

MINUTES
NEOSHO CITY COUNCIL
July 1, 2014 - 7:00 p.m.
City Hall – Council Chambers
203 E. Main St., Neosho, MO

OPENING PRAYER & PLEDGE OF ALLEGIANCE

Eugene Tindall gave the opening prayer and Mayor Davidson led the Pledge of Allegiance.

A quorum being present, Mayor Davidson called the meeting to order at 7:00 p.m.

ROLL CALL

COUNCIL PRESENT:

Charles Collinsworth
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 Collinsworth. The motion passed unanimously.

CONSENT AGENDA:

Mayor Davidson stated the Clerk was delayed in providing the June 17, 2014 regular session minutes for approval and verified with council that they had reviewed them.

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 June 17, 2014, Regular Session was approved as presented.

PROCLAMATION:

City of Neosho - Employee of the Quarter – Georgia Holtz

City Manager Troy Royer read the introduction to Ms. Holtz's Employee of the Quarter presentation.

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City Council - Congratulations
MAY IT BE KNOWN THAT THIS CERTIFICATE HAS BEEN PRESENTED TO
Employee of the Quarter – 2nd Quarter 2014
Ms. Georgia Holtz

By the City of Neosho, Missouri

In recognition of her professional work performance, willingness to assist any Department or employee; Follows through with detail on payroll issues; willingly takes on additional responsibilities; Excellent customer service with citizens and employees; Resolves issues with the city's health insurance broker and third party administrators; Always volunteers for City functions and helps when needed. She is truly a joy to work with. Her pride in being a City of Neosho employee shows through her performance.

/s/ Mayor Richard Davidson

Mayor Davidson stated that the following proclamation

Employer of the Month – Crowder College

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 July, 2014 is Freeman Neosho Hospital; and

WHEREAS, in 1926 Dr. Onal Carter Sale built Sale Hospital on the northwest corner of South Jefferson and Main Streets, and in 1937 the 2-story Sale-Bowman Hospital was built on the corner of South Jefferson and Hickory Street by Dr. Sale and his nephew Dr. Melvin C. Bowman, the first floor consisting of 25 rooms and a clinic facility, the second floor having 35 rooms, all together accommodating 90 patients; and

WHEREAS, in 1944 after Dr. Sale's death, Dr. Bowman closed the hospital for one week and then reopened it as Sale Memorial Hospital. In 1954 Dr. George W. Blankenship became a partner with Dr. Bowman and the hospital was incorporated under the title of Neosho Hospital, Inc., and at that time was one of the few privately owned hospital corporations in Missouri; and

WHEREAS, a \$90,000 expansion was completed in 1962, an 8,230 sq. ft. expansion in 1968, in 1983 a \$7.1 million dollar bond issue was passed to fund a 32,000 sq. ft. addition, expanding from the southeast wing to McKinney Street making Sale Hospital the largest 24 hour, 7 day a week, multi-specialty group as a single practice between Kansas City and Arkansas and between Springfield and Tulsa; and

WHEREAS, in 1993 Sale Hospital was acquired by Freeman Hospital, changing the name to *Freeman Neosho Hospital*. Additionally the hospital changed from a private for-profit facility to a non-profit community owned facility. The purchase expanded the Freeman Hospital System to a total of 260 beds, 1,069 employees, 238 doctors and 5 clinics, creating the first multi-hospital system in the area. In 1995 OccuMed was added and one year later, outpatient rehabilitation services were expanded including occupational, speech, physical and cardiac rehab. In 1999 a 24,000 sq. ft. physicians' medical office building was constructed and in 2002 *Freeman Neosho Hospital* was approved as a Level III Trauma Center which included the addition of a helicopter pad. The 2014 edition of the La-Z-Boy Therapeutic Services Center allows *Freeman Neosho Hospital* to offer expanded cardiac rehabilitation services, outpatient wound care, ostomy education, infusion therapy and medication injections; and

NOW THEREFORE, I, Richard Davidson, Mayor of the City of Neosho, do hereby proclaim *Freeman Neosho Hospital* to be Neosho's Employer of the Month for July, 2014. We extend our congratulations and appreciation to the over 254 Neosho employees including medical staff, administrative offices & housekeeping that provide Primary Care, Inpatient/Outpatient Surgical/Emergency Services and contribute to the quality medical care and excellent medical facility that is today's *Freeman Neosho Hospital*.

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 July, 2014.

/s/ Mayor Richard Davidson

VISITORS BUSINESS

Mr. Kevin VanStory – Water Billing

Mr. VanStory stated he would like assistance with his water bill as discussed with council before and requested it to be an agenda item for consideration. He further stated his average monthly water bill is \$15.00 per month. He offered a resolution of an 18 month average. He explained as of the following day he will have paid \$360.00 with a remaining balance of \$670.00 after adjusted.

Mayor Davidson confirmed Mr. VanStory's proposal of 18 months averaged. He proposed the water department calculate and provide the amount to City Manager Royer. Mayor Davidson then directed City Manager and City Clerk to prepare an agenda item for the next meeting. He requested Mr. VanStory to be present at the next city council meeting for questions and explanation of repairs.

Mr. VanStory stated from the time he was notified of the leak to repair was five days.

Mayor Davidson directed City Manager Royer to provide the average cost per gallon notifying council of the city's fixed cost of water lost due to Mr. VanStory's leak.

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Mayor Davidson directed City Clerk Houdyshell to confirm with Mr. VanStory that the item will be on the agenda.

UNFINISHED BUSINESS

Bill No. 2014-623...Providing that the revenues and expenditures budget be amended for the Fiscal Year beginning October 1, 2013 and ending September 30, 2014...2nd and 3rd Reading (Wastewater-Assistant Public Works Director)

Bill No. 2014-623 for Ordinance No. 27-2014 was read by title only by Mr. Hays.

Mayor Davidson stated that Mr. Royer informed him due to the timing of Mr. Hightower's departure there is no need for this budget adjustment and asked the Council vote it down.

Motion to pass Bill No. 2014-623 on second and third readings by Councilman Collinsworth and seconded by Councilman Workman

Roll call vote:

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

Motion failed.

Bill No. 2014-624...Accepting and approving the Re-Plat of the Greens Subdivision, A Subdivision of the City of Neosho, Newton County, Missouri...2nd and 3rd Reading

Bill No. 2014-624 for Ordinance No. 28-2014 was read by title only by Mr. Hays.

Motion to pass Bill No. 2014-624 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.

Bill No. 2014-625...Providing that the revenues and expenditures budget be amended for the Fiscal Year beginning October 1, 2013 and ending September 30, 2014...2nd and 3rd Reading (Wastewater)

Bill No. 2014-625 for Ordinance No. 29-2014 was read by title only by Mr. Hays.

Motion to pass Bill No. 2014-625 on second and third readings 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.

BID

The following bid recommendations were presented for consideration.

Development Services – Sidewalk Improvements for McKinney, Hamilton & Park Streets

Dana Daniel, Economic Development and Development Services Director, informed the council there were three bidders for the Hatchery Trail Project construction and suggested the council accept the bid from RFB Construction Company as recommended by City's Engineer Allgeier, Martin and Associates.

The bid opening was June 13, 2014. The following bids were received by:

RFB Construction Co	\$181,720.00
Branco Enterprises, Inc.	\$197,190.00
Srouls Construction, inc.	\$249,862.00

Mr. Daniel stated upon Council approval, the recommendation will be submitted to MoDOT and a request made for concurrence of award from the Federal highway Administration.

After an inquiry made by Councilman Collinsworth, Mr. Daniel stated the City's share would be \$62,311.02.

Councilman Workman stated concerns about preserving the brick.

Mr. Daniel stated the corner will be preserved then explained there will be another agenda item presented to donate the remaining brick to the Historical Society.

Motion to approve the recommendation letter from Allgeier Martin as submitted and authorize it to be disseminated as required 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.

CORRESPONDENCE

There was none.

NEW BUSINESS

Resolution Bill No. 2014-04...Authorizing the filing of an application with the Missouri Department of Natural Resources, State Revolving Fund Program for Loans under the Missouri Safe Drinking Water Law (Section 640, RSMo).

Resolution Bill No. 2014-04 for Resolution 146-2014 was read by title only by Mr. Hays.

Motion to adopt Resolution Bill No. 2014-04 authorizing City Manager Royer to sign SRF project documents and authorize Mayor to execute and sign the Resolution 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 Ross Construction Change Order #8 for the Water System Improvements – Contract 1- Water Treatment Plant and Pumping Improvements project.

Mr. Scott Fleming with HDR|Archer stated the electrical sub-contractor failed to include \$4500.00 for work performed in the final change order.

Motion to approve Change Order #8 between Ross Construction and the City of Neosho and authorize 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.

Mr. Fleming thanked the city for allowing them to work with the City on this project and noted appreciation for working with Mike Hightower, Public Works Director and hates to see him leave.

Transportation Development District (TDD) Priority Discussion and Cooperative Agreement Revision

Mayor Davidson reminded council during the last council meeting that he attended in person, Mr. Hays was directed to reach out to the TDD Attorney, Mr. Williams and maybe MoDOT to obtain a better understanding of the changes and asked Mr. Hays for an update.

Mr. Hays stated prior to the council meeting the Mayor referred to, he discussed with Mr. Chris Williams specifically the questions including the Southwest District Transportation Input Initiative indicating a \$46 Million project at 171 and I-49 and a project at Route 125 and 60 in the amount of \$21 Million. Mr. Hays stated he was not sure why those projects were included in this cooperative agreement wherein Mr. Williams agreed. City Attorney Hays further commented that Mr. Williams received the amended Cooperative Agreement the same time the City did so he was not prepared to discuss the changes without conducting further investigation. He noted they have not spoken since.

Doniphan Road utility & railroad crossing easement discussion

City Manager Royer explained the letter requesting an easement on Doniphan Drive. He then stated the discussion is to provide clarity regarding the language and size of the easement.

Mayor Davidson turned the floor over to Mr. Andy Wood, Attorney.

Mr. Wood introduced Mr. Mike Franks and the Engineer, Mr. Tom Hopper.

Mayor Davidson turned the floor to the City Attorney to address Mr. Wood.

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Mr. Hays stated he would recommend the City grant an easement not a right-of-way deed as presented. He further stated concerns regarding the City granting an easement should the project not move forward. Mr. Hays recommended the City have a reversion.

Mr. Wood stated if the project doesn't go the easement will not be needed but to obtain the financing, the easement needs to be in place. He further stated that the reversion should not be a problem.

Mr. Franks stated there would be no problem with a reversion clause but the partners want assured there will be no problem obtaining necessary information to proceed. He further stated that they will undergo repaving Doniphan Drive for the entire length of the easement and there would be no cost to the City.

Discussion followed regarding the timing of the purchase of real estate adjacent to the requested easement.

Mayor Davidson asked Mr. Hays if it would be reasonable or customary to give an easement for the entire length or wait until the engineering is more accurate.

Mr. Hays stated it was a Council decision but to note that if the full easement is granted over the entire 3200 feet there could be any type of crossing anywhere.

Mayor Davidson stated concerns regarding setting a precedence.

Discussion followed.

Mr. Hopper clarified the need for the large easement stating that part of it was for simplification.

Mayor Davidson asked if Crowder was on board as it would impact student traffic.

Mr. Hopper stated there has been no discussion with Crowder but the intent with this design was to take traffic directly from this facility to in front of Jarden to 60 for minimum impact on Crowder.

Mr. Franks stated when this facility is maxed out there may be five to seven trains per week.

After Mayor Davidson questioned safety, Mr. Hopper stated there will be gates and flashers at each location. Mr. Hopper also stated there will need to be a meeting with City Manager Royer, MoDOT and Kansas City Southern Representatives to sign off on the City's behalf to show support.

Discussion followed.

Mr. Hays stated if the project proceeds as everyone hopes it does, than the easement perpetuates as long as you need it.

After a comment was made regarding the Mayor having a conflict because he owns an import business, he contacted the Missouri Ethics Commission and confirmed that unless they are going to offer him special rates that no one else receives, there is no conflict.

Mr. Wood agreed there is no conflict with Mayor Davidson's business.

Mr. Franks noted there have been no individual conversations with the Mayor and offered an open door to all council with concerns or updates of the project.

Mayor Davidson stated the council has always been unified to make this project happen.

Motion to give them the easement in its entirety with the reversion attached and for the attorneys to work out those issues and bring back for a final vote was made by Councilman Hart.

Discussion followed.

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Mayor Davidson stated absent objection, the Attorneys work together to bring back the easement in its entirety, as originally written with the proper conversion dates at the next meeting for first reading.

REPORT OF CITY OFFICERS

City Clerk Nora Houdyshell – Public Statement

Mrs. Houdyshell stated she would like to inform council of the events that took place as it relates to the law suit that has been filed against her. She then handed out the following statement.

MEMORANDUM

To: Mayor Richard Davidson, Mayor Pro Tempore Charles Collinsworth, Councilman Tom Workman,
Councilman Steve Hart and Councilman David Ruth
Cc: City Attorney Steve Hays, City Manager Troy Royer and Neosho Citizens
From: Nora Houdyshell, City Clerk
Date: 7/1/2014
Re: Petition in Mandamus; Filed June 20, 2014; Bruce Copeland vs. City of Neosho and
Nora Houdyshell

Gentlemen:

I believe that the recent press coverage and law suit concerning my response to an open records request warrants a response to the council.

I take pride in doing my job correctly and in upholding the transparency of the city that the council worked hard to establish.

All requests from Mr. Copeland were timely responded to. Upon receiving Mr. Copeland's request of April 21st, (copy attached) I consulted with City Attorney, Mr. Hays for advice on how to respond. He advised me that the requested information was protected by the attorney client privilege. Based upon this advice, I sent Mr. Copeland the attached letter dated April 24, 2014. When a request for records is made and I am unsure of how to respond, I defer to the City Attorney. In this case, I even contacted the Missouri Municipal League and stated the issues. They advised me to confer with the City Attorney as he is the legal counsel for the City. As a clerk, I do not have the expertise or experience to question the attorney's advice in legal matters. I ask the City to provide me with experienced legal counsel to defend the current lawsuit. I shall continue to do my job with the utmost integrity and to the best of my ability.

CLOSED MEETING:

Mayor Davidson announced they are going into closed regarding the American Legion lawsuit and reminded council that the City was asked to sign a confidentiality agreement of all communications by the mediation Judge.

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 Workman

Roll call vote:

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

Motion carried.

Mayor Davidson closed the meeting at 7:41 p.m.

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The meeting reconvened in open session at 8:32 p.m. and Mayor Davidson announced the council conferred with the city attorney and two votes were 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 July 1, 2014, 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 8:32 p.m.

APPROVED:

NEOSHO CITY COUNCIL

Mayor

ATTEST:

City Clerk