

MINUTES
CITY COUNCIL REGULAR MEETING
FREDERICKTOWN, MISSOURI
DAY/DATE: MONDAY, APRIL 28, 2008
CITY HALL
6:30 PM

A. CALL TO ORDER AND ROLL CALL

Mayor Kemp called the meeting to order and led the Pledge of Allegiance. Those present on roll call were: Alderman Tripp, Alderman Polete, Alderman Hale, Alderman Wright, Alderman Merriman, and Alderman Fritch. Also present were: City Administrator O'Gara, City Attorney Moore, City Engineer Baer, City Clerk Stevens, Department Heads and visitors.

B. APPROVAL OF MINUTES

- 1) Minutes of the regular meeting of April 14, 2008. A motion was made by Tripp with a second by Polete to approve the minutes as presented. Motion carried.

C. APPROVAL OF AGENDA

- 1) Additions or deletions.
Add:
 - a) Alderman Tripp added one personnel item to Closed Session.
 - b) Alderman Polete asked Section L: Remarks from General Public be placed following Section H: Old Business.
- 2) A motion was made by Hale with a second by Fritch to approve the agenda as amended. Motion carried.

D. PUBLIC COMMUNICATIONS AND ANNOUNCEMENTS

- 1) None.

E. PRESENTATIONS

- 1) **Presentation of plaque to Ed Banes for twenty-eight years of service.** Although Ed Banes was unable to attend, Mayor Kemp read the plaque presented to Ed on behalf of the Mayor, Board of Aldermen and City. Mayor Kemp went on to say how much he appreciated his length of service to the City and hoped he enjoyed his future endeavors.
- 2) **Presentation of 2006/2007 Financial Audit by Thurman, Shinn and Company.** Greg Shinn, representing the audit firm, proceeded to review the audit with Council. Shinn indicated the City's financial condition had improved tremendously since the first year they audited the City. Once the audit was reviewed, a motion was made by Fritch with a second by Polete to approve the audit as presented. Motion carried.

F. REPORTS OF OFFICERS

- 1) **Mayor's report.**
 - a) Thanked the public for their vote of confidence in re-electing him as Mayor.
 - b) Announced he would be riding in the Azalea Festival parade and invited any alderman to do the same.
 - c) Announced the dedication and opening of the Fredericktown Civil War Museum on Sunday, May 4th at 12:30 pm.
 - d) Met with the FEMA coordinator. Encouraged people to go ahead and file their claims with both their homeowner insurance and with FEMA as well. This process may take some time.
 - e) Appointment of City Clerk, Deputy Municipal Court Clerk, and City Attorney. A motion was made by Polete with a second by Fritch to re-appoint Barbara Stevens as City Clerk. Motion carried. Mayor Kemp then recommended Theresa Harbison be appointed as Deputy Municipal Court Clerk. A motion was then made by Tripp with a second by Polete to approve the Mayor's recommendation. Motion carried. Mayor Kemp then recommended the

re-confirmation of attorneys Kim Moore and Tom Ludwig to represent the City. A motion was then made by Fritch with a second by Hale to approve the Mayor's recommendations. Motion carried.

G. REPORT FROM SPECIAL COMMITTEES AND STAFF

1) Administrator's report.

- a) O'Gara read the list of meetings attended during the past several weeks.
- b) In response to earlier concerns by Council, O'Gara explained the box culvert being constructed as part of the new MoDOT access road project is MoDOT's standard box culvert for a 100 year flood area.
- c) Announced the cost for the recycling shredder and recycling bags will be less than the grant amount assessed. However, the City will be allowed to use the remaining funds for a concrete retaining wall needed at the recycling center building.

H. OLD BUSINESS

- 1) None.

I. REMARKS FROM GENERAL PUBLIC

- 1) Ronnie Grindstaff representing the Modern Day Veteran's 1146 addressed Council with his concerns with the City's police department. He went on to explain the tavern had been robbed the previous night, he contacted the police department and was told by Lieutenant John Ashby "there was nothing he could do about it". He then contacted City Marshal John Wright who came by and was very helpful in investigating the situation. He expressed his concern with the lack of cooperation the police department provided. He indicated a need for a police report for insurance company purposes. Kemp said he would see he got the required report. Grindstaff then explained he had a second issue to discuss. He went on to explain his concerns regarding the City's trash service regulations. He explained to Council while he does live in the City limits he does not utilize the City's trash service. He finds it unfair to charge residents for a service they do not utilize. Mayor Kemp said it would be discussed at the next work session.
- 2) A city resident addressed Council with his concerns with the City Marshal/Chief of Police position. He asked Council if they had read the State Statutes addressing the issue and reminded them the Statutes take precedence. He encouraged Council to read the statutes.

J. NEW BUSINESS

1) Park Board President Tara Hale to discuss Memorial Park bathrooms and funding.

Hale said it was the understanding of the Park Board \$12,500 had been approved for spending for the restrooms. She asked does if Park Board had exactly \$12,500 to spend or up to \$12,500? She wanted to know if the Park Board could retain the unused amount for other spending purposes. O'Gara said the original approval could be amended by Council to allow the Park Board to use the left over funds. A motion was then made by Fritch with a second by Polete to allow the Park Board to utilize the leftover funds from the restrooms at their discretion. Motion carried.

- 2) **Resolution establishing the depository of funds for the City of Fredericktown, Missouri and authorizing the signatures for the accounts.** Motion was made by Tripp with a second by Polete to read the resolution in full. Motion carried. Moore read the resolution in full.

Resolution 2008-05 duly adopted.

- 3) **Resolution implementing the National Incident Management System (NIMS).** A motion was made by Polete with a second by Merriman to read the resolution in full. Motion carried. Moore read the resolution in full. **Resolution 2008-06 duly adopted.**

- 4) **An Ordinance to correct scrivener's errors in Ordinance 08-19 passed and approved by the Mayor and Board of Aldermen on March 20, 2008.** A motion was made by Tripp with a second by Hale that as the ordinance was made available prior to the meeting it can be read the first time by title only. Motion carried. Moore read: "An Ordinance to correct scrivener's errors in Ordinance No. 08-19, passed and approved on March 10, 2008 . . ." A motion was

made by Tripp with a second by Polete to read the ordinance the second time by title only. Motion carried. Moore read the ordinance. **Ordinance 08-26 duly adopted.**

- 5) **Discussion concerning newly adopted Ordinance 08-19 amending City Marshal duties. (Merriman)** Merriman explained to council due to the results of the April 8th election the residents of Fredericktown voted to keep the city marshal position an elected position. He went on to say he fully understood why the duties were recently re-defined in Ordinance 08-19. He then said Wright was elected by the people and he (Merriman) feels Wright is being punished for the previous city marshal's shortcomings. He also felt the City owes Wright the chance to prove himself as marshal. Merriman indicated there were options in the statutes the Board of Aldermen could use if Wright would fail in those responsibilities. Merriman proceeded to reference various State Statutes supporting the marshal as chief of police and all the duties attributed to that job. Moore said the chief of police and city marshal are one in the same. Council asked what that means in the day to day running of the police department. Moore said the Board of Aldermen determined a police captain would be responsible for the officers and the day to day duties. The marshal/chief of police duties were defined in Ordinance 08-19. Polete said he agreed with Merriman, but his biggest concern was the actual location of Wright's office space . . . the old parks office located in the basement area of City Hall. He went on to say the space was deemed unsafe for the park employees and their equipment yet we placed the city marshal there. Other members of council agreed. Tripp asked about Wright utilizing a police car and asked if the city must provide a vehicle. O'Gara said we have done so in the past so he took it upon himself to provide a vehicle to Wright. Tripp said he disagreed . . . that when council visited this issue before it was not his impression the council meant to punish the new marshal by re-defining the marshal duties. He went on to say when he would stand by his original decision to change the duties of the marshal. Fritch echoed Tripp's statement, and said he, too, would stand by the original decision. Polete said he too voted for it but has some doubts since then. All agreed the location of the city marshal's office does need to be changed. Hale said as he (Wright) was elected by a vote of the people, he should be treated fairly. He also said he was not opposed to bringing new ideas to the table. Mayor Kemp said it was time for him (Kemp) to have his say . . . "Marshal was elected by a vote of the people and should be given the respect of the people. We have an office at the bottom of the hill and it will be given to him, as well as, a badge with the chief of police on it". Kemp suggested the ordinance be brought back on the table for discussion. Kemp reemphasized "Wright would be placed in his office on North Main, with the correct badge number and with appropriate uniform for the title".
- 6) **Ordinance authorizing the Mayor to execute a lease agreement between City and Pam Smith relative to 2008 JayCee Park concession stand concession.** A motion was made by Hale with a second by Polete that as the ordinance was made available prior to the meeting it can be read the first time by title only. Motion carried. Moore read: "An Ordinance authorizing the Mayor to execute a lease agreement between City and Jay Cee Ball Park concession stand . . ." A motion was made by Polete with a second by Merriman to read the ordinance the second time by title only. Motion carried. Moore read the ordinance. **Ordinance 08-27 duly adopted.**
- 7) Ordinance authorizing the Mayor to execute an agreement . . . cable TV statutes and franchise fees. A motion was made by Polete with a second by Tripp that as the ordinance was made available prior to the meeting it can be read the first time by title only. Motion carried. Moore read: "An Ordinance amending Title VI, Chapter 655 . . . relative to video service regulation . . ." A motion was made by Polete with a second by Tripp to read the ordinance the second time by title only. Motion carried. Moore read the ordinance. **Ordinance 08-28 duly adopted.**
- 8) Review and approve EPA (Environmental Protection Agency) plan of action. (O'Gara) O'Gara explained to council there were three benchmarks the city had to meet the City's plan of action . . . two of them were administrative setting up reporting systems, which have been accepted by the EPA. The third benchmark will involve a cost, so the council will need to approve. The approval will be sent to the EPA and they will approve or disapprove. A motion was made by Fritch with a second by Hale to approve the third benchmark. Motion carried.

- 9) **Consideration and decision on reallocation of vacant staff position. (Wienecke/Wasson)** Wienecke referred council to the documentation included in the packet as well as an additional handout. She explained she did the proposal as a study and not as a random decision. She explained the study showed the utility billing area was a staff member short. Tripp questioned the need for additional staff. He asked for a list of work needs and what is not getting done. Tripp indicated he felt there was a need for both a full time billing clerk and full time finance assistant. Polete said a floating-type position might work. Hale indicated he felt the City could not financially support new positions since the revenue from the electric utility will not be available once the sale to Black River Electric is final. A discussion then ensued with electric manager Wasson and the need to replace his vacant groundman position. Wasson indicated they could function without the replacement. The aldermen asked if the decrease in his staff would cause delays in service. Wasson responded by stating other city departments could be used in emergency situations. O'Gara said the lack of staff is creating stress in the organization. Kemp suggested visiting with each of the utility clerks and office staff and will report back at the next work session with a recommendation.
- 10) **Consideration in principle on sale of Timber Rights – City owned property at City Lake (O'Gara).** O'Gara explained he had received a phone call from someone interested in selling the timber rights on the property around City Lake. A discussion ensued on the pros and cons of allowing the timber to be harvested. A motion was then made by Tripp with a second by Fritch to not allow any sale of timber or timber rights of City owned land. Motion carried.
- 11) **Discussion concerning employee performance appraisal process. (Hale)** Hale began by saying O'Gara's initial contract included an evaluation at the end of his first year. In one month that year will be concluded. He suggested placing the process on the next several agendas. Tripp suggested a three person panel. The three appointees will be: Attorney Kim Moore, Mayor Kemp and Board of Alderman President Rick Polete. The first discussion will take place on May 12th at 5:30 pm.

K. ADDITIONAL BUSINESS

- 1) **Accounts payable.** A motion was made by Hale with a second by Fritch to pay the bills. Motion carried. Hale noted the repairs to police vehicles and reminded council they might want to keep in mind purchasing newer vehicles as opposed to used ones with high mileage. Hale also noted the use of Brown's Tree Service to trim back trees and commended Wasson for recognizing the importance of keeping the electric lines free from harm.
- 2) Reminder the second Council meeting in May will be on Tuesday, May 27, 2008 due to Memorial Day.

L. REMARKS OF PERSONAL PRIVILEGE BY ALDERMEN

- 1) Alderman Hale remarked on the downtown square project. He said the work completed looked very, very nice. He went on to say the area will be nice to have open for the Azalea Festival this weekend.
- 2) Alderman Polete said he appreciated everyone attending the meeting this evening. The Council Chambers was full and it was nice to see. He also asked about the status of the swimming pool repairs. Both Tara Hale and Kenny McDowell stated the repairs would be finished soon and should be in time for the pool to be filled shortly.
- 3) Alderman Tripp reminded the public to be vigilante of your neighbors in light of a recent scam/robbery which took place in Hillcrest.

M. CLOSED SESSION BUSINESS (As authorized RSMo Section 610.021) Motion was made by Tripp with a second by Fritch to go into Closed Session. Roll call vote resulted in six ayes, zero nays, and zero absent. The account of the Closed Session is exempt from the public record and is on file in the office of the City Clerk pursuant to RSMo 610.024. The following motions and votes were taken in Closed Session:

- 1) Personnel matter – Discussion only. No voting actions taken.
- 2) Personnel matter – Determined this was an open session item and was placed under Item N: Any Other Business.

- 3) Personnel matter – Discussion only. No voting actions taken.
- 4) Personnel matter – Discussion only. No voting actions taken.
- 5) Potential litigation matter – Discussion only. No voting actions taken.

Motion was made by Hale with a second by Tripp to return to Open Session. Motion carried.

N. ANY OTHER BUSINESS

- 1) Alderman Tripp expressed his concern with the police department in their response time and attitude during the recent burglary of his grandmother's home in Hillcrest. He went on to say dispatch was also not very friendly, as well. The police department did not meet with his family until Wednesday which was three days after the occurrence. He wanted to stress to the police department to "get up to speed on their response and reporting".

O. ADJOURNMENT. Motion by Fritch with a second by Tripp to adjourn.

Danny E. Kemp, Mayor

ATTEST:

Barbara Stevens, City Clerk

MINUTES
CITY COUNCIL WORK SESSION
FREDERICKTOWN, MISSOURI
April 28, 2008
5:30 PM

A. CALL TO ORDER AND ROLL CALL

Mayor Kemp called the meeting to order. Those present on roll call were: Alderman Tripp, Alderman Fritch, Alderman Hale, Alderman Polete, Alderman Merriman, and Alderman Wright. Also present were: City Administrator O’Gara, City Attorney Moore, City Clerk Stevens, City Engineer Baer, department heads and visitors.

B. APPROVAL OF MINUTES

1) Minutes of the work session meeting of February 25, 2008. A motion was made by Polete with a second by Fritch to approve the minutes as presented. Motion carried.

C. APPROVAL OF AGENDA

1) Additions or deletions. None

2) Approval of agenda. A motion was made by Polete with a second by Tripp to approve the agenda as presented. Motion carried.

D. WORK SESSION BUSINESS

1) Presentation on the new cable TV statutes and franchise fees under the new act and subsequent Ordinance for review covering same. (Tom Ludwig) Ludwig addressed Council by stating he had both good news and bad news. He went on to explain the bad news was cable TV had gone to the Legislature in Missouri indicating to them they did not like separate rates for each municipality. He said the Missouri Municipal League fought long and hard for the cities, but they lost the battle. The Legislature changed the law by saying cities can no longer regulate their cable TV companies under state statute. Cities have lost all power they had under existing agreements with cable TV companies. This new law supersedes any agreement in place. Ludwig continued by stating the good news was since the new law passes the responsibility to the Legislators, if the City receives any complaints we, as the City, can now direct their questions, complaints or concerns to their Legislators in Jefferson City. The new law does allow each City to keep their franchise fee, which in the City’s case is 5%, but we must pass an ordinance to that affect. Ludwig then referred Council to the suggested ordinance included in their packets.

2) Consideration of “communication clarification” document. (Board request) O’Gara indicated at the request of Council he has prepared a “communication clarification” document which establishes the “chain of command” as it is referred in the City ordinance. Merriman suggested the wording “city employees should be allowed to be t speak to their alderman”. Polete suggested removing the word “complaints” from the second paragraph. Hale also felt any city employee may contact their alderman. Moore explained the city had a grievance procedure for employment related grievances in the Personnel Rules and Regulations Manual. He reminded the council they must be careful when talking to the employees about employment related issues as they may have to set as judge on their grievance. O’Gara said he, as the administrator, was not comfortable as the final level of authority for grievances and would like the Board of Aldermen to be the final authority. Hale said he would like it understood “there would be absolutely no repercussions for coming forward and talking to the aldermen”. Council concurred. Polete then said the city had an “open door” policy at one time; however, it was shut now and would like the employees to know that policy was in place again. Merriman

