

Regular Meeting  
City Hall, Marysville, Kansas-October 11, 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 September 27<sup>th</sup> regular meeting were presented for approval. CM Throm moved, CM Behrens seconded to approve the minutes. Motion carried by 8-0 voice vote.

The minutes from the September 30<sup>th</sup> special meeting were presented for approval. CM Hughes presented an amendment. CM Throm moved to approve the minutes as amended. CM Behrens seconded. Motion carried 7-1. CM Beikman voted no.

**PUBLIC COMMENTS:**

- 1. SANDY SCHMITZ-ACKERMAN SUPPORT.** Sandy Schmitz, 1309 N 13<sup>th</sup> St, Ward 2 explained the “word on the street” is Todd (Ackerman) and some of his police officers were having a private conversation which resulted in one of the officers saying, “oh that is sexual harassment,” but nothing was done, and she does not feel this should have influenced the decision about Todd.

**BUSINESS AND DISCUSSION ITEMS:**

- 1. REQUEST TO REPEAL ORD 1900-JAMIE ANDERSON.** Jamie Anderson presented a request to repeal Ord 1900. The intention of Ord 1900 was to clean up technical errors establishing chain of command. Jamie presented several power point slides 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. The Council took no action.
- 2. CA MCNISH ORDINANCE PROCEDURES.** City Attorney McNish presented the Kansas Supreme Court case Farha vs. City of Wichita which explains substitute provisions may be made with an ordinary ordinance after a City has chartered out of a state statute. CA McNish also presented the procedures from the 2011 code book and the 2020 code book which excludes the Chief of Police from the appointed positions of the City. The Code book as well as the Employee Handbook (which is signed by every employee) states all employees are subject to the Kansas employment-at-will doctrine and explains disciplinary and grievance procedures. The City Clerk’s position is appointed because of statuary duties. The City Treasurer is elected, and both of those positions are bonded and differ from other department heads. The Police Chief job description and the duties of the City Administrator as described in the Governing Body Handbook were also presented. Mayor Barnes said the policies are clear the City takes resumes to hire employees. If the mayor appointed all key positions, (one person) could appoint people the council hates and continue to appoint people everyone hates. The Council opted out of some of the appointments in 2011. Sandy Schmitz approached the Council. She was warned the City was past the public comment portion. She continued to speak stating she hoped he (Todd

Ackerman) sued the City. CA McNish stated there is nothing illegal with the present procedures. CM Frye would like to change the present procedure. CM Pippia said that would leave our Department Heads vulnerable and chaos would ensue. CA McNish pointed out employee issues are confidential, and it is more difficult if the issues are public. CM Frye moved to have CA McNish draft an ordinance that would rescind appointment procedures set forth in Sections 1-301 and 1-317 of the City Code, vacate City Policy No. A-86 and modify the job description for the Chief of Police. This would restore appointment procedure to those in effect in 1995 and prior to adoption of the 2011 City Code. CM Beikman seconded. Motion failed 3-5 with a roll call vote. CM Pippia, CM Schroller, CM Price, CM Behrens, and CM Throm voted no. Following the Council vote Harold Johnson III, 508 Alston, Ward 3 yelled at the City Council using foul language and he was asked to leave the meeting.

3. **BLACK SQUIRREL NIGHT ADDITIONAL BARRICADES.** Kate Tomer director of Chamber/Main Street presented an updated map of Broadway showing the requested closed intersections and various participant locations.
4. **HISTORIC DEPOT REQUEST TO ENGINEER N 7<sup>TH</sup> ST.** Mike Welch a representative from the Historic Depot said he thought the City could get a federal grant to pay for engineering and improvements on the North 7<sup>th</sup> Street corridor from Center to Carolina. Mike would like the improvements to 7<sup>th</sup> Street to become a higher priority of the City. The following business owners along N 7<sup>th</sup> Street addressed the Council concerning dust and especially water in their buildings and flooding in the streets during large rain events: Dan Wassenberg representative of Pepsi Cola Bottling, 602 Center; Kevin Crome owner of Crome Lumber, 607 Carolina; Jeff Schroller owner Schroller Collision, 701 Carolina; and Jesse Edwards owner Ehnens Automotive (NAPA), 704 Center. If N 7<sup>th</sup> Street is improved, it would increase visibility to their businesses. These owners also stated they did not want the improvements to close the street or alleys. They wanted to keep access for semi-trucks to their businesses and suggested the alley access be widened. Bruce Dierking from Marshall County Development Corp, Toby Carrig from Convention and Tourism and Randy Brown from Blue River Rail Trail said the improvements would help tourism in Marysville. Mike is suggesting the City apply for the American Rescue Plan federal grant and maybe look at more available grant possibilities. CM Beikman moved, CM Throm seconded to apply for a grant for construction, design, and engineering to improve 7<sup>th</sup> Street from Center through Calhoun and from Calhoun to North Street. Motion carried unanimously.
5. **MCAC MANAGEMENT AGREEMENT.** The management agreement with Marshall County Arts Cooperative is up for renewal. This agreement pays MCAC \$2000 annually to manage the Lee Dam Art Center. The agreement will renew on November 27, 2021 and has a 3-year term with automatic renewals. CM Throm moved to approve the management agreement with MCAC, CM Pippia seconded. Motion carried unanimously.
6. **LEASE PURCHASE FIRE STATION/FELDHAUSEN FIELD LIGHTS.** Citizens State Bank, United Bank & Trust and First Commerce Bank as a group presented a Lease/Purchase

proposal for the Marysville Fire Station and Feldhausen Field Lighting project. These proposals will be semi-annual payments as follows: 4-year term 2.79% \$186,324 annually; 5-year term 2.89% \$151,531.02 annually; 7-year term 3.08% \$112,108.58 annually; 10-year term 3.21% \$2,577.30 annually. CM Behrens moved, CM Price seconded to accept the Lease/Purchase with the local bank group for a 7-year term at 3.08%. Motion carried unanimously.

- 7. FIRE STATION CHANGE ORDER WATER FILL LINES AND ADDRESS.** Thaniel from BG Consultants presented a change order for the incorrect address on the Fire Station costing \$1,760. Thaniel said he would like to get more details about the cost before this change order is approved. The Council agreed. BG Consultants presented 2 change orders for the water fill lines for the fire trucks at the new Fire Station. Change order #6 adds a 1 ½ inch fast fill line for \$10,084.00. Change order #7 adds a 2-inch fast fill line isolated system for \$23,043. Thaniel said the fill line should have been included in the original plan, so he felt BG would be responsible for some of the cost. BG is investigating the cost of the supplies to make the change. CM Price moved to approve Change order #7 for the 2-inch fast fill line with a maximum cost of \$23,043, CM Frye seconded. Motion carried unanimously.
- 8. FIRE STATION WATER HEATERS.** Hanover Electric the plumbing contractor on the Fire Station project suggested the building could be served with the 2 tankless on demand water heaters and the additional 100-gallon commercial traditional water heater was not needed. This change would save the City several thousand dollars. BG Consultants and Hanover Electric discussed the change which would reduce the piping and the cost of the water heater. The details will be brought back to council.

#### **NOTICES AND HEARINGS:**

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

- 1.** City Clerk's Report for September showed \$60,736.24 collected in receipts with a like amount being deposited with the City Treasurer.
- 2.** Cash balances in funds as of September 30, 2021, were presented as well as outstanding debt and receivable balances. Revenue/Expenditure Budget Reports through September 2021 showed unadjusted accumulated revenues in the General Fund of \$2,451,395 or 96% of budget; Water Revenue Fund, \$689,143 or 77% of budget, Sewer Revenue Fund, \$591,972 or 77% of budget. Unadjusted statement of expenditures in the General Fund totaled \$2,199,924 or 67% of budget, Water Revenue Fund, \$929,105 or 58% of budget, and Sewer Revenue Fund, \$607,435 or 61% of budget.
- 3.** Municipal Judge's Report for September showed \$3,218.51 being deposited with the City Treasurer and \$282.00 being forwarded to the State Treasurer for Judicial Branch Education, court costs and law enforcement training.

**APPROPRIATIONS ORDINANCE NO. 3757**

1. Claims against the funds of the City were submitted for Council consideration as follows:  
General Fund, \$96,375.85; Water Revenue Fund, \$12,782.53; Sewage Revenue Fund, \$7,552.22; Street & Highway, \$14,482.39; Industrial Fund, \$5,000.00; Library Revolving Fund, \$6,485.00; Swim Pool Sales Tax \$2,804.77; Koester Block Maintenance, \$993.12; Employee Benefit, \$7,296.32; Transient Guest Tax, \$3,072.62; Sales Tax Improvements, \$73,038.82; Water Utility Reserve, \$27,351.40; making a total of \$257,235.04.
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 Pippia seconded to approve the appropriations ordinance totaling \$257,235.04.
3. Motion to approve the appropriations ordinance carried by 8-0 roll call vote. City Clerk Holle assigned Ordinance No. 3757.

**STAFF REPORTS:**

**CITY ADMINISTRATOR:**

1. **FINANCIALS.** CA St. John updated the governing body on the status of General Fund, Water Revenue Fund, Sewer Revenue Fund and Sales Tax Improvement Fund. A Capital Projects report was also included.

**STANDING COMMITTEE REPORTS:**

**STREET:**

1. **STORM SEWER DRAINAGE S 6<sup>TH</sup> AND S 7<sup>TH</sup>.** CM Throm said the culvert on S 6<sup>th</sup>/Koester near 710 S 6<sup>th</sup> Street is still plugged and maybe the pipe should be enlarged. Also, the drainage near S 7<sup>th</sup>/Jackson where the City changed the storm water flow when 7<sup>th</sup> Street was improved is backing up in the alley.
2. **BARRICADES S 15<sup>TH</sup>.** CM Price said there is a barricade on S 15<sup>th</sup> Street near the center of the street. CA St. John said there is a hole that has formed in the street. We think it may be a sink hole. CM Price said it should be addressed before winter.
3. **STREETLIGHTS ON KEYSTONE AND 11<sup>TH</sup> ROAD.** CM Frye said the email from Dexter Spitsnogle requests streetlights be installed on Keystone Rd and the southern part of S 11<sup>th</sup> Rd. He says there are no sidewalks, and many people walk on those roads. (Sidewalks are the responsibility of the property owners.) Several council members said not all people would like lights making light pollution. City staff will reach out to the residents before streetlights are considered.

- 4. NORTH STREET REPAIRS.** CM Hughes reported the City Crew was working on North Street between 20<sup>th</sup> Street and 11<sup>th</sup> Road and there were no signs to direct traffic. It was very confusing to the people driving on the street and dangerous to the City Crew.

**WATER & WASTEWATER:**

- 1. SEWER LINE AT NEW FIRE STATION.** CM Throm asked if the sewer line had been installed at the new Fire Station. CA St. John said it was not. It was discussed if the sewer line was the City's project or part of the contractor's portion of the Fire Station. CA St. John will check and report back.

**PARKS & RECREATION:**

- 1. POOL.** CM Throm asked if a cover has been replaced on the pit on the north side of the pool. The tarp was worn out and will be replaced with a metal covering before winter. CM Schroller asked to have the manager hours reported.

**CEMETERY & AIRPORT:**

- 1. AIRPORT PARKING LOT & ROAD PROJECT.** CA St. John said the project is progressing well.

**POLICE & FIRE:**

- 1. CONCRETE DRIVE FIRE STATION.** CM Schroller asked when the concrete would be poured at the new Fire Station. It should be poured this week.
- 2. PLAN FOR OLD FIRE STATION BEHIND CITY HALL.** CA St. John said the current fire station building behind City Hall will be used for City Hall storage, a vehicle garage for City Hall vehicles and evidence storage for large items from the Police Department. CM Frye would like to see a plan for the building before we start repurposing it.

**ADMINISTRATION & FINANCE:**

- 1. COMMITTEES.** CM Frye asked how council committees are asked to meet. CM Frye would like more committee meetings. Committee meetings are arranged through the City Clerk. Mayor Barnes said in his opinion the Council needs to authorize committee meetings, so the Council is informed. CM Frye said he would like committees to make suggestions to the Council.

**APPOINTMENTS:** *Library Board*-Pat Schramm finishing Ali Busch's term; Ross Wright finishing Brandon Wagner's term. CM Frye moved to approve the Library Board appointments, CM Throm seconded. Motion carried unanimously.

**CITY ATTORNEY:**

- 1. MEMO FOR UNSAFE PROPERTIES.** CA McNish presented a memorandum about property that is unsafe for occupation under building codes. The City of Lawrence used

eminent domain through the court to gain access to the property. The Council can discuss this at the next meeting.

- 2. 2011 COUNCIL MEMBERS.** CA McNish said he had a list of the Council Members from 2011: Sean Cohorst, Bud Schuette, Liz Doll, Charles Schwindamann, Tim Ackerman, Bob Shipman, Wayne Price and Todd Frye.

**EXECUTIVE SESSION:** CA McNish said he did want to discuss non-elected personnel matters but due to the lateness of the meeting he would have the executive session at the next Council meeting.

**ROUND TABLE DISCUSSION:**

- 1. COUNCIL UNDER PRESSURE.** CM Pippia said she appreciated the pressure that everyone had been under, and she thought they were holding up well.
- 2. DRUG TEST AFTER ACCIDENT.** CM Beikman said he felt the City should have a mandatory drug test policy if an employee is involved in an accident. CC Holle said a department head can request a drug test. CA St. John said Employee Handbook policy F-8 specifies drug testing after accidents.

There being no further business, at 10:23 p.m. CM Frye moved to adjourn, CM Hughes seconded. Motion carried unanimously.

Cindy Holle  
City Clerk