

TUESDAY, MARCH 18, 2014
BOARD OF ALDERMEN MINUTES
7:15 P.M.

Mayor Rhorer called the meeting to order at 7:15 p.m. on March 18, 2014 at Ashland City Hall, 109 East Broadway due to work session on the budget.

Aldерwoman Martin gave the invocation.

Mayor Rhorer led in the pledge of allegiance.

Mayor Rhorer called the roll.

Ward One: Louise Martin-here, George Campbell-here

Ward Two: Jeff Anderson-here, James Fasciotti-here

Ward Three: Anthony Taggart-here, Paul Beuselinck-here

Staff Present: Josh Hawkins, City Administrator, Darla Sapp, City Clerk, Lyn Woolford, Police Chief, Jessi Kendall, Treasurer, Deputy City Clerk and Travis Davidson, Public Works.

Mayor Rhorer presented the agenda for March 18, 2014 for consideration. Aldерwoman Martin made motion and seconded by Alderman Beuselinck to approve the agenda as presented. Mayor Rhorer called for the vote. Alderman Taggart-aye, Alderman Anderson-aye, Aldерwoman Martin-aye, Alderman Beuselinck-aye, Alderman Fasciotti-aye, Alderman Campbell-aye. Motion carried.

Mayor Rhorer presented the minutes of March 4, 2014 for consideration. Alderman Beuselinck made motion and seconded by Alderman Fasciotti to consider the minutes of March 4, 2014 as presented. Mayor Rhorer called for amendments or discussion. Mayor Rhorer called for the vote. Alderman Taggart-aye, Alderman Beuselinck-aye, Alderman Anderson-aye, Alderman Fasciotti-aye, Aldерwoman Martin-aye, Alderman Campbell-aye. Motion Carried.

Mayor Rhorer presented the bills to be paid for consideration. The Board asked various questions relating to the bills. Alderman Taggart made motion and seconded by Aldерwoman Martin to approve the bills as presented. Mayor Rhorer called for questions or comments. Alderman Campbell asked if they could get a monthly statement on the income deposited into each fund. Jessi Kendall, Treasurer, stated she could provide this to the Board. Mayor Rhorer called for the vote. Alderman Taggart-aye, Alderman Beuselinck-aye, Alderman Anderson-aye, Alderman Fasciotti-aye, Aldерwoman Martin-aye, Alderman Campbell-aye. Motion carried.

Travis Davidson gave the monthly public works monthly report to the Board. He updated the Board on a few water leaks, upgrading the street signs, general maintenance of the sewer lift stations and the repair of the alarm on the Caspian lift station. He presented the Board with a street inventory and how the streets were rated. He stated it was been updated in 2012. Mayor Rhorer asked that this be in larger print next time. Alderman Anderson questioned the change in the maintenance report format and contents. Travis Davidson stated he shortened the report to

save time at the meetings. Mayor Rhorer and Alderman Anderson felt the report should be more detailed. Alderman Anderson questioned the amount of stormwater going into the treatment plant. The Board discussed different methods of figuring the cost per gallon for treatment.

Jenny Grabner reported they have been awarded the training and workshops for the Missouri Livable Streets Program. She explained what the program consisted of. The Board asked various questions and discussed the financial constraints of the City to implement the program. The Aldermen thanked her for her efforts and commitment to the community.

Mayor Rhorer asked if anyone in the audience wished to appear before the Board.

Terry Tesson presented a pamphlet from the attorney general on landlord-tenant law. He encouraged the Aldermen to consider adopting codes and having inspections and occupancy permits on rental property in Ashland. He expressed the need to put pressure on the owners to maintain these properties. Mayor Rhorer informed the Board that this was discussed a little over a year ago and did not get approval to move forward. The Board discussed this at length and felt it warranted more research.

Mayor Rhorer presented Council Bill No. 2014-003 for consideration. Alderman Campbell made motion and seconded by Alderwoman Martin to take up Council Bill No. 2014-003, an ordinance authorizing the Mayor to enter into a cooperative agreement with Boone County for improvement and repair of Angel Lane. First Reading by title only. Mayor Rhorer called for questions or discussions. Josh Hawkins explained the agreement and cost estimates. He stated the County plans to bid this out at the end of April. He stated the Board of Aldermen will vote to accept the bid. Fred Boeckmann, City Attorney reported he has reviewed the contract. The Aldermen discussed the history of annexation, road maintenance and improvements needed to Angel Lane. Mayor Rhorer called for the vote. Alderman Beuselinck-aye, Alderman Fasciotti-aye, Alderman Campbell-aye, Alderman Taggart-aye, Alderman Anderson-aye, Alderwoman Martin-aye. Motion carried.

Mayor Rhorer presented Council Bill No. 2014-004 for consideration. Alderman Campbell made motion and seconded by Alderwoman Martin to take up Council Bill No. 2014-004, an ordinance adopting an annual budget for the fiscal year beginning May 1, 2014 and appropriating funds pursuant thereto. First reading by title only. Mayor Rhorer called for questions or comments. Josh Hawkins, City Administrator stated before passing this Council Bill they needed to decide on the capital project budget. The Board reviewed the list. Alderman Anderson questioned Salinda Drive not being included in this list.

Alderman Fasciotti made motion to take a break and Alderwoman Martin seconded the motion. Mayor Rhorer called for the vote to take a break. Alderman Taggart-aye, Alderman Anderson-aye, Alderwoman Martin-aye, Alderman Beuselinck-aye, Alderman Fasciotti-aye, Alderman Campbell-aye. Motion carried.

Mayor Rhorer called the roll at 8:48 p.m.

Ward One: Louise Martin-here, George Campbell-here

Ward Two: Jeff Anderson-here, James Fasciotti-here
Ward Three: Anthony Taggart-here, Paul Beuselinck-here

Mayor Rhorer continued the discussion of the capital improvement budget. The Board discussed Salinda Drive being included on the capital improvement budget since Ms. Bishop was led to believe this would be fixed. There was discussion of the construction of the existing street, issues with storm water and possible solutions to repair this street. Alderman Anderson stated we had entered into an agreement with Archer to engineer this and nothing has been done. There was discussion of how the priority streets were selected. Travis Davidson and Josh Hawkins explained how the determination of the priority streets needed asphalt overlay was determined. The street inventory list had not been updated since 2012 and was established by a different department head that is no longer with the City. The Board discussed the proposed capital projects list and budget as presented at length. Alderman Campbell made motion and seconded by Alderwoman Martin to amend the motion to include the top three overlay projects as proposed capital projects 2014-2015. Mayor Rhorer called for the vote. Alderman Beuselinck-aye, Alderman Fasciotti-aye, Alderman Campbell-aye, Alderman Taggart-aye, Alderman Anderson-aye, Alderwoman Martin-aye. Motion carried.

Mayor Rhorer presented Council Bill No. 2014-005 for consideration. Alderman Campbell made motion and seconded by Alderwoman Martin to take up Council Bill No. 2014-005, an ordinance to amend Section 12.540 Stormwater Management System Design Requirements. First Reading by title only. Josh Hawkins, City Administrator reported this amendment is needed due to software at engineering firms not having the ability to calculate 15 year storm management system design requirements. He reported this Chapter needs to be amended in its entirety and the Planning and Zoning Commission will be reviewing this in the future. Mayor Rhorer called for questions or comments. Mayor Rhorer called for the vote. Alderman Beuselinck-aye, Alderman Fasciotti-aye, Alderman Campbell-aye, Alderman Taggart-aye, Alderman Anderson-aye, Alderwoman Martin-aye. Motion carried.

Mayor Rhorer presented Ordinance No. 971 for consideration. Alderman Campbell made motion and seconded by Alderwoman Martin to take up Ordinance No. 971, an ordinance authorizing the Mayor to enter into a cooperative agreement with Boone County for improvement and repair of Angel Lane. Second Reading by title only. There was question as to why this needed to be presented for the final reading tonight. Josh Hawkins, City Administrator stated this is in an effort to get the bidding process started within thirty days. Mayor Rhorer called for the vote. Alderman Beuselinck-aye, Alderman Fasciotti-aye, Alderman Campbell-aye, Alderman Taggart-aye, Alderman Anderson-aye, Alderwoman Martin-aye. Motion carried.

Mayor's Report:

Mayor Rhorer recommended the Aldermen, City Administrator, City Clerk, City Attorney and Planning and Zoning Chairman attend the newly elected officials conference in June 12 and 13 in Columbia, Mo. He reported that the wastewater facility bond issue will be on the August ballot and after the new Aldermen take office we will put this on the agenda for discussion, as well as the water and sewer rates and scheduling a sunshine law workshop. Mayor Rhorer

reported the city is working on emergency management planning and have decided to map the homes with storm shelters on a voluntary bases.

Board of Aldermen Report:

Alderman Fasciotti expressed to the Police Chief that he sees the importance of purchasing an SUV for the police department. He stated after we see how the budget and other priorities are funded we could possibly revisit this request mid- year.

City Administrator Report:

Josh Hawkins reported we were awarded the TEAP grant for Liberty Lane and South Henry Clay Blvd. He thanked the staff for all the work on the proposed budget. He informed the Aldermen that there is several plats that will be presented to the Planning and Zoning Commission. There was discussion of the Highway 63 j-turns and work on the overpass and a possible connector to Route Y from the subdivision on the east side.

Alderman Anderson stated that at the last meeting they took a vote directing the City Administrator to investigate the claim that Mr. Goodrich presented on the sewer charge. Mr. Hawkins reported he did not have anything to report on this matter. Mr. Boeckmann, City Attorney reported that this matter can be resolved administratively and not go before the vote of the Board of Aldermen.

Alderman Anderson questioned the status of the city web site improvements. Josh Hawkins, City Administrator reported the improvements will be done in house. The Aldermen discussed compressing the documents so it loads quicker.

City Attorney Report:

Fred Boeckmann reported there is a memo in the packet on a number of voting issues. Mayor Rhorer thanked Mr. Boeckmann for this memo. The Aldermen discussed this.

Alderman Anderson questioned an amendment of the city code on allowing the Mayor to cancel meetings in inclement weather. Mr. Boeckmann discussed drafting a code that would allow the Mayor to cancel meetings during inclement weather. The Aldermen discussed this and gave direction to Mr. Boeckmann to draft an ordinance to allow this.

Alderman Anderson questioned an amendment of the city code on Aldermen interference provision. Fred Boeckmann discussed the issue of interference provision in the City Code. He was directed to review this and report back to the Aldermen.

Alderman Taggart discussed revising the city code on reappointment of appointed city officials being at the first meeting after the election. He stated he felt this was a problem since the new board members had not worked with the staff. He asked that the code be amended to move the date prior to this time. The general consensus of the Alderman was to review this code and see if it warrants amending.

Alderman Anderson asked if the memo referencing the voting could be included in the minutes. Fred Boeckmann said he sees no problem in this.

(inserted per Board request):

MEMORANDUM

To: Mayor and Board of Aldermen

From: Fred Boeckmann, City Attorney

March 11, 2014

RE: Board of Aldermen voting issues

I have been asked to put in writing my opinion that, in counting votes, a vacant Board position should not be counted as a “no” vote. I will address this issue and several other voting issues.

Sources of Authority

Voting rules applicable to the Board of Adjustment are contained in various sources. The sources are not of equal weight. The order of precedence is:

- State statute (Chapter 79 RSMo.),
- Ashland ordinances,
- Robert’s Rules of Order (adopted by the Ashland City Code),
- Common Law (rules applied by courts in the absence of legislative rules).

Quorum

In order to conduct business, a quorum of the Board of Aldermen is required. Chapter 79 RSMo. does not set forth the requirement of a quorum. Section 2.505 of the Ashland City Code provides that a quorum of the Board shall consist of “a majority of the full membership (including vacancies and the Mayor of the City).” In other words, four aldermen or three aldermen and the mayor constitute a quorum.

Ordinances

Section 79.130 RSMo. requires the affirmative vote of a majority of the elected members of the Board to pass an ordinance. Four affirmative votes are required to pass an ordinance. The mayor can cast the fourth vote on a 3-3 tie. Four actual votes are required. Abstentions and vacancies are not construed as voting for or against a measure.

Resolutions and Motions

If a quorum is present, a majority of the members present and voting is sufficient to pass a resolution or motion. For example, if the mayor and only three aldermen are present, a resolution or motion can be adopted by a 2-1 vote. If the mayor and only four aldermen are present, a resolution or motion would be adopted if the mayor voted to break a 2-2 tie.

Duty to Vote

Section 2.505 of the Ashland City Code requires every Board member to vote on every question, except when a member has a financial conflict of interest under State law. (This is also the common law rule.)

Abstentions

As stated above, abstentions are allowed only when a Board member has a financial conflict of interest. Abstentions are not counted as affirmative or negative votes.

Vacant Positions

In the past, Ashland has counted vacant positions as casting “no” votes. The practical effect of this is to sometimes create a tie vote that can be broken by the mayor. I have found no legal support for this practice. Vacant positions cast no actual vote and should not be construed as casting a negative (or affirmative) vote.

Alderman Beuselinck made motion and seconded by Alderman Taggart to adjourn the meeting pursuant to Chapter 610.021 (3) hiring, firing, disciplining or promoting of particular employees.

The City Clerk was not present at the closed meeting.

Darla Sapp, City Clerk

Gene Rhorer, Mayor

Mayor Rhorer reported we are back in open session with no reportable action taken.

Alderman Campbell made motion and seconded by Alderwoman Martin to adjourn the meeting. Mayor Rhorer called for the vote. Motion carried.

Gene Rhorer, Mayor