

CITY OF BUTLER
MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL
AUGUST 6, 2013

The Butler City Council met in regular session on Tuesday, August 6, 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	
Gayle Stark	

OTHERS PRESENT

Others present were City Administrator Mark Arbuthnot, Public Works Director Trent Diehl, City Clerk Mary Jo Cook, Deputy City Clerk Barb Scrogam, City Attorney Tom Addleman, Police Chief Randy Beshore and Code Enforcement Officer Jim Wheatley.

OATH OF OFFICE
APPOINTED COUNCILMEN

City Clerk Mary Jo Cook administered the oath of office to Shawn McVey and Kyle DuBray (Ward 4 Councilmen).

ROLL CALL

David Brown	Harold Weil
Brian Phillips	Terry Agnew
Thom Burg	Shawn McVey
Gayle Stark	Kyle DuBray

OTHER GUESTS

Corey Snead, Lee Ullman, Butch Beeman, Roger Pruden, Rich Wood, Carolyn Forly, Mel Ewing, Linn Nitsche, Larry Berry, Ruben Campos, Israel Carlin, Darin Carter, Bill Nieder, Jason Bennett, Larry Anderson, Denny Rich, Edwin Nelson and D.J. Jones were also in attendance.

APPROVE CONSENT AGENDA

Motion by Phillips, seconded by Burg to approve the minutes of the regular session of July 16, 2013 and closed session of July 16, 2013. Motion passed unanimously by a show of hands.

Motion by Phillips, seconded by Brown to approve the bills presented for payment. Motion passed unanimously by a show of hands.

Motion by Burg, seconded by Stark to approve travel/training. Motion passed unanimously with a show of hands.

SCHEDULED GUESTS
EDWIN NELSON

Edwin Nelson requested another extension on his building permit for the property at 305 S. Mechanic. Fire Chief Henry was asked about the building at 305 S. Mechanic. Fire Chief Henry explained it is only cosmetic work going on at this time and a permit is not needed. However, when Mr. Nelson starts the wiring and electrical work, a permit is needed. Motion by Phillips, seconded by Agnew to give a 60 day extension on Mr. Nelson's building permit. Motion passed unanimously by a show of hands.

BUTCH BEEMAN/TROUTT
BEEMAN AUDITOR

Butch Beeman with Troutt, Beeman & Co. P.C. presented the City's FY 2012-2013 annual audit to council. Motion by Brown, seconded by Stark to accept the FY 2012-2013 audit. Motion passed unanimously with a show of hands.

COMMITTEES
FINANCE COMMITTEE
CITY OWNED FACILITY
COMMITTEE

The Finance Committee and the City Owned Facilities Committee held a joint meeting Tuesday, August 6, 2013 at 6:00 p.m. to discuss proposed street improvement projects. The Finance Committee also discussed the following items: 1) proposed Butler Solar Farm 353 Redevelopment Area Plan, 2) 2013 Property Tax Levy and 3) review FY 2012-13 City audit with the accounting firm of Troutt, Beeman and Company.

Motion by Weil, seconded by Burg to give City Administrator Arbuthnot the authority to proceed with the loan application process for street repairs. Motion passed unanimously by a show of hands.

BOARDS & COMMISSIONS
PARK & RECREATION
COMMISSION

The Park and Recreation Commission met at 12:00 pm on August 1, 2013 at City Hall. Agenda items discussed were 1) Football building, 2) Trail benches, 3) Skate Park, 4) Osage Field fence, 5) Park Commission members, 6) Swim meet finals for 2014 and 7) Pool hours and Superintendent's monthly report.

NEIGHBORHOOD ADVISORY
COMMISSION

Neighborhood Advisory Commission met on August 5, 2013. Mayor Malan reported the commission would be meeting with the City Attorney Addleman after the council meeting tonight. We will have in the works changing some of the ordinances to shorten the time allowed for nuisance.

PUBLIC HEARING
SOLAR FARM CHAPTER 353

This Public Hearing is to consider the Butler Solar Farm Chapter 353 Redevelopment Area Plan submitted by the Butler Solar Farm Civic Redevelopment Corporation. If approved this would allow them to receive property tax abatement on the project. Lee Ullman with MCP-Butler L.P. attended the meeting to discuss the redevelopment proposal for the City to consider approval of a Chapter 353 Redevelopment Plan for the Solar Farm project. Rich Wood with Gilmore and Bell, the City's bond counsel attorney, attended the council meeting to provide information and answer any questions about the proposal and the process for considering approval.

Mayor Malan opened the public hearing. Rich Wood introduced into public record the Redevelopment Plan, Redevelopment Agreement and Novation Agreement. Mayor Malan inquired if there were any questions.

Councilman Brown-Inquired if he had heard correct; if the tax abatement is not approved then the Solar Farm will not proceed.

Mr. Ullman-Stated that is correct it is a condition placed on them by both their banks and tax equity providers.

Councilman Weil-Inquired why the tax abatement had been removed then added back in. When we get you to get them to put more money in the PILOT (payment in lieu of taxes).

Mr. Ullman-Stated we went back to both the bond house and the tax equity providers and based upon the rates that we are charging the debt service coverage constraints and the changes of the interest rates since we started the process. We came up with the number that the PILOT could support and still having to bring in more tax equity dollars and other investments so as to meet the economic constraints put on us by our bonds terms covenants and conditions. It should be noted that if we had gone with the original financing

proposed, the 100 Bonds, there would have been a PILOT as well. It should be noted that traditionally if we had gone with using MJMEUC or the City as the owner of the facility, there would not be any taxes paid on the project or if we use House Bill 142 signed on July 3, 2013 that specifically exempts property taxes on solar projects. What we are saying is we don't know if House Bill 142 is going to get overturned or not.

Councilman Weil-You don't know if the City will buy it without the PILOT. The City Council hasn't ruled on it yet. You better forget about House Bill 142 the way it is. With the PILOT it makes it look a little better for the City, County, School and Health Center.

Mr.Ullman-We had come up with the number and, as I said, that we went back to the banks, tax equity providers and met all the items within our loan terms covenants and conditions. We came up with an amount that we felt we could afford to pay under this situation. With the rate structure that we had originally signed with the utility. If this is not granted, then our alternative is to go back and negotiate a higher rate with the utility and that would increase the rates by probably somewhere in the neighborhood of three cents per kilowatt hour.

Councilman Brown-Which you are going to raise every year regardless. You said there was a tier rate, if I understood you right.

Mr.Ullman-Pursuant to the power purchased agreement the rate has gone up by 1% or 1 tenth of one cent. So it goes from 6.3 cents to 6.4 cents to 6.5 cents during that time. Yes, it does go up.

Mayor- If I understand correctly, you want a 100% tax abatement for 10 years. But you want to raise our rates during that 10 year term.

Mr. Ullman-Yes, it goes up one tenth of one cent. Matter of fact, based on the power production, it goes up by the equivalent of \$111.00 every year.

City Administrator Arbuthnot-The power is purchased by MOPEP/MJMEUC not by the City. We buy power from MOPEP like the 35 other Cities. Three mega watts is a very small piece of the total power requirements for the 35 Cities. So the impact of that one tenth of one cent each year is minimal.

Mr. Ullman-Less than \$111.00.

Councilman Brown-What does the City have to gain with the solar farm?

City Administrator Arbuthnot-It is green energy, reduces the carbon foot print. The City will hook directly to the solar panels and get 100% of the use. Will lower our transmission cost, we won't pay transmission cost on any power generated by that facility. Which will reduce our power bill by an estimated \$40,000.00-\$50,000.00 a year; which is a direct benefit to the City. The other thing I believe is it will help the economic development for the Industrial park. Hopefully, it will spark something and attract other companies who are interested in green energy. MOPEP and MJMEUC are talking to Wal-Mart about green energy. It's a ripple effect.

Mayor-Want to be clear on what we are doing. On the same page so everybody knows what we are up against. I think transparency is one of the most important things on a project like this.

Mr. Ullman-I agree. I hope you feel I have been transparent and forthcoming.

Darrin Carter, Superintendent of Schools-I would just say, from the school district perspective, we will support whatever the City wants to do. You guys have a lot more knowledge of the project than I have. I think from the discussion I've heard, I have some of the same questions. We are the largest benefactors of the personal property tax which there wouldn't be any with the tax abatement. So I guess the main part of my job is to be an advocate for the kids and any financial gain we can get in the schools helps the kids. Again, I want to make it clear, I defer to you. You guys have a tough decision. I'm with you whatever way you want to go. What caught my attention a little bit is if the City is able to get a direct reduction in utility cost, because the school is also a large consumer of high utilities, I did not know if we could get tax money per say. Is there another way we could get something like that?

Mr. Ullman-We're selling the electricity to the utility. The utility is selling the electricity to the City and the ultimate power insurance. I really don't have any control over weather or what's factored.

Mr. Carter-Curious to know how the City is going to benefit from \$40,000.00 in a reduction in expenses as a large consumer of electricity.

Councilman Weil-The City is going to spend \$250,000.00 to connect to electric line. We can save \$40,000.00 a year where there is no wheeling charge. We are going to be in the hole six to seven years. We have to think about that too. If they take the land with no abatements, there are going to be no jobs involved in this. That takes away from future development that might come in and hire 35 to 40 people, so we have to weigh it all together to see if we want to stick our necks out. What we got so far is a lot of good publicity and publicity does not buy police cars or fix streets. So we have to weigh it all together and, like you say, the school is the biggest benefactor.

Larry Anderson-I'm secretary of the school board. I'm here on my own, not as a school board member. In terms of blight and conservation shall be redeemed in a more restricted matter, go back to simple plain English disease, poverty, dilapidated property, dilapidated homes and stuff like that. I don't see that out there and so, yes, there are financial aspects to it; however, by adopting the 353 plan I wonder if we are not projecting some kind of bad home aura. Because when you look at that, you wonder how the average citizen will see how that is blighted. How can we give 100% abatement when it's not even blighted? So that presents a bad aura for the council to consider. Does this financially make sense for the City to do? Are we going to make money from it? Basically if you are going to do this, make sure the school is not harmed. To provide 100% tax abatement and reduce possible revenue for the district, I don't think is the way to go. Not wise for the future of Butler. Yes, we need to consider are we going to generate revenue to buy police cars? Give 100% abatement and we have no curbs on our streets and there are weeds growing up on properties. I don't want your schools, your kids to get hurt because of 100%

tax abatement that will benefit nobody except the company coming in and doing the work. In short that the PILOT would request what our revenue is and consider a PILOT amount would be effective in helping the school district continue on and gain from what you guys are trying to accomplish here.

Jason Bennett-I was elected by the people from the Mt. Pleasant Township to represent the township as a trustee. We all pay taxes on the township. It may not be a lot, but every penny helps. With that being said, I want to make it clear that all tax payers living in Mt. Pleasant Township understand that no matter what the outcome of this is, we will continue to pay taxes for eternity in Mt. Pleasant Township. Some folks won't have to pay taxes. We're really not gaining anything but, at the same time, not losing anything on this deal. Just going to leave it in your hands with what you really need to do. I just want everyone to know I feel we all pay taxes. Everybody ought to pay taxes.

Roger Pruden-When we initially talked about this business coming in, we looked at \$7,000,000.00 as far as the evaluation is concerned. The school would receive approximately \$108,000.00, City approximately \$13,000.00, County approximately \$6,000.00 and roads and bridges approximately \$7,000.00 in taxes per year. Wal-Mart came in at approximately \$6,000,000.00 and pays \$130,000.00 in real tax per year and asked for no abatement. The PILOT didn't make any sense to me. Forty-five days ago offered \$15,000.00 a year for the first five years then went up to \$18,000.00. Well you can see it's not much tax money in comparison. If anyone else put in a business in that area, they would be paying this type of 353 abatement program. It does not necessarily have to be 100% abated. It can be 50% for five years or 100% for five years, and it can be percented in. That would be a council decision. The shelf life, my understanding of solar plant, is 25 years. It does go down in value as years go on. After five years the wanted 50% abatement more on the land besides getting 100% abated for the rest of it. In my opinion, I can't believe the land value will double in value. Would like to hope things will go up. I'm not for sure this type of project is something I would want to build next to. Is this thing going to have electrical strikes? Is it like holding up a golf club up in a lightning storm? I don't know. This thing might be a deterrent to the whole area, I don't know. As far as I can see, the loss of revenue and for what it is gaining, it looks a little thin.

Mayor-I think projects like this are always long term. We're hopeful it will bring other businesses. Long term benefits can be good if it brings other business to the Industrial Park. That's a benefit based on hope.

Councilman Brown-That's what the spec building was built on hope and we've been stuck with it forever. Usually to me, tax abatement applies to companies that would come in and employ people.

Mr. Ullman-Thank you councilmen and Mayor for taking the time to listen and the comments from the school board and all the other people. Our goal is to be a good citizen of the City of Butler. Wanted to reiterate that I appreciate your time and I hope you take into fact that if it was owned by the City or the utility, there would be no taxes being paid out there on the property. Under House Bill 142 if we wanted to take a chance there would be no property tax abatement under the statues right now as proposed by the House and signed by

the Governor this week. What we are trying to do is say “Hey look.” We think we want to make a commitment here to the City.” We are trying to eliminate the risk if that bill ever gets overturned by entering into an agreement now.

Rich Wood- After closing the hearing, you will be asked to approve the Redevelopment Plan and Agreement that I prepared for you, which will make payment of PILOT a contractual obligation. Because of new law that exempts this type of property, I wanted to make sure we had a contractual agreement with the Company which obligates them to make PILOT payments and not be able to come back later and claim the property is exempt and don’t have to make PILOT payments. The ordinance also approves the Novation agreement essentially allows property to pass through 353 corporation onto ultimate developer for purpose of triggering tax abatement, but then getting the property into ownership of the actual entity who is going to develop the property. In doing that, it will trigger the start of the tax abatement and start of requirement to pay the PILOT payment.

Mayor Malan closed the hearing.

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

BILL NO. ORDINANCE NO.
AN ORDINANCE APPROVING THE BUTLER SOLAR FARM CHAPTER 353 REDEVELOPMENT AREA PLAN, DECLARING THE REDEVELOPMENT AREA DESCRIBED IN THE REDEVELOPMENT PLAN TO BE BLIGHTED, AND APPROVING A REDEVELOPMENT AGREEMENT AND A NOVATION AGREEMENT BY AND AMONG THE CITY OF BUTLER, MISSOURI, MCP-BUTLER, L.P., AND THE BUTLER SOLAR FARM CIVIC REDEVELOPMENT CORPORATION.

Motion failed with the following votes:

David Brown-Nay	Harold Weil-Nay
Brian Phillips-Aye	Terry Agnew-Nay
Thom Burg-Aye	Shawn McVey-Nay
Gayle Stark-Nay	Kyle DuBray-Aye

**BILL, ORDINANCES,
RESOLUTIONS AND POLICIES**

BILL NO. 2013-16

ORD NO. 977

1ST READING

Motion by McVey, seconded by Stark to make an amendment to extend the purchase agreement with MC Power till September 20, 2013. Motion passed unanimously by a show of hands.

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

BILL NO. 2013-16 ORDINANCE NO. 977
AN ORDINANCE ESTABLISHING THE SHERIFF RETIREMENT FUND SURCHARGE TO COURT COSTS IN THE CITY OF BUTLER, MISSOURI.

BILL NO. 2013-16

ORD NO. 977

2ND READING

Motion passed with the following votes:

David Brown-Nay	Harold Weil-Nay
Brian Phillips-Nay	Terry Agnew-Nay
Thom Burg-Aye	Shawn McVey-Aye
Gayle Stark-Aye	Kyle DuBray-Aye
	Mayor Malan-Aye

**BILL NO. 2013-16
ORD NO. 977
ADOPTION**

Motion by Boyd, seconded by Agnew for the second reading by title only of
BILL NO. 2013-16 ORDINANCE NO. 977
**AN ORDINANCE ESTABLISHING THE SHERIFF RETIREMENT
FUND SURCHARGE TO COURT COSTS IN THE CITY OF BUTLER,
MISSOURI.**

Motion passed with the following votes:

David Brown-Nay	Harold Weil-Nay
Brian Phillips-Nay	Terry Agnew-Nay
Thom Burg-Aye	Shawn McVey-Aye
Gayle Stark-Aye	Kyle DuBray-Aye
	Mayor Malan-Aye

**REPORTS
POLICE CHIEF**

Motion by Phillips, seconded by Boyd to adopt.

BILL NO. 2013-16 ORDINANCE NO. 977
**AN ORDINANCE ESTABLISHING THE SHERIFF RETIREMENT
FUND SURCHARGE TO COURT COSTS IN THE CITY OF BUTLER,
MISSOURI.**

Motion passed with the following votes:

David Brown-Nay	Harold Weil-Nay
Brian Phillips-Nay	Terry Agnew-Nay
Thom Burg-Aye	Shawn McVey-Aye
Gayle Stark-Aye	Kyle DuBray-Aye
	Mayor Malan-Aye

CITY ATTORNEY

CITY ADMINISTRATOR

Chief Beshore reported he received a \$1,000.00 traffic control grant from Embridge Pipeline Associates.

City Attorney Addleman reported he had the ordinance ready for council approval due to the error of a liquor license being issued to El Dorado Mexican Restaurant & Cantina. A public hearing will have to be held and if council approves the ordinance, the owner will need to apply for an exception. El Dorado Mexican Restaurant & Cantina license is suspended until further notice. Motion by Phillips, seconded by Brown to revisit the issue and consider amending the ordinance. Motion passed 6-1 with Burg voting no.

City Administrator Arbuthnot reported the Downtown Improvement Project is almost completed. There will not be any construction activity on the project by National Streetscape July 24, 2013 through August 18, 2013 because of the additional time needed to fabricate hand rails and delayed shipping on the benches from the supplier. So the project completion date has been extended from August 5, 2013 to August 30, 2013.

PUBLIC WORKS DIRECTOR

City Administrator Arbuthnot reported the installation of the UV Disinfection and the basin mixer's at the Wastewater Treatment Plant by McClanahan Construction is on schedule for completion. A punch list of final items that need to be completed were developed by the City's engineer, Public Works/Utilities Director and plant personnel on July 30, 2013.

CODE ENFORCEMENT

MAYOR

City Administrator Arbuthnot reported the sewer collection system work to repair Inflow and Infiltration problems by Insituform Technologies is being scheduled for completion as the rainfall earlier this spring prevented them from completing their work.

Public Works Director Diehl reported a letter was sent to Marilyn Eneff explaining the situation concerning her sewer.

Code Enforcement Officer Wheatley gave the code enforcement report.

Mayor Malan welcomed Shawn McVey and Kyle DuBray as new councilmen in Ward 4.

Welcomed McVey and DuBray. Glad to see the visitors. Asked about Art Davis and the progress in finding a new City Administrator. City Administrator Arbuthnot reported Mr. Davis has put together a profile of Butler, and he would have it for the next council meeting. Brown stated need to consider giving proper training for City employees. Need to find and train the right person.

Welcomed McVey and DuBray. Stated found the August 7, 2012 Comparative electric rates. Our rates are about right on. Voted for the 353 agreement. I support the school and want what's best for the kids. Also supports progress.

Welcomed McVey and DuBray.

Welcomed McVey and DuBray.

Welcomed McVey and DuBray. Need young guys. Appreciate you coming on board.

Welcomed McVey and DuBray. Good to see younger councilmen.

Appreciate opportunity. Like to see progress on the solar farm.

Thanked everyone for the welcome.

Consider Change Order #1 with McClanahan Construction Co. to replace monitoring equipment at the Wastewater Treatment Plant for the amount of \$2,800. The existing monitoring equipment can't be upgraded due to its age and it won't function properly with the new basin mixers. Motion by Phillips, seconded by Brown to approve Change Order #1 with McClanahan Construction Co. Motion passed unanimously by a show of hands.

Consider a proposal from Harold Scholz Co. to repair problems that were discovered when the City did 2 test runs of the generators several months ago. Repairs include generator controls for stable reactive load sharing between generators when isolated from KAMO and to update computer HMI screens to provide for additional control of the main breakers at a cost of \$16,885. The other options included in the proposal will not be considered at this time for completion. This work will be funded out of equipment repair and maintenance in the budget for the Light Plant. Motion by McVey, seconded by Agnew to approve the proposal to repair the two generators. Motion passed

COUNCIL MEMBERS

BROWN

PHILLIPS

BURG

STARK

WEIL

AGNEW

MCVEY

DUBRAY

**NEW BUSINESS
CHANGE ORDER
#1/McCLANAHAN
CONSTRUCTION CO**

HAROLD SCHOLZ CO.

SURPLUS PROPERTY BID

unanimously by a show of hands.

The City requested bids on three pieces of surplus property and these were to be submitted to the City Clerk no later than July 29, 2013 by 5:00 p.m. Only one bid was received for one of the properties and this is included in the meeting packet for consideration. Please note that the bid states it was for property #4 so the bidder was contacted and he indicated that he wrote down the wrong number and that it was for property #3 as advertised. Motion by Brown, seconded by Phillips to accept the bid of \$100.00 for property #3 at N. Austin. Motion passed 6-1 with Weil voting no.

POLICE VEHICLES PURCHASE

TAX LEVY PUBLIC HEARING

Consider purchase of 2 Police vehicles. Motion by Phillips, seconded by Brown to purchase two Police vehicles. Motion passed unanimously by a show of hands.

Approve Public Hearing to consider the 2013 Property Tax Levy. Public hearing to be held at the City Council meeting on Tuesday, August 20, 2013 at 7:00 p.m. Motion by Brown, seconded by Agnew to schedule a public hearing at 7:00 p.m. on Tuesday, August 20, 2013. Motion passed unanimously by a show of hands.

**FIRE DEPT EQUIPMENT
VEHICLE
BUNKER GEAR BIDS
TANKER TRUCK BIDS**

Consider authorizing purchase and taking bids for Fire Department Equipment as follows: 1) purchase replacement vehicle for Assistant Fire Chief from the State Agency for Surplus Property (budgeted at 16,000), 2) authorize taking bids for 25 new sets of replacement bunker gear (budgeted at 37,500), and 3) authorize taking bids for a replacement 2,000 gallon tanker truck with a 5 year lease purchase agreement (estimated cost 165,000 to 185,000). These items will all be funded out of the 1/8 cent Fire Protection Sales Tax approved by voters in August of 2012.

Motion by Burg, seconded by Phillips to authorize the purchase of a replacement vehicle. Motion passed unanimously by a show of hands.

Motion by Phillips, seconded by Brown to authorize taking bids for 25 sets of replacement bunker gear. Motion passed unanimously by a show of hands.

Motion by Brown, seconded by Burg to authorize taking bids for a replacement 2,000 gallon tanker truck. Motion passed unanimously by a show hands.

ADJOURNMENT
CLOSED SESSION

Motion by Brown, seconded by Stark to adjourn the regular session and enter into closed session. Legal Actions and/or Communication from the City Attorney as provided under Section 610.021 (1),

ATTEST

Barbara Scrogam
Deputy City Clerk

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

Harold Weil-Aye
Terry Agnew-Aye
Shawn McVey-Aye
Kyle DuBray-Aye

Mayor Don H. Malan

