

**CITY COUNCIL MINUTES**  
**JUNE 20, 2023**  
**6:00 P.M.**

The Marshall City Council met in Regular Session at 6:00 p.m. on Tuesday, June 20, 2023, in the Council Chambers of the City Office Building, 214 N. Lafayette, Marshall, MO 65340, with the following members present: Mayor Vincent Lutterbie; Council Members Phil Perkins, Drew Green, Nathan Swisher, Charles Guthrey and Steve Cook; City Administrator JD Kehrman, City Counselor Josh Taylor and City Clerk Julie Lewis. Council Members Dan Brandt and Craig Thompson excused absent. Council Member John Allen Jr. absent.

Council Member John Allen Jr. present at 6:02 p.m.

Council Member Green made a motion, seconded by Perkins, to amend the agenda to correct item number 5 to reflect "Presentation by Tom Ward, Ward 2 Resident". A voice vote was taken with all in attendance in favor, Brandt and Thompson excused absent. Motion carried.

Council Member Perkins made a motion, seconded by Green, to approve the minutes of Regular Session of June 6, 2023. A voice vote was taken with all in attendance in favor; Brandt and Thompson excused absent. Motion carried.

**BUSINESS FROM THE AUDIENCE**

Mr. Steven A. Washington, Sr. provided pictures of drainage ditches in Ward 1 that have not been maintained. He said when the city suffers from inclement weather or unseasonable rains, he and his neighbors are severely impacted with water in their homes. He offered several suggestions and asked that Council please address the issue.

Council Members discussed possible remedies for the issue.

**PRESENTATION BY TOM WARD, WARD 2 RESIDENT**

Mr. Tom Ward, resident of Ward 2, said he has questioned past activities of the City, it is a lack of transparency that brought a lot of these issues to being questioned.

He commended Mayor Lutterbie for demonstrating more transparency on the City's website and said he looks forward to more public records being posted. He thanked the Mayor.

Mr. Ward spoke about transparency and accountability. If the intent is to prevent a public discussion about accountability or otherwise, then it has been decided to restrict my free speech rights and violate my first amendment sections. It would, in effect, be local government targeting a message and doing so a contradiction of basic principle of governance in that government cannot be trusted to decide what ideas of information the people should be allowed to hear. I have the right to ask questions whether it is for transparency or accountability.

The City Attorney stated, at the last meeting, that a demolition occurs once every 3 to 5 weeks, does the City really do that?

What was the total demolition cost paid to Remco for the demolition of the old IGA building?

Was a lien filed with the Saline County Recorder's Office? I know one wasn't filed, I have checked.

What is alternate #1 that is discussed in the demolition contract? It is important because it determines whether \$63,000 or \$130,000 will be paid for the demolition.

Did the City or the owner enter into any other agreements besides the demolition agreement?

Why didn't both owners of the property sign the demolition agreement? Seems the agreement would be invalid since both owners did not sign the agreement.

What criteria was used to determine the owner did not have the resources to demolish the building? Financial resources or does that mean they didn't have heavy equipment of their own to tear it down? This makes the use of public funds even more questionable.

What is the lien balance right now?

Why wasn't the parking lot removed, per the agreement?

Was the contractual price for the demolition amended for allowing the parking lot to remain? Did you change the cost of it? Did you do it in writing or by Council vote?

How can the City put itself in a position to compete with local banks, essentially lending money to private individuals?

Was the demolition agreement an approved budget expense for fiscal year 2021?

Doesn't the lien set precedence for the City and future use of public funds for private ends?

In regards to the City Administrator contract, was a performance evaluation completed, as stated on page 5, section 13? If not, isn't that a breach of contract? If that contract has been breached, doesn't it make the new contract invalid? Will the City Administrator be evaluated? Will a renewal contract reflect the outcome of a performance evaluation, if completed? Did the City Administrator submit the required annual departmental activity reports to the Mayor and Council? Has the City Council had the opportunity to review those same reports?

In regards to commercial trash billing, has RTS been doing commercial account billing in the city limits? Why wasn't the City Council informed of the change in commercial billing prior to RTS taking over, or was the Council informed? Did the City and RTS sign a written amendment to the solid waste collection agreement for RTS to take over commercial billing? If they didn't, isn't that a breach of contract? How has the cost been adjusted since MMU no longer does the

commercial billing? Isn't oversight of all City contracts the responsibility of the City Administrator?

Mr. Ward discussed several issues that he sees with the sanitation contract including not following the procurement procedure and collecting a service fee. He feels the contract is unconscionable. He discussed the City's option to repurchase assets based on the sole approval of RTS.

He said all of this raises questions about other violations such as Sunshine Law violations, not voting on the trash being contracted out and the City's obligation to publish a financial report semi-annually. The 2020-2021 audit reflected the City exceeded their expenditures from their revenues, spending money that they didn't have. This was an easy fix and could have been fixed so it didn't show up on the next year's audit. It is a blatant disregard for the law.

Mr. Ward discussed the proposed railroad project, PILOT charges to utility customers and receiving free utilities from MMU for City properties.

Not only should citizens be asking question, Council Members should to. Members of administration took an oath to uphold the Constitution, state laws and city ordinances. To be aware of questionable activities and take no action lends itself to ignoring your responsibilities of elected office and the oath you have taken. As a citizen, Mr. Ward has done his part and brought his grievances to you. As a Council, you will decide to address the issues or ignore them.

Mr. Ward thanked the Council for their time.

Mayor Lutterbie expressed his appreciation to Mr. Ward for holding up his part of the bargain.

Mayor Lutterbie said he was upset about the Habilitation Center and he was upset that the RTS contract was not brought to a vote. Those things are in the past and would cost more to fix than we would get out of it. Mr. Taylor and Mr. Kehrman both have his vote of confidence and are doing excellent. He has not seen anything since taking office to cause concern, the employees at City Hall do an excellent job.

Mayor Lutterbie said if something is brought to his attention, it can be dealt with in a reasonable manner. We are working to implement change. He indicated that if questions are not answered to satisfaction, he has no problem with someone going to the Attorney General,

## **COMMITTEE REPORTS**

### **MUNICIPAL SERVICES AND PERSONNEL COMMITTEE:**

No report.

**PROPERTY, FINANCE, BUDGET AND AUDIT COMMITTEE:**

No report.

**COMMUNITY DEVELOPMENT AND CODE COMMITTEE:**

Council Member Cook reported there will be a Code Enforcement Hearing on June 28<sup>th</sup> at 8:30 a.m. in the Council Chambers.

**PUBLIC RELATIONS AND PUBLIC SAFETY COMMITTEE:**

Council Member Guthrey reported the Committee met this morning regarding an ordinance to allow golf carts/UTVs to be used on city streets. The ordinance should be ready by the July 5<sup>th</sup> Council meeting.

The Committee also worked on a proposed code of conduct during the meeting and should have a draft soon.

Council Member Green asked that the Public Safety Committee look into an ordinance that would prohibit marijuana smoking in public as there have been some complaints regarding marijuana usage in public places. He spoke about the possibility of getting a Drug Enforcement Officer on staff full time to stop the drugs.

**CITY ADMINISTRATOR'S REPORT:**

City Administrator JD Kehrman asked Municipal Services Director Terry Gibson to give an update on the recent bulk trash pick-up.

Municipal Services Director Terry Gibson reported a total of 21.45 tons of bulk trash was collected curbside. There were no complaints and everything worked well.

Mayor Lutterbie thanked Mr. Gibson and the Municipal Services employees.

City Administrator Kehrman said it is possible that the City will conduct a city-wide cleanup in the future that will allow for the curbside pick up of more than just bulk items.

**MAYOR'S REPORT:**

Mayor Lutterbie said 4<sup>th</sup> of July is almost here, please be kind to your neighbors when discharging fireworks. An announcement will be made if conditions are too dry for fireworks.

Mayor Lutterbie met with City Officials from Miami, Nelson and Malta Bend recently. He will continue to conduct the meetings and plans to have another in a few months.

There will be a Mayor's Forum this Thursday, June 22<sup>nd</sup> from 4 p.m. until 6 p.m. here in the Council Chambers. The purpose of the forum is to allow community members to speak with the Mayor outside of a Council meeting.

**PRESENTATION BY CODE OFFICIAL**

Mr. Aaron Gibson, Building and Code Inspector, explained the process for tall grass and weeds.

The City of Marshall receives a large number of complaints regarding tall grass and weeds by phone, email and in person. A visual inspection is completed with photos taken. Notice of violation with a hearing date is sent giving 10 days for removal of the violation. The property is re-inspected one day prior to the hearing and photos are taken. If the violation still exists, a hearing is held. Evidence is offered and findings of fact are mailed giving a final 5 days to remove the violation. If the violation still exists, bids are obtained for mowing. Notice of authorization is submitted, mowing bid is awarded and a special bill is sent to the owner. We urge everyone to monitor your property or any property under your control during the mowing season.

City Counselor Josh Taylor said Council approved changes several years ago to the tall grass and weeds process that shortened the time frame quite a bit. He explained the criminal process and said they are working on a process for the Code Official to submit those charges directly to the Municipal Prosecutor, which would be more effective.

## **ORDINANCES**

An ordinance entitled “AN ORDINANCE OF THE CITY OF MARSHALL MODIFYING THE COMPENSATION OF CERTAIN ELECTED CITY OFFICERS” was given its first reading by title only.

Council Member Green said he feels this is a broader discussion tied to benefits.

Mayor Lutterbie stated this proposed ordinance stands alone.

Council Member Green explained he doesn't want to vote on a pay raise when we are telling citizens we are broke. He discussed Council salary and benefits. This is something that should be taken up at the committee level.

Mayor Lutterbie said this is something that has not been looked at since the 1990s.

Council Member Perkins made a motion, seconded by Guthrey, to approve the first reading. A roll call vote was taken with Guthrey and Perkins voting aye; Green, Swisher, Cook and Allen voting nay; Thompson and Brandt excused absent. Motion failed.

An ordinance entitled “AN ORDINANCE MAKING THE APPROPRIATION FOR THE PAYMENT OF ACCOUNTS OUT OF THE DIFFERENT CITY FUNDS” was given its first reading by title only.

Council Member Green inquired about removing a specific line item prior to approval. He indicated he has some issues with the contract and work done by Mr. Martin.

Council Member Green made a motion, seconded by Allen, to amend the Appropriation by removing payment to Paul Martin Law, LLC. A roll call vote was taken with Allen, Green and Swisher voting aye; Cook, Perkins and Guthrey voting nay; Thompson and Brandt excused absent. There being a tie vote; Mayor Lutterbie cast a nay vote. Motion failed.

Council Member Allen made a motion, seconded by Swisher, to approve the first reading of the Appropriation ordinance. A roll call vote was taken with Swisher, Guthrey, Cook, Allen and Perkins voting aye; Green voting nay; Thompson and Brandt excused absent. Motion carried.

Ordinance No. 8672 entitled “AN ORDINANCE MAKING THE APPROPRIATION FOR THE PAYMENT OF ACCOUNTS OUT OF THE DIFFERENT CITY FUNDS” was given its second reading by title only and put to its final passage and approval upon motion of Guthrey, seconded by Perkins. A roll call vote was taken with Guthrey, Cook, Allen, Perkins and Swisher voting aye; Green voting nay; Thompson and Brandt excused absent. The ordinance is thereupon declared passed and so endorsed by the President of the Council and approved by the Mayor.

### **OTHER COUNCIL BUSINESS**

Mayor Lutterbie presented Municipal Services Director Terry Gibson with a plaque thanking him for his many years of service to the City of Marshall. Mr. Gibson will be retiring at the end of June.

Council Member Perkins made a motion, seconded by Allen, to adjourn the meeting. A voice vote was taken with all in attendance in favor; Thompson and Brandt excused absent. Motion carried and the meeting adjourned at 6:55 p.m.

Julie A. Lewis  
City Clerk