

**MINUTES**  
**NEOSHO CITY COUNCIL**  
**May 6, 2014 - 7:00 p.m.**  
**City Hall – Council Chambers**  
**203 E. Main St., Neosho, MO**

**OPENING PRAYER & PLEDGE OF ALLEGIANCE**

Mr. Danny Boggs gave the opening prayer and Mayor Davidson led the Pledge of Allegiance.

A quorum being present, Mayor Davidson called the meeting to order at 7:02 p.m.

**ROLL CALL**

COUNCIL PRESENT:

Charles Collinworth  
Steve Hart  
Tom Workman

Richard Davidson  
David Ruth

CITY OFFICERS PRESENT:

Steven Hays, City Attorney  
Troy Royer, City Manager  
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, Director of Economic Development  
Amy Moritz, Parks Director  
Maron Towse, Golf Course Manager

**APPROVAL OF AGENDA**

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

**CONSENT AGENDA:**

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

Roll call vote:

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

Motion carried.

**MINUTES:**

The minutes of April 15, 2014, Regular Session and April 21, 2014, and April 25, 2014, – Special Sessions were approved as presented.

**PROCLAMATION:**

Mayor Davidson stated that the following proclamation was issued.

City Manager Troy read in entirety the recommendation for Mrs. Crystal Merick.

This Employee of the Quarter demonstrated the following characteristics:

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Integrity- Crystal always strives to do what is best for the customers. She asks many questions of many people until she gets the answer in order to do what is right. She treats all customers fairly. She does all she can to understand policy, procedures, and code so she can answer the customer's questions, put them at ease, and make them feel respected here at City Hall.

Team Attitude- Crystal never has a bad thing to say about anyone. She goes out of her way to make other employees feel comfortable and accepted. She does anything she is asked, without complaint. She helps out wherever she is needed and considers it an opportunity to learn and help our team to succeed. Her team attitude is second to none.

Customer Service- Crystal treats all customers, internal and external, with respect. She does everything she can to avoid frustration for the person on the other end of the phone. She will research answers or track down the appropriate person to answer those questions to avoid causing frustration for the customers.

Giving 150%- Crystal definitely gives 150%. She is always willing to do or learn whatever is necessary for the success of her department and the whole City. She helps at the front desk, in finance, in the water department, and other departments around the City. She goes above and beyond to make sure customers and other employees feel respected and taken seriously.

Mayor Davidson presented and noted that Mrs. Merick is a pleasure to work with.

Employee of the Quarter – 1<sup>st</sup> Quarter 2014  
**Mrs. Crystal Merick**

By the City of Neosho, Missouri

In recognition for her commitment to: Providing the best customer service possible; Treating citizens and co-workers with respect; Eagerness to learn, understand policy, procedures and city code; Having a positive attitude and volunteers to help other departments for the continued success of the City.

/s/ Richard Davidson, Mayor

### **Roger McKinney with Joplin Globe – Recognition**

Mayor Davidson stated that although there no council certification, he would like to recognize Mr. Roger McKinney with the Globe as he is leaving and moving north to be with family. He further stated appreciation for his services.

### **VISITORS BUSINESS**

#### **Mr. Kevin VanStory - Water Bill**

Mr. VanStory stated appreciation to the council for their service. He stated he has lived in Neosho for 30 years and has a lot vested here with his business and bringing future economic development to this town. Mr. VanStory stated frustration with the water adjustment policy. He explained there was a leak on his side of the meter at his business that he did not notice until he received his water bill in the amount of \$1,250. Noting his bill is normally \$12 to \$15 as he does not receive sewer services. He reviewed his conversation with City Manager Royer regarding the adjustment and was disappointed to find out that per code his bill would only be reduced by half. Mr. VansStory stated the biggest problem this city has is loses over 60% of water production. He asserted that Neosho's water bills are higher than any major metropolitan area in Southwest Missouri. Mr. VanStory recommended the council change city ordinances to place a cap of no more than 10 times the average water bill for incidents like this for both residential and commercial. He stated that he expects the council to take whatever action necessary to fix the city's water issues due to this problem makes it difficult to bring business to this community.

### **UNFINISHED BUSINESS**

**Bill No. 2014-614...Canvassing the returns of the Municipal Election held Tuesday, April 8, 2014, submitting to the qualified voters of the City of Neosho one proposition to amend the City Charter...2<sup>nd</sup> and 3<sup>rd</sup> Reading**

Bill No. 2014-614 for Ordinance No. 18-2014 was read by title only by Mr. Hays.

Motion to pass Bill No. 2014-614 on second and third readings by Councilman Collinsworth and seconded by Councilman Workman

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Mayor Davidson stated that Mr. Hays sent an email mentioning he would like to pull this item from the agenda until he could further review issues brought up by Mr. McCaffree. He pointed out that Mr. McCaffree's letter indicated that the Charter does not give the authority to have the Ethics Board review things. Mayor Davidson then asked Mr. Hays by putting this final form into the charter we are giving the Ethics Board authority to do things and since the voters approved this is there any harm putting the bill into effect.

City Attorney Hays stated that the only harm that could potentially arise is if another complaint comes in provided we get City Code Section 105 reviewed and determine if modifications need made. He stated that Council could pass the bill and he would work to provide a revised version of 105, if necessary at the next meeting.

Discussion continued.

Councilman Workman stated he was for approving the Bill as presented.

Councilman Hart asked for clarification of Mr. Hays' statement that the new ordinance voters passed fixes the flaws that Mr. McCaffree said were in it.

City Attorney Hays corrected that this is a Charter amendment not an ordinance but confirmed that it goes a long way in addressing Mr. McCaffree's concerns. Mr. Hays added that those are Mr. McCaffree's concerns but that the majority of city attorneys throughout the state would agree that the "flaws" are not there.

Councilman Hart questioned if it would need to go back to the voters as there would be changes made.

Mr. Hays stated there would be no changes made to the charter but to the City Code Section 105. He explained to the Council that the charter amendment puts the burden on the council to address the ethics ordinance as it deems fit from time to time and puts that mandate upon the council itself.

Discussion continued.

After being asked, City Attorney Hays stated he understands his concerns and respects Mr. McCaffree but does not agree with everything he wrote and all of his conclusions.

Roll call vote:

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

Motion carried.

**BID**

**Golf Course – Fertilizer**

Mr. Maron Towse informed the council there were two bidders for the Golf Course fertilizer and after reviewing the opened bids one bidder rescinded his offer. After informing council that this is the annual fertilizer bid for fairways and tees to be spread with a spreader truck, Mr. Towse recommended the council accept the bid from GreensPro in the amount \$19,844.30.

The following bids were received by:

GreensPro Inc.	\$19,844.30
BWI-Springfield	No Bid
AgraTurf	Rescinded Bid

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Motion to approve bid from GreensPro in the amount of \$19,844.30 by Councilman Collinsworth and seconded by Councilman Workman

Roll call vote:

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

Motion carried.

**Public Relations/Events Coordinator – Celebrate Neosho Tents**

Mr. Wes Franklin, Public Relations/Events Coordinator, informed the council there were three bidders for the tent to be used at Celebrate Neosho which will be held on June 28 and recommended the council accept the bid from Weiser Tent Service in the amount \$800 plus \$100 for mileage.

The following bids were received by:

Joplin Tent Rental	\$960
Tents for All Events	\$960 + \$75 mileage fee
Weiser Tent Service	\$800 + \$100 mileage fee

After being asked by Mayor Davidson, Mr. Franklin confirmed it was the same size tent as last year 40' by 80'.

Motion to approve the bid from Weiser Tent Service bid in the amount of \$900.00 and authorize the Mayor to execute 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.

Mayor Davidson stated we need to increase the amount of port potties from last year and Mr. Franklin responded that he has ordered double the amount.

**Public Works – 2014 Street Slurry Seal Project**

Mike Hightower, Public Works Director, informed the council there were two bidders for the slurry seal and recommended the council accept the bid from Intermountain Slurry Seal in the amount \$188,464.05. Mr. Hightower stated this is a part of the 2014 street projects. He explained the slurry seal is a thin layer of aggregate sealant that goes on roads to help preserve their life. He stated that industrial standards should last seven (7) years.

The following bids were received by:

Vance Brothers, Inc.	Mobilization	\$ 5,000.00
	Slurry Seal	<u>\$208,548.48</u>
		\$213,548.48
Intermountain Slurry Seal, Inc.	Mobilization	\$ 19,949.43
	Slurry Seal	<u>\$168,514.62</u>
		\$188,464.05

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Motion to approve bid from Intermountain Slurry Seal, Inc. in the amount of \$188,464.05 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.

**Public Works – 2014 Parking Lot Project**

Mike Hightower, Public Works Director, informed the council there were two bidders for the 2014 parking lot project and recommended the council accept the bid from Swift Construction in the amount \$39,673.95. He explained this is for the parking lot by the Civic Center, the alley that runs East and West out of the parking lot on Jefferson and one of the alleys on the west side of the square.

These projects will be funded with development money.

The following bids were received by:

Swift Construction	Wood Street Parking Lot	\$30,422.73
	Alley #1	\$ 4,416.04
	Alley #2	<u>\$ 4,835.13</u>
		\$39,673.95
APAC	Wood Street Parking Lot	\$33,885.50
	Alley #1	\$ 6,450.00
	Alley #2	<u>\$ 5,375.00</u>
		\$45,710.50

After confirming which buildings were in the area with City Manger Royer, Councilman Collinsworth reminded City Council of Mr. Larry Neff's promise to clean up the McGinty's building if the parking lot was done.

Motion to approve bid from Swift Construction in the amount of \$39,673.95 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.

**Public Works – 2014 Street Overlay Project**

Mike Hightower, Public Works Director, informed the council there were three bidders for the 2014 street overlay and recommended the council accept the bid from Swift Construction in the amount \$147,848.10. He also informed council that the overall project came in at \$336,312.15, under the budgeted amount of \$380,000.

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The following bids were received by:

Blevins Asphalt	Tack Coat	\$ 2.35	\$ 5,875.00
	Pavement Mix	\$70.00	\$157,850.00
	Transition Milling	\$19.20	<u>\$ 23,136.00</u>
			\$186,861.00
Swift Construction	Tack Coat	\$ 3.68	\$ 9,200.00
	Pavement Mix	\$61.10	\$137,780.50
	Transition Milling	\$ 0.72	<u>\$ 867.60</u>
			\$147,848.10
APAC	Tack Coat	\$ 1.98	\$ 4,950.00
	Pavement Mix	\$72.30	\$163,036.50
	Transition Milling	\$ 6.10	<u>\$ 7,350.50</u>
			\$175,337.00

Motion to approve the 2014 street overlay project bid from Swift Construction in the amount of \$147,848.10 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.

**Public Works – Tractor Bid**

Mike Hightower, Public Works Director explained this tractor will be used to pull a 15' bush hog then informed the council there were five bidders. He explained that the original decision was for low bidder but after further review realized the best bid was from Fritz in the amount of \$39,997.00. Mr. Hightower handed out a comparison between Fritz and Anderson Tractor concluding that the tractor with slightly more horse power, the size of the tractor and the different speeds would be the better purchase. He stated that the tractor from Fritz is heavier and safer for mowing slopes. He stated the drainage budget will be used for the majority of the purchase and the balance will come from the street maintenance budget.

The following bids were received by:

S&H Farm Supply	No Bid	
Legacy Farm & Lawn	\$44,650.00	John Deere 5100E
	\$49,225.00	John Deere 6105D
Swartz Tractor	\$40,340.00	Kioti DK90
Anderson Car & Tractor	\$37,900.00	Kobota M9960 HFC
	\$41,100.00	Kobota M9960 HDC
Fritz Implement	\$39,997.00	Kobota M108
Murphy Farm & Lawn, Inc	\$46,831.23	John Deere 5100E
	Less <u>\$-2,500.00</u>	Rebate
	\$44,331.23	

Motion to approve bid from Fritz Implement in the amount of \$39,997.00 by Councilman Collinsworth and seconded by Councilman Workman

Discussion continued.

Roll call vote:

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

Motion carried.

**Public Works – 1994 Dump Truck Repair**

Mr. Mike Hightower, Public Works Director stated they received council approval to replace the dump truck engine in the amount of \$11,157 but when staff called to pick up the engine it had been sold. He further stated after investigating options, he recommended council approve Garner's Diesel Repair to overhaul the engine in the amount of \$17,845.84.

After asked Councilman Hart, Mr. Adam Wimpey confirmed there would be a one year or 100,000 mile warranty, whichever came first.

Motion to approve the bid from Garner Repair in the amount of \$17,845.84 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.

**CORRESPONDENCE**

There was none.

**NEW BUSINESS**

**Bill No. 2014-616...Providing for the amendment of Code Chapter 405.230, Off-street Parking and Loading, of the City Code of Ordinances, City of Neosho, Missouri...1st Reading**

Bill No. 2014-614 was read by title only by Mr. Hays.

Motion to pass Bill No. 2014-614 on first reading by Councilman Collinsworth and seconded by Councilman Workman

Mr. Dana Daniel, Economic Development Director stated this is from Code Enforcement recommending to change single family and two family dwellings to be required to have concrete or asphalt driveways.

Mayor Davidson reviewed a year ago there were drainage issues with gravel driveways.

Councilman Ruth asked Mr. Daniel if all of the alleyways were paved as he wanted to ensure that the city was not holding homeowners and duplex owners to a higher standard than the city is being held.

Mayor Davidson asked Mr. Daniel if there were issues with gravel washing from our alleyways into the sewer system and causing clogs wherein Mr. Daniel stated that complaint had not been raised but the complaint had been raised regarding the single and two family dwellings.

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Councilman Collinsworth confirmed this was for new construction.

Roll call vote:

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

Motion carried.

**Consider approval of the Federal Compliance for Aviation documents.**

Mr. Dana Daniel stated there are three documents being considered as required from FAA and MoDOT Aviation to update their records.

Motion to approve the MoDOT Aviation documents as presented and authorizes the Mayor to execute 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 CDBG (2007-PF-24) close out document.**

Mr. Daniel explained these are close out grant documents as discussed before.

Motion to approve the 2007-PF-24 grant document and authorize Mayor to execute and City to submit 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 MDFB Disbursement Request.**

Mr. Daniel stated this is a request for reimbursement for the East Spring Street Project from Missouri Development Finance Board (MDFB). He further stated there were additional expenses incurred for engineering to update the specs and costs per MoDOT guidelines.

Motion to authorize the Mayor to execute and submit the request to MDFB for consideration 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.

**Consider approval of the Carthage Humane Society agreement.**

Mr. Daniel stated this is a renewal for the contract with Carthage and pointed out they did not raise their rates as they appreciate their working relationship with the City.

Motion to approve the agreement between City of Neosho and Carthage Humane Society and authorize Mayor to execute by Councilman Collinsworth and seconded by Councilman Workman

Councilman Collinsworth inquired as to the date that Faithful Friends would be available.

Roll call vote:

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

Motion carried.

**Consider amending Electric Service Agreement with Empire District to add two new street lights in the Neosho Heights Subdivision.**

City Manger Royer stated the Developer requested the City add two streetlights in the Neosho Heights Subdivision. He further stated this would be an additional \$18.15 per month for each light.

Motion to approve the agreement between the City of Neosho and Empire Electric and authorize the Mayor to execute 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.

**Consider approval of the ClearPath Senior Living Facility Support Letter.**

Mr. Royer stated this was received from the Chamber of Commerce asking the city to support a 50 bed assisted living facility located at the end of Oakridge Drive.

Motion to approve the letter in the packet being sent off to the Missouri Department of Health and Senior Services regarding the 50 bed assisted living facility proposed south of town and authorize Mayor to execute 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.

**REPORT OF CITY OFFICERS**

**City Manager Royer – JLUS**

Mr. Royer reminded council that there is a JLUS meeting scheduled May 19<sup>th</sup> at 5:00 p.m. at the Lampo Community Center.

**City Manger Royer – Mr. Crocker’s water damage request**

Mr. Royer stated that the last meeting in March Mr. Crocker addressed council regarding water damage to his business on Patterson due to a water main break. Mr. Royer reviewed that MOPERM denied the claim as the City is not negligent. He further stated that Mr. Crocker approached him stating he did not want this to be resolved legally and would the City or Council consider paying for damages.

City Attorney Hays stated the City has insurance for a reason and when situations occur and the claim is made the procedure is to turn it into the insurance company and the insurance company determines if there is liability of the City. He further explained that if the insurance company does not consider the City negligent it does not mean a Judge would but legal fees would be paid by the insurance company. Mr. Hays stated his recommendation would be to leave this situation between Mr. Crocker and the insurance company.

Mayor Davidson requested the City Clerk to determine if there was a deductible. He further clarified that if the Judge ordered payment it would come from the insurance company.

Councilman Workman stated it needed to be researched and taken care of.

Councilman Hart asked if it was a city line or Mr. Crocker’s line.

City Attorney Hays reviewed case law and information that determines if the City was negligent but did confirm it was the City’s water line. He further stated that City Staff responded promptly and did not have knowledge of a damaged line therefore the City is not negligent in this case.

Councilman Hart confirmed that as long as the City has no knowledge of it we are not responsible.

Mr. Hays confirmed Councilman Hart was correct and gave further comparisons to explain the matter of negligence.

Discussion followed.

**City Attorney Hays – Ethics Board**

Mr. Hays stated that since the recommendation has been made by the Ethics Board, the complaint is still there. He further stated the report suggested the case go to the City Prosecutor or the County Court but everyone understands why this would not be addressed by the City Prosecutor in City Court. Mr. Hays stated he will get back to the Council once he has had a chance to discuss this with Mr. Skouby, County Prosecutor.

**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

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Roll call vote:

Charles Collinsworth – Yes

Richard Davidson – Yes

Steve Hart – No – Do not know why there is a need to go into closed.

David Ruth – No – He has no knowledge of closed.

Tom Workman - Yes.

Motion carried.

Mayor Davidson closed the meeting at 8:05 p.m.

The meeting reconvened in open session at 8:37 p.m. and Mayor Davidson announced the council conferred with the city attorney and no action or vote was taken.

**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 May 6, 2014, Regular Session City Council meeting.

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

Mayor Davidson adjourned the closed meeting at 8:37 p.m.

**APPROVED:**

**NEOSHO CITY COUNCIL**

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**Mayor**

**ATTEST:**

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**City Clerk**