

CITY OF COLUMBUS
CITY COUNCIL MINUTES
January 20, 2009

ATTENDANCE

The City Council of Columbus, Kansas, met January 05, 2009 at 6:30 p.m. in the City Hall. Mayor Harley McDaniel presided. Council members present: Connie Bennett, Jerri Burton, Steve Dunlap, Doug Hosier, Marie Nepple, John Paradee, Dewey Smith, Gary Smith, Grant Spieth, Dana Wellmeier. Members absent: None.

Ervin Dill led the invocation followed by the Pledge of Allegiance.

MINUTES

Mayor Harley McDaniel called for additions or correction to the minutes of the January 05, 2008 council meeting. Burton moved to accept the minutes of the January 05, 2008 council meeting with corrections on condemnation hearing to read 507 East Oak instead of 307 East Oak.. Hosier seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Wellmeier. Voting nay: None. Abstaining: Spieth. Motion carried: 9-0 1-A.

APPROPRIATION ORDINANCE #08-198

Hosier moved to approve Appropriation Ordinance #08-198. Paradee seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

APPROPRIATION ORDINANCE #09-199

Nepple moved to approve Appropriation Ordinance #09-199. Burton seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

City Superintendent Jim Burton report:

1. We just finished our annual water use report for the state. Water loss in down to 21% and we were at 26%. We contributed a lot of that to meters and documentation of the water that the fire department services use when they are out hooking up to a hydrant. Also along that same line we went through the other day and we have 695 meters still in the ground that is over a million gallons going through them. Those of some of them they are going to target for replacement.
2. The school where they are putting in the welding shop they wanted me to bring up to the council to see if they would supply the in-kind part or the material and labor to run a 4" sewer line from the building to our main which is roughly 200' and also run a 2" water line from the building to the main which is again about 200'. The reason they are asking me about this is because they are getting ready to put down matting and that has to be put in before the matting goes down and the rock. We are going to have to put in an 8" line from the Ambulance Barn on the east side across that creek to get the water over there. That is the City's responsibility to get water that far. After much discussion it was decided to take this to the Water & Sewer Committee before anything will be done.

3. I have bids on dump truck and stump removal.

BIDS ON DUMP TRUCK

Freddie Bolin \$990.90 *Tom Webber* \$1,002.00

Smith Gary moved to accept bid on the old dump truck from Tom Webber in the amount of \$1,002. Paradee seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

BIDS ON STUMP REMOVAL

Bill's Tree Service \$600.00 *Al Tree Service* \$900.00

Smith Dewey moved to accept the bid for grinding of 9 stumps in the City Park from Bill's Tree Service in the amount of \$600. Burton seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

4. WE are going out for the cemetery mowing person, weeds in town and brush pickup in town. The proposals will need to be back by February 13. Then next council meeting will be the 17th and then the appropriate committee can schedule meetings accordingly.
5. I am requesting permission from the council to attend the national ADA symposium in Kansas City June 8,9,10. The registration fee is \$475 and each night is \$119. I have already booked the nights but they can be cancelled if council so chooses for me not to go.

CITY SUPERINTENDENT TO ADA SYMPOSIUM

Smith Gary moved to allow City Superintendent Jim Burton attend ADA symposium in Kansas City on June 8-9-10. Smith Dewey seconded the motion. Voting aye: Bennett, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Abstaining: Burton. Motion carried: 9-0 1-A.

City Clerk Janice Blancett report:

1. I have an interoffice memo from our Municipal Judge to Evan and Police Chief I would like to read:

In speaking with City Attorney Barbara Wright and City Clerk (which should be Court Clerk) Terri Kershaw, we would like to change the court scheduled. Specifically, first appearances will take place at 8:00 a.m. on the 1st and 3rd Fridays of the months (1st appearances are currently scheduled for 4:00 p.m.). All trials will take place at 9:00 a.m. on the 3rd Friday of the month. In the event of a conflict or special setting, trials may also take place at 9:00 a.m. on the 1st Friday.

There are two reasons for the change. First, I would like Barbara Wright to attend all first appearances and reviews. In my Opinion it is essential for the City Attorney to be involved with first appearances and reviews. If a defendant pleads "guilt" or "no contest" to a particular charge, the Court wants the City Attorney to recommend a fine and punishment. The second reason is, obviously travel. By scheduling both first appearances and trials in the morning I can avoid multiple trips.

Thank you for your attention to this matter. Please contact me should you have any questions or concerns.

2. The second memo is requesting a new computer for the courtroom as the courtroom has an old laptop that is slow and outdated. They were unable to get the computer started. A new computer has been ordered and should be in sometime this week.

Councilmember Dewey Smith asked if the city Attorney had any comments on that. Barbara said I can tell you this that it is going to increase my hours every month. I can't do first appearances that I have not done in the past and not have more hours. It is going to vary week to week and how many cases we have as to the number of hours I will be spending in court. I've never had to do this before. We had a discussion about it but he prefers to do things the way they do it in Pittsburg. Yes the Council does need to be aware of this and that it is going to increase my hours. I talked to the judge in Pittsburg and that is the way they have always done it up there is what he is proposing here. They go to court every week up there. Councilmember Nepple asked if Baxter, Weir and Scammon do they do that? Barbara said Baxter or Galena do not go to first appearances. Barbara told the council that this is a matter that they will have to take up with the Judge as the judges have the authority to write their court rules their way. I am between a rock and a hard place here because if the court orders me to be there I have to be there. Councilmember Paradee asked Barbara if she was to set the fines would that help us to collect anymore of this money. Barbara told him no. Barbara said he is only asking her to recommend fines and penalties. I don't have any authority to set anything unless it is a plea bargain and that is subject to courts approval. He will make the final decision as to what the fines and penalties are. Councilmember Gary Smith asked if this was going to increase the Judge's time any and was told he was salary. Barbara said it would cut his travel time and she assumed it would make his job more efficient. It does not affect his pay one way or the other.

Councilmember Nepple said it might be worthwhile to discuss it with him or maybe try it for 3 months to see how it will impact Barbara.

Barbara said he has also made some other suggestions that we might want to take to committee. I don't think you want to get into that right now as it has to do with types of cases we might want to or he thinks we might want to not prosecute in city court any longer. Waive it for the County to handle. I have a list of those, which I didn't bring with me as it is a long list. Most of them are types of prosecutions that in 5 years I have never had one. There are a few on there that I have on a regular basis and I have some questions about rather the Police Committee would want to hear about that and have discussion about it in committee.

Councilmember Spieth asked if anyone knows why or how that came about that the judge's salary is paid out of Administration instead of Police. Barbara said she thought he was a little confused too that there isn't a specific court budget. I think maybe he thought there was.

Councilmember Dunlap said he doesn't mind taking it to committee if he will come. Barbara said she didn't think he would have a problem with it. If you invite him she was sure he would come.

PUCHASE 10 TON HEAT PUMP FOR MUSEUM

Commercial & Residential Service \$4,988.00 *KC Heating & Air* \$7,322.00

Hosier moved to accept bid for replacement of a 10-ton heat pump condenser for Museum from Commercial & Residential Service in the amount of \$4,988 and to be paid out of GL# 01-500-57620. Bennett seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

AUDIT CONTRACT

Spieth moved to accept contract with Diehl, Banwart & Bolton to audit financial statements of the City for the year ended December 31, 2008, in the amount of \$9,285 plus travel and out-of-pocket expenses and to be paid out of GL# 01-100-57250. Paradee seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

EMPLOYEE STEP INCREASE – RON REYNOLDS

Nepple moved to give Ron Reynolds longevity pay of \$434.00 payable on the 2nd payroll in December 2009. Paradee seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

EMPLOYEE STEP INCREASE – DALE BURTON

Nepple moved to give Dale Burton annual step increase to \$17.70 Range 13 Step L per Appendix A, due January 01, 2009 and payable on the January 30, 2009 payroll and retro back. Paradee seconded the motion. Voting aye: Bennett, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Abstaining: Burton. Motion carried: 9-0 1-A.

RESOLUTION #385

Smith Gary moved to adopt Resolution #385 registering the City’s support on improvement and upgrade of Highway K-7. Spieth seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

ELECTRONIC MONITORING OF COUNCIL MEETINGS

Spieth moved to allow Columbus Telephone Co. to install video and audio for live broadcasts of City Council meetings at no cost to the City. Paradee seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

Meetings:

Water & Sewer

Tuesday January 27, 2009 @ 6:00 pm

Fire

Tuesday January 27, 2009 @ 6:45 pm

Sanitation

Tuesday January 27, 2009 @ 7:00 pm

Police & License

With City Attorney & Municipal Judge

Tuesday January 27, 2009 @ 7:30 pm

Councilmember Spieth said he would like to see what our current procedure is too in writing versus the change. Barbara said all she does right now is trials on the 3rd Friday of the month. They have been running them from 8:00 a.m. until finished but now he has bumped up 1st appearances to 8:00 a.m. which pushes trials down to 9 o’clock. What we have been doing is trials 3rd Friday 8 – 11 or 11:30. They were doing 1st appearances 1st and 3rd Fridays at 4:00 p.m. with no City Attorney present. It was just the defendants coming in and it was the whole spectrum of the varies kinds of misdemeanor traffic cases that come into court. From dog at large to DUI to possession of marijuana paraphernalia. Those are some of our most serious misdemeanors Class A. The defendant comes in at 1st appearance to plead guilty or not guilty. If it is a traffic infraction or a dog case or whatever that is usually a pretty cut and dried fine and penalty. If they plead guilty and come in to pay their fine that is pretty straight forward. The tricky ones are if they are coming in...you have to understand, the Judge can not see defendants driving record or any forensic evidence that we have – toxicology, toxilizer test results or the blood test results. The Judges can not see those things unless they are presented to him in a hearing formally. So these people coming in to plead guilty or not guilty are coming in with the Judge having very little knowledge and I think this is the main thing he is getting at. We are

coming in with a serious driving case. Driving while suspended or driving under the influenza, those fines and penalties are contingent upon the driving record and the Judge technically doesn't have access to that driving record until someone presents it to him. Now, the reality was if they come in and was going to plead guilty to something like that what we would do was have an officer bring that information up to the Judge so he would know how to proceed. This Judge wants it to be more formal than that and that is why he is wanting City Attorney there. I don't think we have that many with that many serious offences pleading not guilty or rather pleading guilty. Most of them are pleading not guilty and they are bound over to trial. So I am going to deal with them anyway. I don't know how else to explain it to you unless you just come back there and experience it. Every case is different every session is different, depends on the time of the year depends on a lot of things. Grant said maybe if they can get the schedule down on paper then because I'm not sure I know how many times you meet or how many days you meet versus what he is planning. Barbara told him he is not planning on meeting any more days per week or per month just more hours for me. No more hours for the court, more hours for me. He wants me at the first appearances. The City Attorneys have not been doing first appearances. Darrel never did, Robert never did and Robert is still not in Baxter. I'm not saying it's not necessarily a useful thing in some cases. Your routine cases where they have been speeding they come in and pay their ticket I am not contributing. I did come over for a first appearance a couple of weeks ago and we did have a case where as I have been here a while and I know these folks we were able to work something out on a review case because of that persons situation. John wouldn't have known anything about this guy if I hadn't been there. The guy has serious mental problems, alcohol dependency and he owes the City quite a lot of money in old fines. He made his review date and came in. John would not have known his history with us. Terri could have given him the background as far as the convictions and the fines go. He could not have known or guessed this persons other problems. I think I was helpful in that case. There was another case that day where we worked out a deal which the Judge could not of done on his own. It was a situation where a young man and his mom got into a verbal dispute, stepfather called and reported it, they were both charged with domestic violence and neither one wanted to testify against each other. On a conviction or a diversion on a charge like that he would not be able to make a decision. Because I was there we were able work it out and let this young man pursue it on his own. Like I said it is going to vary week to week. It will probably affect the defendants who come in as much as the court or the city. They will get to have a discussion with me that day where they normally don't see me unless they plead not guilty and give me a call ahead of time or just show up in court for trial. I don't know if that answers your questions but it is going to add a few hours a month and it just depends on how many tickets our department writes and how many 1st appearances we have. You can't predict. Sometimes they will have 30 or 40 1st appearances and sometimes only 5 or 6. Mr. Hiatt from the Columbus Daily Advocate then asked to speak. You said they owe quite a bit of money to the City so do you allow people to charge? Barbara said we put them on a payment plan when there is no other way and then they are reviewed monthly and if they are not making progress toward that plan then there is a good possibility they go to jail. It depends on the case. You can not put a person who has a nuisance violation and an outstanding fine in jail it is a civil matter. Mr. Hiatt asked if it could go against their property and Barbara said yes you can do that. You can not put that person in jail for failing to pay. Mr. Hiatt then asked; do you have a lot on the books? I have heard this and that is why I am asking this question. Barbara said it depends on how you define a lot. I don't know. Mr. Hiatt then asked if there was \$5,000, \$10,000. Total asked Barbara. Oh we have much more than that on the books I don't know how much. Mr. Hiatt wanted to know if that was public knowledge. Barbara said yes it is. I think our Municipal Clerk can get that for you.

Personnel

Thursday January 29, 2009 @ 7:00 pm

ADJOURNMENT

Burton moved to adjourn the meeting at 7:47 pm. Paradee seconded the motion. Voting aye: Bennett, Burton, Dunlap, Hosier, Nepple, Paradee, Smith Dewey, Smith Gary, Spieth, Wellmeier. Voting nay: None. Motion carried: 10-0.

Janice Blancett, City Clerk