

MINUTES
NEOSHO CITY COUNCIL
September 17, 2013 - 7:00 p.m.
City Hall – Council Chambers
203 E. Main St., Neosho, MO

OPENING PRAYER & PLEDGE OF ALLEGIANCE

Jim Hardwick gave the opening prayer and Mayor Davidson led the Pledge of Allegiance.

A quorum being present, Mayor Davidson called the meeting to order at 7:03 p.m.

ROLL CALL

COUNCIL PRESENT:

Charles Collinsworth
Steve Hart
Tom Workman

Richard Davidson
David Ruth

CITY OFFICERS PRESENT:

Steven Hays, City Attorney
Nora Houdyshell, City Clerk

Mike Eads, Fire Chief
Daphne Pevahouse, Finance Director
David McCracken, Police Chief
Mike Hightower, Public Works
Pam Baker, Human Resources Director
Dana Daniel, Development Services Director
Amy Moritz, Parks Director

APPROVAL OF AGENDA

Motion was made to approve the agenda as presented by Councilman Ruth and seconded by Councilman Workman. The motion passed unanimously.

CONSENT AGENDA:

Motion to approve the consent agenda items as listed by Councilman Collinsworth and seconded by Councilman Workman

Roll call vote:

Charles Collinsworth – Yes
Richard Davidson – Yes
Steve Hart – Yes
David Ruth – Yes
Tom Workman - Yes.

Motion carried.

MINUTES:

The minutes of September 3, 2013, Regular Session was approved as presented.

PROCLAMATION:

Mayor Davidson stated that the following proclamation was issued on September 17, 2013.

It Can Wait Movement

WHEREAS: The City of Neosho, Missouri holds the health and safety of its teenagers and adults as a chief concern; and

WHEREAS: Through ItCanWait.com, Facebook, text-to-pledge, tweet-to-pledge and other events, more than 1.8 million people have committed to never text and drive; and

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WHEREAS: 98 percent of American commuters know sending a text or email while driving is not safe; and

WHEREAS: Nearly 50 percent of commuters text while behind the wheel; and

WHEREAS: More than 40 percent of commuters who text while driving reported the activity as being a habit; and

WHEREAS: A driver that sends a text message while driving not only jeopardizes his or her safety, but also the safety of passengers, pedestrians, and other drivers.

NOW, THEREFORE, I, Richard Davidson, Mayor of Neosho, Missouri, do hereby proclaim September 19, 2013 as:

“Drive 4 Pledges Day”

In Testimony Whereof, I have hereunto set my hand and caused to be affixed the Official Seal of the City, in the City of Neosho, this 17th day of September, 2013.

/s/ Richard Davidson, Mayor

VISITORS BUSINESS

Mr. Randy Emmert – Subdivision Regulations

Mr. Emmert stated concerns pertaining to gravel driveways being allowed with new construction but not allowed within a subdivision. Mr. Emmert respectfully requested the council look into this matter and revise the code. Mayor Davidson stated he would have staff forward this to the Planning and Zoning board.

Mr. Bill Weber/Derrick Mutz – Zoning

Mr. Weber stated he was approached as an attorney to review the permits and paperwork pertaining to property located on Fairway Circle. He further read the definitions of the R-1 Zoning code and servants quarters. Mr. Weber conveyed the surrounding neighbors as well as himself agrees that this structure does not follow the city building code and demanded a stop order to halt construction until it could be investigated.

City Attorney Hays informed Mr. Weber that the City Manager could direct staff to verify the allegations but could not place a stop order until violations are found.

Mr. Eldon Morgan – TDD

Mr. Morgan stated his questions may be answered during the TDD discussions so will withhold further comment at this time.

UNFINISHED BUSINESS

Bill No. 2013-581...Adopting the 2013-2014 Fiscal Year Budget...2nd and 3rd Reading.

Motion to pass Bill No. 2013-581 on second and third readings by Councilman Collinsworth and seconded by Councilman Workman

Bill No. 2013-581 for Ordinance No. 62-2013 was read by title only by Mr. Hays.

Roll call vote:

Richard Davidson – Yes
Steve Hart – No
David Ruth – No
Tom Workman – Yes
Charles Collinsworth - Yes

Motion carried.

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Bill No. 2013-577...Providing that the revenues and budget be amended for the Fiscal Year beginning October 1, 2012 and ending September 30, 2013...2nd and 3rd Reading. (Drainage/Parks)

Bill No. 2013-577 for Ordinance No. 58-2013 was read by title only by Mr. Hays.

Motion to pass Bill No. 2013-577 on second and third readings by Councilman Collinsworth and seconded by Councilman Workman

Roll call vote:

Steve Hart – No
David Ruth – No
Tom Workman - Yes
Charles Collinsworth – Yes
Richard Davidson – Yes

Motion carried.

Bill No. 2013-578...Vacating and abandoning the Right-of-Way identified as Parcel 6, running across a portion of the W1/2 SE ¼ of Section 19, Township 25 North, Range 31 West, Newton County, Missouri...2nd and 3rd Reading.

Bill No. 2013-578 for Ordinance No. 59-2013 was read by title only by Mr. Hays.

Motion to pass Bill No. 2013-578 on second and third readings by Councilman Hart and seconded by Councilman Ruth

Roll call vote:

David Ruth – Yes
Tom Workman – Yes
Charles Collinsworth - Yes
Richard Davidson – Yes
Steve Hart – Yes

Motion carried.

Bill No. 2013-579...Providing that the revenues and budget be amended for the Fiscal Year beginning October 1, 2012 and ending September 30, 2013...2nd and 3rd Reading. (Fire Department)

Bill No. 2013-579 for Ordinance No. 60-2013 was read by title only by Mr. Hays.

Motion to pass Bill No. 2013-579 on second and third readings by Councilman Collinsworth and seconded by Councilman Workman

Roll call vote:

Tom Workman – Yes
Charles Collinsworth – Yes
Richard Davidson - Yes
Steve Hart – Yes
David Ruth – Yes

Motion carried.

Bill No. 2013-580...Providing that the revenues and budget be amended for the Fiscal Year beginning October 1, 2012 and ending September 30, 2013...2nd and 3rd Reading. (Airport Lighting)

Bill No. 2013-580 for Ordinance No. 61-2013 was read by title only by Mr. Hays.

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Motion to pass Bill No. 2013-580 on second and third readings by Councilman Collinsworth and seconded by Councilman Ruth

Roll call vote:

Charles Collinsworth – Yes
Richard Davidson – Yes
Steve Hart – Yes
David Ruth – Yes
Tom Workman - Yes.

Motion carried.

Bill No. 2013-584...Providing that the revenues and budget be amended for the Fiscal Year beginning October 1, 2012 and ending September 30, 2013...2nd and 3rd Reading, (Celebrate Neosho)

Bill No. 2013-584 for Ordinance No. 63-2013 was read by title only by Mr. Hays.

Motion to pass Bill No. 2013-584 on second and third readings by Councilman Ruth and seconded by Councilman Collinsworth

Roll call vote:

Richard Davidson – Yes
Steve Hart – Yes
David Ruth – Yes
Tom Workman – Yes
Charles Collinsworth - Yes

Motion carried.

Bill No. 2013-585...Providing that Chapter 140 of the Code of Ordinances, City of Neosho, Missouri be amended by revising Section 140.110 of said Code, and setting an effective date thereof.

Bill No. 2013-585 for Ordinance No. 64-2013 was read by title only by Mr. Hays.

Motion to pass Bill No. 2013-585 on second and third readings by Councilman Workman and seconded by Councilman Collinsworth

Roll call vote:

Steve Hart – Yes
David Ruth – Yes
Tom Workman - Yes
Charles Collinsworth – Yes
Richard Davidson – Yes

Motion carried.

BID

There were none.

CORRESPONDENCE

Mr. Andy Wood – Speed Limit Change Request

Mayor Davidson read a request written by Mr. Andy Wood regarding a speed limit reduction on the Boulevard between Daugherty Road and Walnut Street due to dangerous conditions.

Neosho Fire Department – 125 Year Celebration

Mayor Davidson announced the Neosho Fire Department is celebrating their 125th anniversary open house on Saturday, October 5th from 10:00 a.m. to 3:00 p.m. with a chili cook-off.

NEW BUSINESS

Bill No. 2013-587...Annexing the property located within Lot 9 in Bowlers Third Sub-Division, Being Part of the Southwest Quarter of the Southwest Quarter, Section 36, Township 25, Range 32, Newton County, Missouri, all of which is contiguous with the City of Neosho, as petitioned by the City of Neosho, under Zoning District R-1, First Dwelling House District Classification...1st Reading.

Bill No. 2013-587 was read by title only by Mr. Hays.

Motion to pass Bill No. 2013-587 on second and third readings by Councilman Collinsworth and seconded by Councilman Workman

Mr. Daniel reviewed the petitioned request and stated the Planning and Zoning Board has recommended approval.

Councilman Hart clarified residences within and out of City limits.

Mr. Hightower informed council this was within the TCE area.

Mayor Davidson clarified with city staff these were not city roads and not maintained by the city.

City Attorney Hays stated if the subdivision is platted the roads will be identified separately, but the property is not platted we may be annexing in 50% of the roads.

After viewing the plat map and the legal description City Attorney Hays confirmed the road would be separate.

Discussion followed including, but not limited to, requirements for annexing into city to obtain sewer services.

Mr. Hightower stated that on Bowler Place the inside lots would not be available to city sewer services but Gordon Place they would because the sewer line runs on the east side. Mr. Hightower further clarified that it is the property owner's responsibility to run sewer lines at no cost to the city.

Roll call vote:

David Ruth – Yes
Tom Workman – Yes
Charles Collinsworth - Yes
Richard Davidson – Yes
Steve Hart – Yes

Motion carried.

Bill No. 2013-588...Annexing the property located all of Lot 4 in Bowlers Third Sub-Division, Newton County, Missouri, all of which is contiguous with the City of Neosho, as petitioned by the City of Neosho, under Zoning District R-1, First Dwelling House District Classification...1st Reading.

Bill No. 2013-588 was read by title only by Mr. Hays.

Motion to pass Bill No. 2013-588 on first reading by Councilman Workman and seconded by Councilman Ruth

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Discussion followed.

Roll call vote:

Tom Workman – Yes
Charles Collinsworth – Yes
Richard Davidson - Yes
Steve Hart – Yes
David Ruth – Yes

Motion carried.

Consider approval for the LAGERS meeting and Employer Delegate.

Mrs. Pam Baker reviewed the request for the annual Lagers meeting.

Motion to approve Pam Baker certification to attend and represent the City as employer's delegate by Councilman Workman and seconded by Councilman Collinsworth

Roll call vote:

Charles Collinsworth – Yes
Richard Davidson – Yes
Steve Hart – Yes
David Ruth – Yes
Tom Workman - Yes

Motion carried.

Consider approval of the Missouri Highways and Transportation Commission agreement.

Police Chief McCracken recommended the council accept the replacement breath alcohol testing instrument as provided by The Missouri Safety Center at no cost to the city.

Motion to approve the agreement between the City of Neosho Police Department and The Missouri Highway Transportation Commission as presented accept the agreement and authorize the Police Chief and City Attorney to execute by Councilman Workman and seconded by Councilman Collinsworth

Roll call vote:

Richard Davidson – Yes
Steve Hart – Yes
David Ruth – Yes
Tom Workman – Yes
Charles Collinsworth - Yes

Motion carried.

Consider approval of the LLEBG Block grant application.

Chief McCracken declared the State offers local enforcement safety equipment for a 10% which has been budgeted in the FY14 budget and requested authorization to apply. He further stated there is money left in the grant and have requested funds to assist us to purchase a police car.

Motion to approve the grant application for LLEBG Block Grant and authorize Mayor to execute by Councilman Workman and seconded by Councilman Ruth

Roll call vote:

Steve Hart – Yes
David Ruth – Yes
Tom Workman - Yes
Charles Collinsworth – Yes
Richard Davidson – Yes

Motion carried.

Consider approval of the Branco Enterprises agreement.

Mr. Dana Daniel requested approval for the Branco Enterprises agreement for the East Spring Street Projects. He reminded council the bid was approved at the July 16, 2013 council meeting.

Motion to approve the contracts for STP 4700-(707) & (708) between the City of Neosho and Branco Enterprises agreement and authorize Mayor to execute by Councilman Workman and seconded by Councilman Ruth

Roll call vote:

David Ruth – Yes
Tom Workman – Yes
Charles Collinsworth - Yes
Richard Davidson – Yes
Steve Hart – Yes

Motion carried.

Consider approval of the G3 Plumbing agreement.

Development Services Director Daniel stated approval for G3 Plumbing as primary contractor as approved by bid at a prior council meeting.

Motion to approve the contract between the City of Neosho and G3 Plumbing and authorize Mayor to execute by Councilman Ruth and seconded by Councilman Workman

Roll call vote:

Tom Workman – Yes
Charles Collinsworth – Yes
Richard Davidson - Yes
Steve Hart – Yes
David Ruth – Yes

Motion carried.

Consider approval of the American Media Investments agreement.

Fire Chief Eads stated this is an annual renewal for the north radio repeater located northwest of town on NN Highway at Jute Road. He further explained this was a good rate at \$0.55 per foot as there are other antennas in the area with rates from \$1.00 to \$2.50 per foot.

Motion to approve the agreement between American Media Investments and the City of Neosho and authorize Mayor to execute by Councilman Workman and seconded by Councilman Collinsworth

Councilman Collinsworth stated he will abstain as he announces Friday night football for AMI.

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Roll call vote:

Charles Collinsworth – Abstain
Richard Davidson – Yes
Steve Hart – Yes
David Ruth – Yes
Tom Workman - Yes

Motion carried.

Consider approval of the Party Station agreement.

Mr. West Franklin reminded council on August 6th they approved a proposal for inflatable/mechanical rides for the Fall Festival.

Motion to approve the agreement between the City of Neosho and Party Station and authorize Mayor to execute by Councilman Collinsworth and seconded by Councilman Ruth

Roll call vote:

Richard Davidson – Yes
Steve Hart – Yes
David Ruth – Yes
Tom Workman – Yes
Charles Collinsworth - Yes

Motion carried.

Consider approval of the KODE-TV and KSN-TV agreements.

Mr. Franklin stated this is for Fall Festival advertising that will provide 39 15 second spots.

Motion to approve the advertising contract terms between the City of Neosho and KODE and KSN-TV and authorize Mayor to execute by Councilman Workman and seconded by Councilman Hart

Roll call vote:

Steve Hart – Yes
David Ruth – Yes
Tom Workman - Yes
Charles Collinsworth – Yes
Richard Davidson – Yes

Motion carried.

Consider approval of support letter Crosslines Ministries.

City Clerk Houdyshell stated this is to request a letter of support for Crosslines Ministries to relocate and receive grant monies.

Mayor Davidson stated a concern regarding the request to make sure this project does not interfere with existing city plans or ordinances as stated in an email attached to the agenda item.

Chief McCracken commented as stated within the agenda cover sheet clarification has been made that the property is zoned properly and there is no interference with plans or ordinances.

City Attorney Hays stated as there could be a potential conflict he would ask that council allow time to verify one more issue before providing this letter.

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After review of information for a deadline, Mayor Davidson stated absent objection from council we would let the City Attorney review this and discuss it with the City Manager and bring it back the first week of October. No objection was stated.

Ethic Code City Charter revision discussion.

Mayor Davidson stated this was in response to discussion two weeks ago on whether or not the city council should repeal the ethics code. He explained that the ethics code was put in place following some actions of former administration in 2008-2009. He further stated that the discussion about repealing was directed towards confidential information being discussed in open not against the board. Mayor Davidson suggested the citizens of Neosho be given the opportunity to dictate the ethics they expect of elected officials and add it to the prohibitions that already exist by a vote of the citizens to amend the Charter. Mr. Davidson expressed elected officials should be held accountable by the citizens and should not be able to change the rules as they wish.

Council Collinsworth stated he has no problem with strengthening or clarifying the ethics code.

Councilman Hart stated that the council is good about policing their own and the ethics board has only met once in the years he has been on council. He further stated that there is the sunshine law which has enacted requirements for councils and boards and does not see the need for it.

Councilman Workman stated if it needs strengthened fine or if the Attorney feels it is ok then he is fine with that.

Councilman Ruth stated the public isn't aware of what the discussion two weeks ago was about and isn't always aware of what goes on behind the scenes. Mr. Ruth clarified that it was not his intention to indicate that they should do away with ethics but to say that ethics are covered under a lot of other places with laws, statutes and codes. He further stated concerns regarding the potential of an unethical council appointing an unethical board. Councilman Ruth stated that knowing this was enacted to keep one councilperson from speaking their mind about what was going on behind closed doors is why this was brought out four weeks ago. Mr. Ruth explained that he fills out a conflict of interest letter to the state every year so ethics are covered and has no problem with the board overseeing ethics of the city. Mr. Ruth warned that the Charter is like the Constitution of the United States and should not be changed on a whim and bind future councils. He stated there are always unattended consequences and is not a good idea to put ethics in the Charter. Councilman Ruth stated he wouldn't be opposed to put the property tax in the charter and have the people vote if they want the Charter to state the property tax should be set at zero.

Mayor Davidson stated on the council when amendments to the Charter were made in 2010 it was because of a lesson learned. He clarified what he saw two weeks ago is an important point and wanted to clarify that stacking an ethics board would not put them in the position to remove an elected official from an office. Mr. Davidson stated should the people that are elected to do a job be able with one vote to determine the rules that apply to them that aren't governed by state statute for the conduct of their behavior.

Councilman Collinsworth reiterated that he welcomes extra scrutiny and the ethics board would be another set of eyes and ears and if we conduct ourselves above reproach then we have nothing to worry about.

TDD legal fees discussion.

Councilman Hart stated an appeal was filed and an attorney bill had been received in the amount of \$39,825.66 without council approval. He further reviewed fees incurred in total and since March when no more spending was requested by council. Councilman Hart projected another \$40,000 to \$50,000 to be spent on this appeal and suggested the amount of legal fees that have been spent could have purchased four to five police cars, possibly provided raises for employees or fixed miles and miles of city streets. Mr. Hart demanded answers as he claimed to have never voted to approve spending or file the appeal. Councilman Hart stated he prefers to accept the Judge's ruling and wants to move on.

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Councilman Ruth stated he has never been for the appeal or spending money towards this cause. He agreed with Mr. Hart that he never was given the opportunity to vote and voiced concerns regarding ethics.

Councilman Collinsworth stated discussions regarding the TDD and appeal have been crystal clear to him and understands what has taken place which was by consensus. He further stated it is important to protect the tax payer and pointed out the TDD has far out spent the city in attorney fees. Mr. Collinsworth stated the TDD is taxation without representation. Councilman Collinsworth stated he has spent more in the TDD district than on his property taxes. He stated the Judge's verdict was ambiguous and didn't answer the question.

Councilman Workman stated he has always been for the TDD as he believes it helps retail growth but wants to make sure it is done right. He further stated the amount spent on attorney fees is a small investment for a million dollar project.

Mayor Davidson reviewed the process from the beginning of the TDD including pointing out the TDD had failed to have an election which prompted the city to pursue the suit which was reasonable and right. He further clarified that threats of MODOT pulling their funding if the city didn't act accordingly were proven to be false and in fact the funding was never in jeopardy.

Mr. Morgan stated his questions had been answered.

REPORT OF CITY OFFICERS

Mrs. Cari Hancock reviewed financials.

APPOINTMENTS & VACANCIES (Letters of interest to be considered September 17, 2013)

Mayor Davidson stated vacancies and asked for nominations for appointments.

Airport Industrial Development Board: Four vacancies exist for a three year term. One vacancy is due to the expiring term of Mark Knight beginning October 1, 2012 and three vacancies are due to expire September 30, 2013. *Two letters of interest have been received. One by Mr. Gib Garrow and one by Mr. Rick (Skip) Sweet.*

Motion to reappoint Mr. Gib Garrow and Mr. Rick Sweet to the Airport Industrial Development Board by Councilman Workman and seconded by Councilman Ruth

Roll call vote:

David Ruth – Yes
Tom Workman – Yes
Charles Collinsworth - Yes
Richard Davidson – Yes
Steve Hart – Yes

Motion carried.

Board of Adjustments (Zoning): One vacancy currently exists for a term of five years due to the expiring term of Bill Carlsten, beginning November 1, 2011 and expiring October 31, 2016.

Economic Development Sales Tax Committee: Two vacancies will exist for a term of two (2) years for the expiring terms of Marilyn Ruestman and Stuart Puckett, beginning October 1, 2013 and expiring September 30, 2013.

Enhanced Enterprise Board: Two vacancies will exist for a term of five (5) years for the expiring terms of Ray Stipp and Rudy Farber, beginning October 1, 2013 and expiring September 30, 2013. *One letter of interest has been received by Mr. Rudy Farber for reappointment.*

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Motion to reappoint Mr. Rudy Farber to the Enhanced Enterprise Board by Councilman Workman and seconded by Councilman Ruth

Roll call vote:

Tom Workman – Yes
Charles Collinsworth – Yes
Richard Davidson - Yes
Steve Hart – Yes
David Ruth – Yes

Motion carried.

Parks Recreation and Golf Course Board: One vacancy exists for the expiring one year term of Barbara Lombardi beginning September 1, 2013 shall be a resident of Neosho.

Planning & Zoning Commission: Two vacancies will exist for a term of three years due to the expiring terms of David Yates and Mike Spencer, beginning September 1, 2013. *One letter of interest has been received by David Yates.*

Motion to reappoint Mr. David Yates to the Planning & Zoning Commission by Councilman Workman and seconded by Councilman Hart

Roll call vote:

Charles Collinsworth – Yes
Richard Davidson – Yes
Steve Hart – Yes
David Ruth – Yes
Tom Workman - Yes

Motion carried.

TIF Commission: One vacancy will exist for a term of four years due to the expiring term of Jeff Maxwell, beginning September 1, 2013. *Jeff Maxwell has resigned from this Commission.*

CLOSED MEETING:

Motion to close the meeting pursuant to Section 610.021(1) RSMo,...Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys by Mayor Davidson and seconded by Councilman Collinsworth

Roll call vote:

Richard Davidson – Yes
Steve Hart – No; this discussion should happen in open.
David Ruth – No; this does not need to be discussed in closed.
Tom Workman – Yes
Charles Collinsworth - Yes

Motion carried.

Mayor Davidson closed the meeting at 8:40 p.m.

The meeting reconvened in open session at 8:55 p.m. and Mayor Davidson announced the council conferred with the city attorney and one vote was taken.

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ADJOURN

Mayor Davison asked if there was any further business to come before Council, with no response he asked for a motion to adjourn the September 17, 2013, Regular Session City Council meeting.

Motion to adjourn by Councilman Workman and seconded by Councilman Collinsworth. Unanimous vote to adjourn.

Mayor Davidson adjourned the closed meeting at 8:55 p.m.

APPROVED:

NEOSHO CITY COUNCIL

Mayor

ATTEST:

City Clerk