

CITY OF COLUMBUS
CITY COUNCIL MINUTES
August 17, 2009

ATTENDANCE

The City Council of Columbus, Kansas, met August 17, 2009 at 6:30 p.m. in the City Hall. Mayor Marie Nepple presided. Council members present: Connie Bennett, Jerri Burton, Steve Dunlap, Doug Hosier, David Morrison, John Paradee, Dewey Smith, Gary Smith, Grant Spieth Dana Wellmeier. Members absent: None

Councilmember Grant Spieth led the invocation followed by the Pledge of Allegiance.

MINUTES – REGULAR COUNCIL MEETING

Mayor Marie Nepple called for additions or correction to the minutes of the August 03, 2009 council meeting. Burton moved to accept the minutes of the August 03, 2009 council meeting. Hosier seconded the motion. Voting aye: Bennett, Burton, Hosier, Morrison, Smith Dewey, Smith Gary, Spieth. Voting nay: None. Abstaining: Dunlap, Paradee, Wellmeier. Motion carried: 7-0 3-A.

APPROPRIATION ORDINANCE #09-215

Smith Gary moved to approve Appropriation Ordinance #09-215. Burton seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Morrison, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

VISITORS

Larry Ketcher: I know you don't get thanked a lot for what you do so I would like to thank Evan Capron, the Police Chief and the Fire Chief for the work they did at the July 4th celebration. I also want to thank all the City workers for all of their help. Jean Pritchett and her staff did a great job. I just want you to know I appreciate the great job everybody did. It went off without a hitch and I know Evan was down there 3 or 4 times checking on things and Chuck was there with his guys. Next year it is still on as Mr. Crossland has been generous the last two years so I will be working with you all again next year. Again I want to thank everybody for all of their help.

City Administrator Evan Capron report:

1. I am currently analyzing the trash pickup situation for budgeting purposes.
2. I have been working on the 2010 budget with the budget committee. I almost have the required state spread sheet put together showing the budget.
3. We attended a KDOT meeting this afternoon regarding Highway 7. They will begin their study very soon. It appears that this project is going to happen in the next 5 years.

City Superintendent Jim Burton report:

1. Two weeks ago we opened bids on the remodeling project for the restrooms at the Community Building. We received 2 bids, one from Willey Construction and the other from American Constructions. This is something that has to be done due to the ADA compliance and the Transition Plan.

BIDS ON RESTROOMS AT COMMUNITY BUILDING

American Construction \$32,950.00 Willey Construction \$42,800.00
Burton moved to proceed and accept bid from American Construction in the amount of \$32,950.00 for the remodeling of the restrooms in the Community Building. This will be paid out of GL# 20-000-59999 - \$21,148.00, GL# 01-500-57860 - \$10,000.00 & GL#01-500-57991 - \$1,802.00. Paradee seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Morrison, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

- 2. Friday PEC came down and we opened the bids on the curb cuts down town. I will get back with the County next Monday to see what they plan on doing to help with this project.

BIDS ON CURB CUTS DOWN TOWN

Marbery Concrete Inc.	\$110,940.75	General Service Corp.	\$122,355.10
R&S Construction	\$148,641.20	Kiel Management LLC	\$171,634.00
Crossland Heavy	\$182,154.25	Denny Crete LLC	\$201,772.80
Mission Construction	\$208,394.50	Beacher Construction	\$211,836.00

Hosier moved to accept the bid from Marbery Concrete Inc. in the amount of \$110,940.75 for the Down Town curb cuts. This will be paid out of GL#22-203-59999 - \$80,000.00, GL#22-201-59999 - \$30,940.75 and. Burton seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Morrison, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

- 3. On your desk is a picture with 3 fire hydrants. Dale and the Fire Department have been flushing plugs and this is 3 we ran into where people have planted stuff around the fire plugs. We also have one that is behind a hedge. I am bringing this to your attention. According to 7-110 in our Code Book it is illegal to do that. I don't know who will enforce this. Our code does not give a distance as to how far away they have to be. The picture at the bottom they could not even test as they have a sprinkler system in there.
- 4. Last week the 3 operators and I went to Neodesha as the Kansas Rural Water was putting on a trenching seminar. The next day I and 2 people went to a confined space training that was put on by Rural Water District.
- 5. We did have a motor go out of our compressor this weekend and Gary kept pumping us water. A bird got up in the transformer and that is what caused the motor to burn out. I checked with the gentleman a Covert Electric and he said it would be best to just buy a new motor if this happens again as they are not rebuild able. I will be going this weekend to buy a small compressor in case this happens again.

PROCEED WITH CONDEMNATION – 538 S. DELAWARE

Burton moved to proceed with condemnation at 535 S. Delaware. Wellmeier seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Morrison, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

DEMO BID – 804 W OAK

Smith Dewey moved to accept the only bid from B-3 Construction in the amount of \$2,050.00 for the demolition & removal of house and fill back with clay at 804 W. Oak. This will be paid out of GL#19-000-58410. Smith Gary seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Morrison, Paradee, Smith Dewey, Smith Gary, Wellmeier. Voting nay: None. Abstaining: Spieth. Motion carried: 9-0 1-A.

LOCATION OF FUTURE RESTROOMS AT CITY PARK

Smith Dewey moved to accept the placement or location of the future restrooms at City Park which will be located 19 feet from the SW corner post of the tennis court and north of the water tower in an area that is accessible to the sanitary sewer system. The future building will face the west. ADA compliant restrooms will be built when money becomes available. Burton seconded the motion.. Voting aye: Bennett, Burton, Dunlap, Hosier, Morrison, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

ADDING PROSECUTING ATTORNEY FOR BUDGET PURPOSES

Spieth moved to add Prosecuting Attorney wages on the court side, for budgeting purposes, at \$1,500.00 a month. Paradee seconded the motion. Voting aye: Burton, Dunlap, Hosier, Paradee, Spieth, Wellmeier. Voting nay: Bennett, Morrison, Smith Dewey, Smith Gary. Motion carried: 6-4.

EMPLOYEE STEP INCREASE – ARON BURTON

Paradee moved to give annual step increase to Aron Burton to \$8.44 Range 6 Step C per Appendix A due August 4, 2009, with retro pay and payable on the August 28, 2009 payroll. Spieth seconded the motion. Voting aye: Bennett, Dunlap, Hosier, Morrison, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Abstaining: Burton. Motion carried: 9-0 1-A.

EMPLOYEE STEP INCREASE – LARRY CAVINESS

Paradee moved to give annual step increase to Larry Caviness to \$10.80 Range 9 Step D per Appendix A due August 14, 2009, with retro pay and payable on the August 28, 2009 payroll. Spieth seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Abstaining: Morrison. Motion carried: 9-0 1-A.

EMPLOYEE STEP INCREASE – STEVEN P. BURTON

Paradee moved to give annual step increase to Steven P. Burton to \$10.80 Range 9 Step D per Appendix A due August 21, 2009, with retro pay and payable on the August 28, 2009 payroll. Spieth seconded the motion. Voting aye: Bennett, Dunlap, Hosier, Morrison, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Abstaining: Burton. Motion carried: 9-0 1-A.

EMPLOYEE STEP INCREASE – JIM BURTON

Paradee moved to give annual step increase to Jim Burton to \$19.54 Range 15 Step J per Appendix A due August 27, 2009 and payable on the September 11, 2009 payroll. Spieth seconded the motion. Voting aye: Bennett, Dunlap, Hosier, Morrison, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Abstaining: Burton. Motion carried: 9-0 1-A.

After making the previous motions Councilmember John Paradee turned over the next council business to Councilmember Grant Spieth. Councilmember Spieth said that after reviewing the City Administrators evaluation we like to make a recommendation to the council that we renegotiate his contract. You will find a draft copy of that contract on your desk. Basically it is a 2 year contract like the last one. There is no increase at all for the duration of the contract. There is \$200 for auto allowance and \$50 for cell phone. I don't think that was in the other contract but we approved that through the council someplace else. As to the contract that has been moved so I guess we will open it up to discussion. Councilmember Gary Smith asked if we can do that

contract for 24 months. Councilmember Spieth asked; don't we have to renew it after the first of the year. City Attorney Barbara Wright said we went through this last time and we had an advisory opinion from the League. They said this is what is customary and this is what all cities are doing. A minimum of 2 years and many of them are 3. Councilmember Spieth said I understand that but what he is saying is we are committing another council. Councilmember Bennett asked does that not have something to do with the cash basis law. City Attorney said Mr. Osenbaugh visited here and assured us that this is customary in virtually every city that had a similar contract or position. Basically said Mayor Marie Nepple, as I recall the contract from the previous contract it was for a year at one salary and the second year at an additional salary. Councilmember Gary Smith said he thought we had to renew it at the first of the year to get it like that. Attorney Barbara Wright told him not an employment contract like this. It still goes through appropriations; it still goes through budgeting just like everything else. Just like our contracts to lease purchase vehicles it is the same concept. You do not have to renew those every year. They are written for their term. Mayor Nepple asked if there was anymore discussion.

APPROVE EMPLOYMENT CONTRACT/ CITY ADMINISTRATOR – EVAN CAPRON
Spieth moved to approve the employment contract for City Administrator Evan Capron, as written. Hosier seconded the motion. Voting aye: Dunlap, Hosier, Paradee, Smith Dewey, Spieth. Voting nay: Bennett, Burton, Morrison, Smith Gary. Abstaining: Wellmeier. Motion carried: 5-4 1-A.

Mayor Nepple told the council that a few meetings ago she told them that they were going to be looking at the packet and see if we could skinny it up a little bit and we actually had 2 pay periods before this council meeting so we had a few more papers than normal. I was at an open meetings/open records training last Friday and another City brought up that they think they ought to know what everything is being taken out of the employee's salary; because salary information is open record. Salary information is open record but it that means gross salary not net salary. And as the instructors pointed out or asked the question of this person; how does knowing this person is paying child support or having his check garnisheed help you make a decision whether he is a good employee or not doing his job or meeting his job requirements. So in the future the current job salary information will not be in your packet. Janice has different ways to get this report out for that. It is important for each of you to have information about the gross salary as that is important for budgetary purposes. Evan will still be receiving these; he is still responsible and charges with scrutinizing these documents, keeping an eye on the overtime. Making sure people are not abusing sick leave or annual leave. He and the department heads are responsible for that. It is certainly something we can revisit again if the council finds it is important to have all that information. If you want to see it or need to see it Janice has the printouts and they are certainly available to you. All information is available to you. Anybody have any thoughts or comments on that? Councilmember Paradee made a motion to drop them. Mayor Nepple asked if there was a seconded. Councilmember Wellmeier seconded the motion. Councilmember Spieth asked if there needs to be a motion and was told they didn't think so. Councilmember Paradee said lets get it done right. Councilmember Spieth said it is the Mayor and the City Administrator that builds the packet. They are the ones who decides what is in there and if a councilmember has something they would like to see in there they could make a request of either one of them. Mayor Nepple said to put a note in the records of the minutes that it was discussed here and no other activity.

Councilmember Jerri Burton had another question. Since cousins and brother in laws can vote now does that mean that on Stevens and Jims I could have voted yes or no and I didn't have to abstain? City Attorney said the rule is 4th degree relationship. Councilmember Burton said because in our Code Book there was one in there. Again City Attorney said it says 4th degree.

You have to understand the rules of distribution to understand it. Every generation is 1 degree. A second cousin is not within the 4th degree. A brother-in-law who is married to your wife's sister is not a relation at all. Councilmember Burton said she just wanted to know as she has relations like Steven and Jim. But they are within the 4th degree said Attorney Wright. It depends on the distance. Councilmember Burton said so Jim is my brother-in-law so I have to abstain from him. City Attorney said he is within the 4th degree. So I have to abstain on him said Councilmember Burton. But Dunlap is his brother-in-law. No said City Attorney. He is married to his wife's sister. But I'm married to his brother said Councilmember Burton. You have me confused. City Attorney said she has a Kansas case from the Kansas court from 1934 that addressed that very issue. It basically says "A husband is not related by affinity just by marriage to a spouse of a blood relative of the wife. Does that make since? No said Councilmember Burton. Councilmember Paradee said he went to the LKM himself and they told me what I could do and what I couldn't do. Councilmember Burton she understood that but if he is a brother-in-law and he can vote and I am a sister-in-law and I can't vote against Jim as I have to abstain but he can vote, that doesn't seem right. City Attorney said Jerri here is the difference; if Dora was sitting over there instead of Steve she could not vote but Steve is not Dora. Steve is only married to Dora. I'm only married to Dale to me it doesn't make any sense said Councilmember Burton. City Attorney said she is only telling you what the law says in Kansas. John researched it, I researched it and our ordinance says 4th degree. Steve is not within 4th degree. He is nothing to Evan by law. If they were in business together that would be different. There is no conflict. Councilmember Wellmeier asked what about financial. Attorney Wright said it could be personal which is blood relation or by affinity, by marriage. It has to be close by marriage. Like I said it would have to be Dora not Steve that would have to abstain or if there was a business relationship that would also create a potential conflict. There is none of that with Steve or John. We have researched this pretty extensively by outside opinions, I've done the case law research for Kansas, I've done the statutory research and that is what it says. Jerri said she thought she would just ask. Councilmember Gary Smith said you are our attorney so if you say this is legal then it's legal. Attorney Wright said she did have to research it and I have a chart if anybody wants to see it. You can draw out the family trees and it will show you 1 degree, 1 degree, 1 degree. You just keep counting generations in 1 degree.

Meetings:

Police & License

Wednesday August 19, 2009 @ 7:00 pm

Budget & Finance

Thursday August 20, 2009 @ 6:00 pm

Fire

Tuesday August 25, 2009 @ 6:30 pm

Personnel

Wednesday August 26, 2009 @ 6:00 pm

ADJOURNMENT

Burton moved to adjourn the meeting at 7:40 pm. Morrison seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Morrison, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

Janice Blancett, City Clerk

