

Regular Meeting
City Hall, Marysville, Kansas-October 25, 2021

Members of the Governing Body of the City of Marysville were called to order in regular session at 7:00 p.m. on the date and place noted above with Mayor Barnes in the chair. City Administrator St. John, City Attorney McNish and City Clerk Holle were also present.

After the Pledge of Allegiance, roll call was answered by the following council members: Pippia, Frye, Schroller, Hughes, Beikman, Price, Behrens and Throm. A quorum was present.

The minutes from the October 11th regular meeting were presented for approval. CM Schroller, CM Frye and CM Beikman presented amendments. CM Beikman moved; CM Frye seconded to approve the minutes with all amendments. Motion failed 3-5 voice vote with CM Pippia, CM Schroller, CM Price, CM Behrens and CM Throm voting no. CM Behrens moved to approve the minutes as amended by CM Schroller and CM Frye but not including the amendment by CM Beikman. CM Throm seconded. Motion carried 6-2 voice vote with CM Hughes and CM Beikman voting no.

PUBLIC COMMENTS:

1. **JAMIE ANDERSON.** Jamie Anderson, 1203 Park Place, Ward 1, spoke to the City Council stating she does not believe an ordinary ordinance can be used to change a charter ordinance without violating the Kansas constitutional rights of Marysville citizens.
2. **REX ESTES.** Rex Estes, Ward 2, 700 Calhoun, read a statement he prepared encouraging citizens to vote for competent council members who will do the best for the City of Marysville. He reported some voting details about Council decisions and thanked some Council members. Rex expressed his disappointment about some of the decisions the Council has made.

BUSINESS AND DISCUSSION ITEMS:

1. **POLICY NO. A-91 MEAL REIMBURSEMENT.** The meal reimbursement policy A-73 was passed in June of 2014. Policy No. A-91 will increase the maximum meal allowance rate for breakfast and lunch to \$15 per meal, the dinner allowance will remain at \$25. As in the previous policy tips and alcohol are not reimbursable and a detailed receipt is required for payment. CM Beikman moved to approve Meal Reimbursement Policy No. A-91, CM Throm seconded. Motion carried unanimously.
2. **POLICY NO. A-92 ULDC FEES.** This policy sets fees for the Unified Land Development Code. Policy 53 passed in September of 2005 did not set a fee for filing a site plan (Section 5-3 in the ULDC) which will be \$50. All other fees as required by the ULDC remain the same. CM Beikman moved to approve fee schedule for the Unified Land Development Code, CM Throm seconded. Motion carried unanimously.
3. **LEASE/PURCHASE AGREEMENT FIRE STATION AND FELDHAUSEN FIELD LIGHTS.** A certificate and lease with the amortization/payment schedule was presented to the City for the new Fire Station at 405 N 20th St and the updated lights at Feldhausen Field on Veterans Memorial Drive. CM Frye moved to approve the \$700,000 lease for the Fire Station and the lights at Feldhausen Field. The lease will be paid semi-annually for 7 years with an interest rate of 3.08% and no penalty for early payoffs. CM Throm seconded. Motion carried 8-0.

4. **AIRPORT HANGAR FEE DONATION.** A trustee for the Viola R Cooksey Trust presented a check to the City for \$24,000 which will cover most of the rent of the hangars for the next 3 years. The trustee requested these funds should only be used for hangars housing planes. CM Schroller moved to accept the donation to be used for hangar owners' leases 1 year at a time for three consecutive years. The hangar leases will only be paid for the hangars housing planes. CM Price seconded. Motion carried 7-0-1. CM Frye abstained because he has a hangar at the airport.

5. **ECONOMIC DEVELOPMENT APPLICATION 911 N 10TH ST.** Charles Griswold owns a rental house at 911 N 10th St which is not within a qualifying subdivision. ZA Will Ralph presented pictures and recommended this application not be approved as the house is not in qualifying subdivision and in his opinion the structure is not blighted according to code. After Council discussion CM Schroller moved to approve the Economic Development Application for Charles Griswold at 911 N 10th St, CM Frye seconded. Motion tied 4-4 with CM Hughes, CM Frye, CM Behrens and CM Throm voting no. Mayor Barnes broke the tie voting yes. Motion carried 5-4.

6. **CM HUGHES REQUESTS CLARIFICATION OF MAYOR'S AUTHORITY.** CM Hughes requested answers to the following questions: 1. Since Mayor Barnes has been in office, what specific powers or authority has been taken away from the office of Mayor? 2. What was the specific authority before January 20, 2020, and what is the specific authority now?
Mayor Barnes replied: *"Ways that I have reduced the power of mayor.*
 1. *Council officially adopted the governing body handbook. Before that the role of Mayor was described in 1-205 in our Code Book. 1-205 states that the Mayor "shall have the superintending control of all the officers and affairs of the city and shall take care that the ordinances of the city are complied with." I had numerous conversations with the league about actions of the previous mayor, and they were unsure what the role of the mayor was due to the general broadness of that sentence. The governing body officially adopted the Governing Body Handbook, which corrects this and much more narrowly defines the role of mayor.*
 2. *I do not show up at every planning/zoning and appeals board meeting to run it. When I have attended, I sit in the audience and listen. Those committees have a chair, and they are supposed to be independent of the council. That was not the case under the previous Mayor. There was even an incident where a chair resigned in protest because he was not allowed to run his own meeting.*
 3. *Minutes of the council meetings are now prepared by the City Clerk with no input from me. Previously the Mayor would read the minutes before the packet went out. Then the Mayor would make changes and that was what ended up in the packet. I don't do that; the City Clerk prepares the minutes and council sees them at the same time I do.*
 4. *I show up to committee meetings, but I don't consider myself as a deciding vote. I feel my role is to run the meeting, but it is up to the committee to decide what their recommendation is. If 2 members agree on something, then that is the recommendation that will go back to council. Previously it was handled more as if the mayor had a vote, and if it was 2-2 then the Mayor's opinion was the way it went. Another way I have limited my powers.*

5. *Previously, the newsletter was edited, and many times largely put together by, the Mayor. I have had no input on what goes into the newsletter. It is focused on what we've accomplished as a governing body and a city, not what I've accomplished as Mayor. It's a group effort, I don't have that delicate of an ego.*
6. *Previously, the Mayor would tell the city attorney to not respond to requests from council members. I have not limited access to the city attorney. If a council member has a question, they are free to ask it. That doesn't mean that I want to have a large attorney bill due to questions that our city staff can answer. But if they have a question, I want them to be able to receive an answer.*
7. *I haven't altered anything that came out of a committee. Specifically, I remember a snow route plan that was passed through committee that was altered before it went to council to include an elected official's street.*
8. *I've never yelled at and belittled staff. There were incidents with this in the past.*
9. *I've never stopped a council member from making a motion. I remember one time in particular where a motion was denied being on the floor. Then, council had to appeal the ruling of the chair, which the Mayor also tried to not allow. I think we had 5 or 6 motions on the floor at the same time, which shows how chaotic it can come when council isn't allowed to do its will. It's the councils right to put whatever motion they want on the floor, whether I personally agree with it or not.*
10. *I haven't loaded a committee up with my preferred council members and then sent items, regardless of subject matter, to that committee to spit out whatever outcome I wanted. This was done previously with the admin and finance committee. I feel council should decide which committee is the logical choice to have an item sent to. Another way I limited the Mayor's power.*
11. *I have not given out a single pardon since becoming Mayor. Previously there was an incident where the Police Department was told to issue tickets to people blowing grass onto the highway. When the Department did as instructed, one person issued a ticket contacted the previous Mayor and asked for a pardon. At the next council meeting the Police Department was thrown under the bus and the individual was pardoned. If Council asks a department to do something we should stand behind them when they do what was asked of them, not leave them on their own to lessen the pressure on ourselves."*

CM Hughes stated the Mayor's response doesn't answer the question about what powers have been taken away from the Mayor.

7. **CA MCNISH 2011 CODE BOOK CHANGE.** City Attorney McNish stated he had done some research which applies to CM Hughes' question. CA McNish said in his research he had found the code book was changed in 2011 to remove the Chief of Police as an appointed position to protect him because of the pledge of an incoming mayor. CM Hughes asked if CA McNish had this in writing. CA McNish said it was his research and it was not in published materials. CA McNish said he is giving legal advice and not his personal opinion.

NOTICES AND HEARINGS:

CONSENT AGENDA. The Consent Agenda was presented for consideration. CM Throm moved, CM Price seconded to approve the Consent Agenda. Motion carried unanimously. The Consent Agenda consisted of the following:

1. Amy Peschel from Blue Valley Tele-Communications requests to serve alcohol at a Christmas Party on Saturday, December 4 at the Lee Dam Art Center.

APPROPRIATIONS ORDINANCE NO. 3758

1. Claims against the funds of the City were submitted for Council consideration as follows: General Fund, \$137,870.97; Water Revenue Fund, \$46,377.52; Sewage Revenue Fund, \$23,282.02; Street & Highway, \$43.10; Special Improvement, \$366,045.00; Economic Development Fund, \$2,500.00; Library Revolving, \$6,185.17; Swimming Pool Sales Tax, \$1,471.79; Koester Block Maintenance, \$1,490.65; Employee Benefit Fund, \$8,182.94; Transient Guest Tax, \$909.61; Sales Tax Improvements, \$49,233.12; making a total of \$643,591.89.
2. An appropriations ordinance was introduced and considered to honor claims against the funds of the City as audited by the Finance Committee. CM Throm moved, CM Behrens seconded to approve the appropriations ordinance totaling \$643,591.89. Motion to approve the appropriations ordinance carried by 8-0 roll call vote. City Clerk Holle assigned Ordinance No. 3758.

STAFF REPORTS:

CITY ADMINISTRATOR:

1. **AIRPORT HOUSING PROPOSAL.** Ellen Barber director of Partnership for Growth and an investor spoke to CA St. John and ZA Ralph inquiring about placing a housing subdivision on the southwest corner of the City Airport property. The Council discussed the proposal and said they are interested in more housing, but not on the airport property. They also questioned if this housing would be rentals or sold to individuals.
2. **7TH STREET CORRIDOR PRELIMINARY ENGINEERING REPORT.** CA St. John spoke with NCRPC about writing the ARPA Tourism Grant. Upon researching the grant NCRPC determined a PER would be required to define the project according to the US Economic Development Administration for this grant. CM Schroller asked if we had only received one bid to complete the PER. CA St. John answered yes, and the grant is due January 31, 2022. CM Price moved to hire CES to create the PER for north 7th Street Corridor as required by the US Economic Development Administration for the grant with a cost of \$24,700 to be paid from the Sales Tax Fund, CM Throm seconded. Motion carried unanimously.

3. **FIRE STATION CHANGE ORDERS.** These change orders were discussed at the Council Meeting on October 11. Change Order #5 to add the N to the address will cost \$1,760.00. CM Frye moved to approve Change Order #5 for \$1,760.00, CM Price seconded. Motion carried 5-3 with CM Pippia, CM Schroller and CM Throm voting no. Change Order #7 Option #2 for isolated 2” fast fill lines at a cost of \$21,123.00. CM Price moved to approve Change Order #7 for \$21,123.00, CM Pippia seconded. Motion carried 8-0. Change Order #8 to remove the additional water heater will reduce the cost by \$8,114.00. CM Throm moved to approve Change Order #8 with a credit to the project of \$8,114.00, CM Behrens seconded. Motion carried unanimously.

4. **LAGOON IMPROVEMENT PROJECT.** Thaniel Monaco engineer for BG Consultants reported KDHE is requesting the City add sludge removal from lagoon cell one to our project. KDHE would also like the City to maximize the size of the new lagoon cell to expand the capacity of the lagoon system. The expanded cell can be discussed during the design process, but consideration for the sludge removal should be included now. CM Price moved to include the sludge removal from cell one in their environmental process “Finding of No Significant Impact (FONSI)’ process, CM Pippia seconded. Motion carried unanimously.

STANDING COMMITTEE REPORTS:

STREET:

1. **CRACK SEAL NORTH STREET.** CM Frye said the Street Department had done a good thorough job crack sealing North St between 20th St and 11th Rd. He asked if they would be moving to 11th Rd. CM Frye stated he thought the equipment used for this was a good purchase and has made a big difference.

2. **BRICKS LOOSE NW CORNER 12TH/CALHOUN.** CM Frye said he has picked up loose bricks several times at the intersection on the northwest corner of 12th and Calhoun. CM Frye asked if the City could look at a more permanent fix.

3. **DIP IN BRICKS ON ELM.** CM Schroller asked if the dip in the street between 10th and 11th Street on Elm (in front of Jim Cohorst’s) had been fixed. CA St. John said to fix a dip the bricks would need to be removed, the concrete replaced, and the bricks re-laid.

WATER & WASTEWATER:

1. **WATER IN BASEMENT ON CAROLINA.** CM Schroller asked if staff had checked the drainage on the property between 12th and 13th Street between Carolina and Alston. CA St. John said the City had dumped 3500 gallons of water in the storm drain and it all ran away with no problem.

2. **WATER DEPARTMENT PROJECTS COMPLETIONS.** Mayor Barnes said several of the water pits and other projects around town are being completed. Also, the ADA corners and projects by the other departments. The employees are doing a good job and tell them thanks.

PARKS & RECREATION:

CEMETERY & AIRPORT:

- 1. PLAQUE FOR COOKSEY TRUST.** CM Hughes asked if the City would put up a plaque in recognition of the Cooksey Trust donation at the Airport for the hangar rent. CM Frye stated the Cooksey Trust has done several things for the Airport and he agreed there should be a plaque placed in the Airport Terminal Building.
- 2. PLAQUE FOR STENGLEMEIERS.** CM Schroller asked when the kiosk would be done at the City Cemetery. CM Schroller also asked if the City had put up a plaque for the Stenglemeier donation. CC Holle told her the plaque would be included on the new sign installed at the Cemetery showing the donations for the Avenue of Flags.

POLICE & FIRE:

POLICE DEPARTMENT AUDIT. CM Beikman asked where the City is with the audit at the police department. CA St. John said it has not been started. CM Beikman asked if the Riley County Department had already done an audit previously. CA St. John said the Riley County Department has conducted some things in the accreditation process for CALEA which the City Council approved, but CALEA is a three-year process and Marysville is in year 1.

ADMINISTRATION & FINANCE:

- 1. NOISE DURING FORUM.** CM Schroller stated there was a lot of noise on the tape during the forum conducted by The Advocate and KNDY and was recorded by Blue Valley Tele-Communications.

APPOINTMENTS:

CITY ATTORNEY:

CA McNish said there is a state statute used by the City of Lawrence to allow a city to gain title to a property that has been deemed unsafe. This may be a process the City could use to help recoup some of the costs for demolition of condemned properties. CM Behrens asked if 1205 Carolina is coming down soon. CA St. John said he had been contacted by the contractor and he was told they would start in the next couple of weeks. CA St. John said the City would need to execute a search warrant to make sure no one was living on the premises. City Attorney said the search warrant would need to go through a District Court Magistrate.

EXECUTIVE SESSION:

At 8:56 p.m. CM Behrens moved to recess in executive session for consultation with attorneys on matters deemed privileged in an attorney-client relationship about litigation or claims against the city K.S.A. 75-4319 (b) (2) and to discuss personnel matters of non-elected personnel, discussion on specific personnel matters, not general personnel policies, exception KSA 75-4319 (b) (1). This session will include the Mayor, City Council, the City Administrator, and the City Attorneys. The open meeting will resume in the

city council chamber at 9:15 p.m. At 8:56 CM Beikman reported he was excusing himself from the meeting and would not attend the executive session. CM Price seconded. Motion carried 7-0. At 9:15 p.m. council reconvened. Mayor Barnes reported no action was taken during the executive session and the regular session was continuing.

ROUND TABLE DISCUSSION:

- 1. BLACK SQUIRREL NIGHT.** CM Frye reminded everyone Black Squirrel Night is Thursday. CM Schroller, CM Behrens and Mayor Barnes said they will be there to serve donuts and drinks. The City will be set up by the Main Street Building near the Trunk or Treat between 6th and 7th on Broadway from 4:30 p.m. to 7:00 p.m.

There being no further business, at 9:18 p.m. CM Throm moved to adjourn, CM Behrens seconded. Motion carried 7-0.

Cindy Holle
City Clerk