

MINUTES
NEOSHO CITY COUNCIL
October 1, 2013 - 7:00 p.m.
City Hall – Council Chambers
203 E. Main St., Neosho, MO

OPENING PRAYER & PLEDGE OF ALLEGIANCE

Sean Pratt gave the opening prayer and Mayor Davidson led the Pledge of Allegiance.

A quorum being present, Mayor Davidson called the meeting to order at 7:04 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 Workman and seconded by Councilman Collinsworth. 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 17, 2013, Regular and Closed Sessions were approved as presented.

PROCLAMATION:

Mayor Davidson stated that the following proclamation was issued.

MAY IT BE KNOWN THAT THIS CERTIFICATE HAS BEEN PRESENTED TO
WHEREAS, the Neosho City Council recognizes selected Employers of our Community for their
contribution to the Growth of our Economic Development Base and overall support to the Neosho
local Economy; and the selected organization for the month of October, 2013 is *Abundant Life*
Early Learning Center; and

Council Minutes – October 1, 2013

WHEREAS, in August 1984, the *Abundant Life Assembly of God Church* began a ministry in the Neosho Community to reach children and help families. The establishment of the *Abundant Life Early Learning Center* began within the church building gymnasium for children ages two to twelve; and

WHEREAS, the *Abundant Life Early Learning Center* opened their doors with two teachers and seven children and a goal to at least 25 children; and

WHEREAS, over the past 29 years, *Abundant Life Early Learning Center* has seen significant changes being made to the overall day care facility to accommodate the ever increasing number of students. Improvements and expansion over the years have included classrooms, a pavilion, and new playground equipment; and

WHEREAS, the *Abundant Life Early Learning Center* is a state registered child care center with 120 children enrolled providing a comprehensive preschool program. The learning center provides this most valuable service to over sixty families in the Neosho Community with their mission to minister to the families through prayer and teaching the children about the love of Jesus; and

NOW THEREFORE, I, Richard Davidson, Mayor of the City of Neosho, do hereby proclaim *Abundant Life Early Learning Center* to be Neosho's Employer of the Month for October, 2013. We extend our Congratulations to their fifteen dedicated Personnel for their loving care of God's greatest asset...Children...tomorrow's Christian Parents, Leaders, and Teachers!

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 8th day of October, 2013.

/s/ Richard Davidson, Mayor

and

City Manager Troy read in entirety the recommendation for Mr. Smith.

This Employee of the Quarter demonstrated the following characteristics:

Integrity: Jimmy Smith has portrayed himself to be an outstanding employee and demonstrates an attitude that he takes pride in his position and of the appearance of the parks here at the city.

Team Attitude: Jimmy Smith has portrayed and displays team building and is always pleasant and respectful to others. He works well with others and encourages his co-workers. He has often been compassionate to community service workers and co-workers provided them money for their meals at noon and giving them rides back and forth to work if needed.

Customer Service: Jimmy Smith is friendly to the public, a good person at heart and always thinks of others. Jimmy knows a lot of Neosho citizens and you first see the smiles on their faces and then hear the good things they have to say about Jimmy. He has brought an outstanding level of expertise and experience to the Parks Department.

Giving 150%: Jimmy Smith goes above the call of duty and what is required of him in his position and is always dependable. You can always count on Jimmy to help with all City functions and he has spent many long days if needed to assist with anything that has to do with the City.

Mayor Davidson read in its entirety the following proclamation:

Employee of the Quarter – 3rd Quarter 2013
Mr. Jimmy Smith

By the City of Neosho, Missouri

In recognition for his team building abilities and respect for others, pride in his position and appearance of the parks, compassion for those in need, dependability and level of expertise and experience he has brought to the Parks Department.

/s/ Richard Davidson, Mayor

VISITORS BUSINESS

Nancy Witcher – Bow Hunting at the Airport

Ms. Witcher stated she has lived here six years and the first two years the city allowed bow hunting at the airport. She requested the council consider reinstating the privilege to bow hunt on city property.

City Manager Royer stated over the past two years he has spoke with the Conservation Department to conduct managed hunts. He further stated concerns regarding the liability of the city and pointed out that the Conservation does a lottery of who can hunt which eliminates the possibility of the City being accused of favoritism. Mr. Royer stated another advantage to having the Conservation manage a hunt would be to ensure there is not overcrowding of hunters and causing a potential dangerous situation.

Councilman Ruth stated he was not aware that there was no bow hunting at the airport allowed. He further stated there has not been a liability issue. He further stated concerns regarding the deer population on the runway.

UNFINISHED 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...2nd and 3rd Reading.

Bill No. 2013-587 for Ordinance No. 65-2013 was read by title only by Mr. Hays.

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

Roll call vote:

Richard Davidson – Yes
Steve Hart – Yes
David Ruth – Yes
Tom Workman – Yes
Charles Collinsworth - 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...2nd and 3rd Reading.

Bill No. 2013-588 for Ordinance No. 66-2013 was read by title only by Mr. Hays.

Motion to pass Bill No. 2013-588 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

Public Works Department – Pump Improvement

Mike Hightower, Public Works Director, informed the council there is \$100,000 left in the budget from the water improvement projects and would like to utilize funds to upgrade pumps at the Baxter Pump Station. He further stated these are Aurora pumps so only authorized sales and service representatives with ASC Pumping Equipment are authorized to provide this service.

Discussion continued.

Motion to accept the bid from ASC Pumping in the amount of \$11,126.00 by Councilman Workman and seconded by Councilman Collinsworth

Roll call vote:

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

Motion carried.

CORRESPONDENCE

There was none.

NEW BUSINESS

Bill No. 2013-586...Providing that the revenues and expenditures budget be amended for the Fiscal Year beginning October 1, 2012 and ending September 30, 2013...1st Reading.

Bill No. 2013-586 was read by title only by Mr. Hays.

Motion to pass Bill No. 2013-586 on first reading by Councilman Workman and seconded by Councilman Collinsworth

Mrs. Pevahouse stated this is to adjust the Fiscal year 2013 revenues and expenditures for yearend clean up.

Mayor Davidson stated he is pleased to see this come so close to year end and appreciate the work.

City Manager Royer overviewed the adjustment and reminded council that Directors brought adjustments throughout the year.

Councilman Hart confirmed the general fund was increased by \$67,000 and verified the total amount spent for FY13 was \$152,000 in professional services.

Discussion followed including the explanation of professional service expenditures such as sports complex study, CID and audit services.

Roll call vote:

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

Motion carried.

Bill No. 2013-589...Authorizing the City of Neosho to enter into a Lease Purchase Agreement with U.S. Bancorp, as Lessor, with respect to the Acquisition of certain personal property (Fire Truck)...1st Reading.

Bill No. 2013-589 was read by title only by Mr. Hays.

Fire Chief Eads stated this is for the fire truck financing so the Lease/Purchase agreement will be in place upon its arrival at the end of the month.

Mayor Davidson reviewed the terms of five (5) year payment with a 1.83% rate.

Motion to pass Bill No. 2013-589 on first reading by Councilman Workman 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.

Resolution Bill No. 2013-09...Resolving that the City of Neosho adopts Section 125 Premium Only Plan of the Internal Revenue Code.

Resolution Bill No. 2013-09 for Resolution 142-2013 was read by title only by Mr. Hays.

Motion to adopt Resolution Bill No. 2013-09 by Councilman Collinsworth and seconded by Councilman Ruth

Human Resource Director reviewed the resolution explaining this is the only means by which an employer can offer employees a choice between taxable and nontaxable benefits.

Roll call vote:

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

Motion carried.

Consider approval of Hotel/Motel expenditure. (Neosho Holiday Classic High School Basketball Tournament)

City Manager Royer stated this is for consideration of the annual Neosho Holiday Classic which is an economic benefit for Neosho.

Councilman Hart stated concerns regarding other sponsorship donations, city recognition for the donations made and concerns regarding the expenditure of Branco employee's wages within the request for donations.

Mayor Davidson invited Mr. Justin Branham and Mr. Joshua Babb to approach council for comment.

Council Minutes – October 1, 2013

Mr. Justin Branham listed the additional sponsors by name: Griffith, Mr. Bill Reiboldt, Freeman, Community Bank and Trust and Neosho Concrete all contribute \$500 a piece. He further stated that acknowledgement was made by announcement all through the tournament. Mr. Branham stated they write a check to the School for any difference that is not paid for through donations.

Discussion was held regarding the need for a budget adjustment for this expenditure but determined it was approved in this year's Hotel/Motel fund budget.

Motion to reaffirm the City's position to help fund the 2013 holiday classic for the amount of \$10,000 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.

Mr. Branham confirmed they would work with Wes Franklin for a city sign.

Consider approval of Hotel/Motel expenditure.

Mayor Davidson stated this request for funds was from a prior fiscal year budget wherein Mr. Moore intended to bring this to city council for approval but with the transition of his leaving it did not happen nor was it included in the budget.

City Manager Royer reviewed correspondence and chain of events.

Discussion followed including verifying the budgeted \$60,000 in Hotel/Motel fund budget determining there would be no need for a budget adjustment.

Motion to approve the \$10,000 request from the 2011 High School Holiday Tournament from the Hotel/Motel Fund and authorize that expenditure by Councilman Collinsworth and seconded by Councilman Workman

Roll call vote:

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

Motion carried.

Consider approval of the AT&T work change order. (Public Works)

Mike Hightower, Public Works Director stated the city council approved the AT&T work order to relocate the over head phone lines at the water plant in the estimated amount of \$4,365.26. He further stated an additional \$916.00 has been requested for AT&T's sub contractor to remove the existing over head lines and pole.

Discussion followed.

Motion to approve the AT&T Work Agreement Change Order and authorize the mayor to execute by Councilman Workman and seconded by Councilman Collinsworth

Council Minutes – October 1, 2013

Roll call vote:

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

Motion carried.

Consider approval of Younkin Airshows agreement.

Wes Franklin, Events Coordinator reviewed a performance agreement in the amount of \$8,500 plus fuel, local transportation and lodging with Younkin Airshows to be performed at the Celebrate Neosho Event scheduled for June 28, 2014. He further stated that Mr. Younkin will not only perform his Magic by Moonlight night aerobatic show as he did two years ago, he will include a daylight performance show, a skydiving performance and for no additional charge he will host media flights the day before on June 27th.

Discussion followed, including but not limited to, security at the airport.

Councilman Ruth stated he would suggest an agreement in the amount of \$10,000 with no unknown variables.

Councilman Ruth and Councilman Hart stated they would be more supportive if this event would be held on July 4th instead of in June. -

Councilman Hart suggested tabling this discussion to see if Mr. Younkin would be available on July 4th.

Motion to approve the agreement with Younkin Airshows and authorize the mayor to execute by Councilman Collinsworth and seconded by Councilman Workman

Councilman Workman stated the city needs to show consistency with the date to not cause a conflict with vendors as it has been for several years.

Councilman Eads reviewed problems caused by inconsistencies in the past.

Roll call vote:

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

Motion carried.

Consider approval of the APAC agreement.

Mr. Hightower stated this is the agreement for the bid city council approved on September 3rd.

Discussion followed.

Motion to approve the agreement between the City of Neosho and the APAC in the amount of \$140,064.40 and authorize the mayor to execute by Councilman Collinsworth and seconded by Councilman Workman

Roll call vote:

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

Motion carried.

Consider approval of Region M Solid Waste Management grant application.

Mr. Daniel stated this grant application is for Fiscal Year 2014/2015 for possible labor and equipment.

Motion to authorize the application for grants from the Region M area and authorize the mayor to execute by Councilman Workman and seconded by Mayor Davidson

Discussion followed.

Roll call vote:

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

Motion carried.

Consider approval of the Davis, Lynn & Moots agreement.

Mrs. Pevahouse stated the council awarded a bid for a three year agreement pending annual renewal approval.

Motion to approve the annual agreement between the City of Neosho and the firm of Davis, Lynn and Moots and authorize the mayor to execute the by Councilman Ruth and seconded by Councilman Workman

Mayor Davidson confirmed they will start in December and have it to us in March.

Discussion followed.

Roll call vote:

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

Motion carried.

Consider request from Missouri Sugars LLC.

City Manager Royer reviewed the request from Missouri Sugars for a possible sewer refund or credit. He further stated that the report from Missouri Sugars indicated that 37% of consumption goes into the sewer system and 63% goes out in product. Mr. Royer explained that city code 705.440 offers any water/sewer user that desires to meter actual sewage flow which was explained to them in the summer 2012. Missouri Sugars, Mr. Royer stated is now requesting a credit from May 2007 through February 2013 when they installed their own sewer meter. The City Manager confirmed that the City billed correctly according to code.

Council Minutes – October 1, 2013

Councilman Ruth stated Missouri Sugars did not pay water or sewer for four months while their meter was bad.

Councilman Workman suggested informing companies when coming into City of this option.

Discussion followed.

City Manager Royer stated concerns regarding the decrease in revenue that could possibly require an increase in rates.

Motion to approve the request for credit in the amount of \$43,440.54 by Councilman Ruth and seconded by Councilman Workman

Roll call vote:

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

Motion failed.

REPORT OF CITY OFFICERS

City Manager Royer – Speed Reduction Request

Mr. Royer stated he and Mr. Hightower have met with MODOT regarding the speed reduction request on the Boulevard and will get back to council after MODOT completes their investigation.

City Manager Royer – JLUS

Mr. Royer encouraged council and citizens to support the JLUS project which is a joint venture between Camp Crowder, the Harry S. Truman Coordinating Council, the City of Neosho, Newton County and McDonald County. He stated a link for an overview of this study will be on the City's website.

Mr. Dana Daniel – Senior Center

Mr. Daniel stated Mr. Newton and Ms. Derryberry from the Senior Center Board suggested the Senior Center be closed during bad weather as outlined by the Area on Aging Agency's guidelines. He further stated if the road are too bad for the seniors to arrive safely to the Center that meals on wheels would be provided.

Councilman Workman stated the Center should be open when City Hall is open.

Mayor Davidson stated there is a city employee that works there so the Center should be open.

Discussion followed.

It was the consensus of the council for the Senior Center to be open during bad weather if City Hall is open.

Ethics

City Attorney Hays provided language as requested by council at the prior meeting for review.

SECTION 2.12: Ethics

Ethic Prohibitions: Council shall enact code provisions identifying prohibited conduct of its members including, but not limited to, Improper Use of Public Property; Conflicts of Interest; Influencing the City's business relationships with a business of which a councilmember has an

Council Minutes – October 1, 2013

interest in and/or is so employed; Appearing in a proceeding adverse to the City unless under subpoena; Disclose or use confidential information gained by reason of the members position on the Council; Having a financial or personal interest in pending legislation and participating in discussion unless such interest is disclosed on the record; Holds, directly or indirectly, any interest in real estate situated within the City and participates in discussion regarding the regulation or zoning of such real estate unless such interest is disclosed on the record; and Representing individual opinions as that being the opinion of the Council unless Council affirmatively voted and passed an ordinance, resolution or motion that states the expressed policy. Council shall provide in the code penalties for violation of ethic prohibitions.

Ethics Board: Council shall establish by code an Ethics Board for the purpose of insuring the proper implementation of the code of ethics, determining violations of the code and advising the Council of appropriate penalties thereof. The board shall operate as a board only during the review of a specific complaint.

Discussion was held by all council members including the following but not limited to:

Councilman Ruth stated the following concerns: Did not want to mirror State Statutes, sunshine law or bind future councils; Could be used against Council; Council should not be penalized for discussing what goes on behind closed doors and does not want it to be placed in the charter.

Councilman Workman verified with the City Attorney if this was typical in charter cities and stated support for it to be in the charter.

Councilman Hart stated if it there is no problem with the way it is now and did not want this to turn into a political tool to use against other council members. He further stated that the public has a voice by voting in who they want on council. Councilman Hart also stated council members should not be unable to discuss illegal activities in closed.

Mayor Davidson stated there is no statute or sunshine law in place to penalize a councilmember for disclosing confidential information. He further clarified there are no illegal discussions had in closed sessions. Mr. Davidson stated that there are jobs wherein if you do something unethical you get fired so the city council that are elected should be held to a higher standard. Mayor Davidson voiced concerns of the council being able to set their own ethical behavior so encouraged this issue to be placed in the Charter.

Councilman Collinsworth stated if councilmember's have nothing to hide than there should be no problem having a penalty for disclosing confidential information as well as placing this topic in the charter.

Mayor Davidson directed City Clerk to provide deadline dates for April ballot.

Motion to direct City Attorney to include penalty language and revise in proper charter language form by Mayor Davidson and seconded by Councilman Collinsworth

Roll call vote:

Charles Collinsworth – Yes

Richard Davidson – Yes

Steve Hart – No

David Ruth – Yes

Tom Workman - Yes

Motion carried.

APPOINTMENTS & VACANCIES

Airport Industrial Development Board: Two vacancies exist for a three year term. One vacancy exists for an expired term of Mark Knight beginning October 1, 2012 and one vacancy exists for an expired term of Vance Keaton beginning September 30, 2013.

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.

Council Minutes – October 1, 2013

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: One vacancy exists for a term of five (5) years for the expiring term of Ray Stipp, beginning October 1, 2013 and expiring September 30, 2013.

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: One vacancy exists for a term of three years due to the expiring term of Mike Spencer, beginning September 1, 2013. *One letter of interest has been received by Jona Yost.*

Mayor Davidson stated the City Clerk has requested the council make a special exception to consider the letter of interest for the Planning and Zoning Commission at tonight's meeting.

Motion to appoint Jona Yost to the Planning & Zoning Commission for a three year term by Councilman Ruth and seconded by Councilman Workman

Roll call vote:

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

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 October 1, 2013, Regular Session City Council meeting.

Motion to adjourn by Councilman Workman and seconded by Mayor Davidson. Unanimous vote to adjourn.

Mayor Davidson adjourned the closed meeting at 8:44 p.m.

APPROVED: **NEOSHO CITY COUNCIL**

Mayor

ATTEST:

City Clerk