLARING THE RESULTS OF THE ELECTION
HELD IN THE CITY OF BUTLER, MISSOURI ON APRIL 2, 2013**

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. 2013-7
ORD NO. 968
1ST READING**

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

**BILL NO. 2013-7 ORDINANCE NO. 968
ORDINANCE IMPOSING A CAPITAL IMPROVEMENT SALES TAX
IN THE CITY OF BUTLER, MISSOURI, AT THE RATE OF ONE
HALF OF ONE PERCENT FOR THE PURPOSE OF FUNDING
CAPITAL IMPROVEMENTS FOR THE CITY.**

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. 2013-7
ORD NO. 968
2ND READING**

Motion by Boyd, seconded by Wix for the second reading by title only of

**BILL NO. 2013-7 ORDINANCE NO. 968
ORDINANCE IMPOSING A CAPITAL IMPROVEMENT SALES TAX
IN THE CITY OF BUTLER, MISSOURI, AT THE RATE OF ONE
HALF OF ONE PERCENT FOR THE PURPOSE OF FUNDING
CAPITAL IMPROVEMENTS FOR THE CITY.**

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. 2013-7
ORD NO. 968
ADOPTION**

Motion by Brown, seconded by Phillips to adopt.

**BILL NO. 2013-7 ORDINANCE NO. 968
ORDINANCE IMPOSING A CAPITAL IMPROVEMENT SALES TAX
IN THE CITY OF BUTLER, MISSOURI, AT THE RATE OF ONE
HALF OF ONE PERCENT FOR THE PURPOSE OF FUNDING
CAPITAL IMPROVEMENTS FOR THE CITY.**

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. 2013-8
ORD NO. 969
1ST READING**

Motion by Phillips, seconded by Boyd for the first reading by title only of
BILL NO. 2013-8 ORDINANCE NO. 969

AN ORDINANCE AUTHORIZING THE SALE OF PROPERTY TO MC POWER COMPANY, INC. FOR CREATION OF A SOLAR FARM AND AUTHORIZATION FOR THE MAYOR TO EXECUTE A DEED FOR SAID PROPERTY TRANSFER IN 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. 2013-8
ORD NO. 969
2ND READING**

Motion by Brown, seconded by Simons for the second reading by title only of
BILL NO. 2013-8 ORDINANCE NO. 969

AN ORDINANCE AUTHORIZING THE SALE OF PROPERTY TO MC POWER COMPANY, INC. FOR CREATION OF A SOLAR FARM AND AUTHORIZATION FOR THE MAYOR TO EXECUTE A DEED FOR SAID PROPERTY TRANSFER IN 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. 2013-8
ORD NO. 969
ADOPTION**

Motion by Wix, seconded by Phillips to adopt.

BILL NO. 2013-8 ORDINANCE NO. 969

AN ORDINANCE AUTHORIZING THE SALE OF PROPERTY TO MC POWER COMPANY, INC. FOR CREATION OF A SOLAR FARM AND AUTHORIZATION FOR THE MAYOR TO EXECUTE A DEED FOR SAID PROPERTY TRANSFER IN 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

**MC POWER PURCHASE
AGREEMENT SECOND
AMENDMENT AGREEMENT**

Motion by Phillips, seconded by Wix to adopt second amendment to real estate purchase agreement with MC Power Company, Inc on or before May 8, 2013.
Motion passed unanimously by a show of hands.

**BILL NO. 2013-9
ORD NO. 970
1ST READING**

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

BILL NO. 2013-9 ORDINANCE NO. 970

AN ORDINANCE AUTHORIZING AND APPROVING THE CITY TO ENTER INTO A SOLAR ACCESS AGREEMENT FOR THE PURPOSE OF PROTECTING THE SOLAR ACCESS OF SPECIFIED LOTS ADJACENT TO CITY PROPERTY

Motion passed with the following votes:

David Brown-Aye	Harold Weil-Aye
Brian Phillips-Aye	Terry Agnew-Aye

Thom Burg-Aye
Pat Simons-Aye

Brian Boyd-Aye
Doug Wix-Aye

BILL NO. 2013-9
ORD NO. 970
2ND READING

Motion by Boyd, seconded by Simons for the second reading by title only of
BILL NO. 2013-9 ORDINANCE NO. 970
AN ORDINANCE AUTHORIZING AND APPROVING THE CITY TO ENTER INTO A SOLAR ACCESS AGREEMENT FOR THE PURPOSE OF PROTECTING THE SOLAR ACCESS OF SPECIFIED LOTS ADJACENT TO CITY PROPERTY

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. 2013-9
ORD NO. 970
ADOPTION

Motion by Brown, seconded by Boyd to adopt.
BILL NO. 2013-9 ORDINANCE NO. 970
AN ORDINANCE AUTHORIZING AND APPROVING THE CITY TO ENTER INTO A SOLAR ACCESS AGREEMENT FOR THE PURPOSE OF PROTECTING THE SOLAR ACCESS OF SPECIFIED LOTS ADJACENT TO CITY PROPERTY

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

OATH OF OFFICE
REORGANIZE THE CITY COUNCIL

City Clerk Mary Jo Cook administered the oath of office to Brian Phillips (Ward 1 Councilman), Gayle Stark (Ward 2 Councilwoman), Herald Weil (Ward 3 Councilman) and Doug Wix (Ward 4 Councilman).

ROLL CALL

David Brown	Harold Weil
Brian Phillips	Terry Agnew
Thom Burg	Brian Boyd
Gayle Stark	Doug Wix

PHILLIPS NEW MAYOR
PRO TEM
BRIAN PHILLIPS

Mayor Malan asked for nominations from the Council for Mayor Pro Tem. Boyd motioned to nominate Phillips with Brown seconding the motion. Motion passed unanimously with a show of hands.

PRESENTATION OF PLAQUE
PAT SIMONS

Mayor Malan presented Pat Simons with a plaque of appreciation for his service as Ward 2 Councilman.

SCHEDULED GUEST
CAMERON HERRELL

Mayor Malan presented a certificate of appreciation to Cameron Herrell for his work in preserving the records at Oak Hill Cemetery.

JOE BEARDEN/TURKEYS

Joe Bearden was invited to council to discuss the prior approval by the City Council to keep a turkey and hen on his property inside City limits. Motion by Brown, seconded by Boyd to allow Mr. Bearden 180 days to relocate the turkey and hen. Motion passed 7-1 6-2 with Phillips and Wix voting no.

KAREN BERRY/RELAY FOR LIFE

Karen Berry with Relay for Life, requested to have the inside lane of the

square roped off for their walk. Due to the Downtown project being in progress, the request was denied.

**CARMEN GREGORY/CHAMBER
OF COMMERCE CITY WIDE
GARAGE SALE**

Carmen Gregory with Butler Chamber of Commerce, requested to use the inside lane of the square for the May 4, 2013 City wide garage sale. Due to the Downtown project being in progress, the request was denied.

COMMITTEES
FINANCE COMMITTEE

The Finance Committee met before the regular meeting on Tuesday, April 16, 2013 at 6:30 p.m. at City Hall to discuss the Bates County proposal for funding of an economic development position in partnership with Adrian, Butler and Rich Hill to help promote economic activity in the area. The consensus is to wait until more information is available.

The Finance committee also discussed the City's health insurance coverage and the possibility of changing companies. The consensus is to stay with Blue Cross and Blue Shield due to complications involved in dealing with multiple companies.

BOARDS & COMMISSIONS
**PARK & RECREATION
COMMISSION**

The Park and Recreation Commission met on Thursday, April 4, 2013 at 12:00 p.m. at City Hall. A quorum of the members was not present so they did not conduct any business. The Park and Recreation Superintendent reviewed his monthly report.

AIRPORT COMMISSION

The Airport Commission met on Thursday, April 11, 2013 at 6:30 p.m. at City Hall. Items they considered included: 1) approved financial reports, 2) reviewed final engineer's estimate for drainage improvements and seal coat project for the runway and will consider an agreement for engineering services for the project with Burns and McDonnell at a future meeting, 3) reviewed proposed plan for terminal building interior remodeling for office and restroom areas, one of the restrooms will be remodeled to be ADA compliant and the threshold at the front entrance door to the terminal building will be modified to make it ADA compliant, 4) approved bids for hangar maintenance projects for replacement of interior lighting and electrical outlets and also approved to take bids for roof repairs to fix leaks and agreed to hold a special meeting to consider bids after they are received, 5) approved an increase to the hangar rental fees as recommended by the Airport Booster Club which is made up of aircraft owners and hangar renters at the airport, increases to be effective January 1, 2014 as follows: west hangars - \$88.00 month increase to \$100.00 month, older hangars - \$55.00 month increase to \$65.00 month and north hangars - \$44.00 month increase to \$60.00 month, 6) discussed Aero Club information with Ted Miles and 7) discussed Airport Manager report with Chris Hall.

Motion by Phillips, seconded by Wix to approve the increase to hangar fees beginning January 1, 2014. Motion passed unanimously by a show of hands.

**BILL NO. 2013-10
ORD NO. 971
1ST READING**

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

**BILL NO. 2013-10 ORDINANCE NO. 971
AN ORDINANCE AMENDING THE CITY CODE CHAPTER 8.
CEMETERIES, ARTICLE II, SECTION 8-37. SALE OF GRAVE
SITES, OF THE CITY OF BUTLER, MISSOURI**

Motion passed with the following votes:

David Brown-Aye
Brian Phillips-Aye
Thom Burg-Aye
Gayle Stark-Aye

Harold Weil-Aye
Terry Agnew-Aye
Brian Boyd-Aye
Doug Wix-Aye

**BILL NO. 2013-10
ORD NO. 971
2ND READING**

Motion by Boyd, seconded by Simons for the second reading by title only of
BILL NO. 2013-10 ORDINANCE NO. 971

**AN ORDINANCE AMENDING THE CITY CODE CHAPTER 8.
CEMETERIES, ARTICLE II, SECTION 8-37. SALE OF GRAVE
SITES, OF THE CITY OF BUTLER, MISSOURI**

Motion passed with the following votes:

David Brown-Aye
Brian Phillips-Aye
Thom Burg-Aye
Gayle Stark-Aye

Harold Weil-Aye
Terry Agnew-Aye
Brian Boyd-Aye
Doug Wix-Aye

**BILL NO. 2013-10
ORD NO. 971
ADOPTION**

Motion by Brown, seconded by Boyd to adopt.

BILL NO. 2013-10 ORDINANCE NO. 971

**AN ORDINANCE AMENDING THE CITY CODE CHAPTER 8.
CEMETERIES, ARTICLE II, SECTION 8-37. SALE OF GRAVE
SITES, OF THE CITY OF BUTLER, MISSOURI**

Motion passed with the following votes:

David Brown-Aye
Brian Phillips-Aye
Thom Burg-Aye
Gayle Stark-Aye

Harold Weil-Aye
Terry Agnew-Aye
Brian Boyd-Aye
Doug Wix-Aye

**REPORTS
CITY ADMINISTRATOR**

City Administrator Arbuthnot reported David Robinson who lives at 503 N. Austin was in and spoke with the City Administrator about the City owned property just north of his property to see if the City would consider selling it to him. In checking with the Public Works/Utilities Director he has indicated that there aren't any City utilities or easements located on this property so it does not appear that the City needs to keep it. The Public Works/Utilities Director has verified there are no City utilities or easements on this property. The City has to mow the property and keep it up. The City has several other properties that could also be considered for selling. These properties could be declared surplus property by the City and then bids could be taken on them.

City Administrator Arbuthnot reported MoDOT has approved the contract between the City and National Streetscape the contractor for the Downtown Improvement Project. The Notice to Proceed for the project was issued for work to begin on April 15, 2013.

City Administrator Arbuthnot reported Mediacom has notified the City that they will be increasing rates on several of their services and that they will also be changing several of the channels they offer in their programming.

City Administrator Arbuthnot reported Art Davis with Davis Consultants, has submitted a proposal to find a replacement for a new City Administrator. City Administrator Arbuthnot suggested taking the proposal to the personnel committee.

PUBLIC WORKS DIRECTOR

Public Works Director Diehl reported citizens are receiving letters from an insurance company to insure their sewer lines.

Public Works Director Diehl reported the bucket truck has been taken out of service due to the need for repairs.

CODE ENFORCEMENT

Code Enforcement Officer Wheatley gave the code enforcement report.

MAYOR

Mayor Malan welcomed the new and incumbent Council woman and men.

COUNCIL MEMBERS

BROWN

Welcomed Councilwoman Stark and thanked Councilman Simons for his service.

PHILLIPS

Welcomed Councilwoman Stark and thanked Councilman Simons for his service. Thanked Officer Boyer for good deed in helping a little girl that had been bitten by a dog. Thanked council for electing him Mayor Pro-Tem. Called a personnel meeting for May 7, 2013 at 6:30 pm.

BURG

Asked about the Christmas decorations that are still up and if they could be taken down.

STARK

Nothing to report.

WEIL

AGNEW

Inquired about the time table for repairing the streets.

Welcomed Councilwoman Stark and thanked Councilman Simons for his service.

BOYD

Welcomed Councilwoman Stark and thanked Councilman Simons for his service and hated to see him go.

WIX

Thanked Councilman Simons for his service stating it was a pleasure working with him. Welcomed Councilwoman Stark. Called a finance meeting for May 7, 2013 at 6:00 pm to discuss sewer rate fees.

ADJOURNMENT

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

Mayor Don H. Malan

Barbara Scrogam
Deputy City Clerk

