

**CITY COUNCIL MINUTES
OCTOBER 3, 2023
6:00 P.M.**

The Marshall City Council met in Regular Session at 6:00 p.m. on Tuesday, October 3, 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 John Allen, Phil Perkins, Drew Green, Nathan Swisher, Craig Thompson, Dan Brandt and Steve Cook; City Administrator JD Kehrman, City Counselor Josh Taylor and City Clerk Julie Lewis. Council Member Charles Guthrey excused absent.

Council Member Green made a motion, seconded by Allen, to adopt the agenda. A voice vote was taken with all in attendance in favor; Guthrey excused absent. Motion carried.

Council Member Green made a motion, seconded by Perkins, to approve the Regular Session Minutes of September 19, 2023 and Special Session Minutes of September 28, 2023. A voice vote was taken with all in attendance in favor; Guthrey excused absent. Motion carried.

**HISPANIC HERITAGE MONTH
PRESENTATION**

Mayor Lutterbie explained Hispanic Heritage Month is from September 15th through October 15th. Marshall's population is approximately 17.86% Hispanic and he recognized the Hispanic Community for their hard work and good citizenship. Mayor Lutterbie presented a Hispanic Heritage Month Flag to members of the Hispanic Community. Audience members gave a round of applause.

COMMITTEE REPORTS

PUBLIC RELATIONS AND PUBLIC SAFETY COMMITTEE:

No report.

MUNICIPAL SERVICES AND PERSONNEL COMMITTEE:

Council Member Brandt read the following Storm Water Tip:

A mulching mower that chops up your grass clippings eliminates the need for bagging and allows valuable lawn nutrients to return to the soil. Protect your local waters from storm water pollution. Where storm water flows, everything goes!

The Municipal Services Department is busy right now. The milling project was completed as of last week and the 2 inch asphalt overlay is in process this week. College and Odell were done today, Summit and Mar Drive are scheduled for tomorrow, and South Lake Drive is scheduled for Thursday and Friday; Lincoln will be done next week. All of the work is subject to the weather but we hope to be done sometime next week. Capital Paving has done a good job with the projects. Striping of streets and parking areas will be done after the asphalt overlay is completed.

MoDOT should be wrapping up the paving on Highway 65 soon. Crews should complete the crack seal slurry project by the end of the year

PROPERTY, FINANCE, BUDGET AND AUDIT COMMITTEE:

Council Member Green reported the budget for 2022-2023 was completed at the end of September and the 2023-2024 budget began October 1st. The City ended up a little in the black, we still have ARPA funds that we have used and sanitation reserve funds for our street work this year.

Council Member Green said those funds will run out so he would like to propose the formulation of some sort of tax that would be specific for how the funds could be used. Voters would decide and, if passed, the funds would only go to that specific use. We are looking at a Public Safety Tax which could only be used for Police and Fire. That would free up funds for general government.

Mayor Lutterbie noted Marshall is one of two cities that can put a Public Safety Tax on the ballot

COMMUNITY DEVELOPMENT AND CODE COMMITTEE:

Council Member Cook reported there was a Code Enforcement Hearing last week and several issues were resolved. There will be another Code Enforcement Hearing in October.

CITY ADMINISTRATOR:

City Administrator JD Kehrman reported the mill and overlay project has been inconvenient but will be completed soon. Adjustments in the process were made to ensure water valve and manhole risers were not damaged. Crews will then begin to stripe the streets and repair a number of areas where curbs are deficient.

Capital Paving's finished product is very good, the City is pleased with the result.

Terracon has been at the old Fitzgibbon site this week. Both of the tanks have been removed and disposed of properly. The City will be receiving a clearance letter from the Missouri Department of Natural Resources. We are currently waiting on some soil samples to come back prior to closing out the project then we can move on to the next step with the site.

MAYOR'S REPORT:

Mayor Lutterbie said the arm mower delivery date has been moved back to January.

In reference to Business from the Audience, Mayor Lutterbie said he has been consistent about not talking about past administration and things that the Council cannot do anything about. Council can try to fix those problems but it should not be done on the Council floor; there have been other avenues for people to talk to him. On the first Tuesday of each month he will be in the Council Chambers at 5:30 p.m. to listen to citizens. He was here this evening at 5:30 and had two conversations. Citizens can reach out via email, telephone or in person to have a conversation with the Mayor.

Mayor Lutterbie said there is too much other business to deal with. In the Mayor's opinion, if you talk to us under these circumstances, you have made a contract with the City. If you void that contract you will get a gavel with a warning and an opportunity to re-focus. If you get a second gavel it will be 2 months before you can speak again unless you write a letter to the Mayor with what you would like to speak about and get cleared for recognition. These rules will be enforced this evening.

BUSINESS FROM THE AUDIENCE

Brian Crigger, resident of Marshall, spoke to the Council about overgrown vegetation in the ditch that runs behind Placida and Englewood.

Tom Ward, resident of Ward 2, said he disagrees with the Mayor and plans to talk about past administration. He spoke about a public meeting held on October 13, 2022, regarding public trash service.

Mayor Lutterbie told Mr. Ward that this is his first warning.

Mr. Ward said the question of "Who wants sanitation services to remain in-house" was asked at the public meeting and a show of hands indicated an overwhelming majority of people attending the meeting would like to keep the sanitation service in-house. Four days later, the administration ignored the will of the people and passed an ordinance and entered into a solid waste collection agreement with RTS for solid waste collection services. The ordinance did not authorize the Mayor to cease operations and sell off sanitation assets. RSMo. 91.550 states before a city of the third class shall sell or dispose of in any way or abandon or cease to operate in any way, electrical light plant, water, gas plant, railroad or public utility – key word – it shall be first submitted for a proposition for such sale, disposition or abandonment, or ceasing to operate, by ordinance to the voters of said city and it shall require a majority of the voters to be in favor of selling the asset. The City didn't do that. The City didn't even want to accept that the residential trash service is a public utility. That is what everything hinged on. Black's Law, a legal dictionary, defines a public utility as a provider of services to the public such as transport energy, telecommunications, waste disposal or water and any other public good and service. The City took extraordinary efforts to avoid a vote of the people. The City's own code includes a definition of public utility.

Mayor Lutterbie gave Mr. Ward a second warning and stated he is in violation and will not be able to speak for 2 months.

Mr. Ward said the City couldn't put the question to voters for approval to cease operations & sell sanitation equipment for fear it wouldn't pass. The City couldn't do it the right way so it was done indirectly. In his opinion, that makes the contract and ordinance invalid.

Mr. Ward spoke about the fee the citizens pay for solid waste collection and feels the \$4.18 that is above what the solid waste agreement states RTS gets paid should come off of the bills, an ordinance should be passed to drop everyone's trash rate to \$15 until you can pass something voters will approve.

Mayor Lutterbie said he is planning to put that to a vote of the people in April and they can either accept it or deny it.

Mr. Ward said he does appreciate that but the City should start charging \$15 a month now and pay everyone back retroactively.

ORDINANCES

An ordinance entitled “AN ORDINANCE AMENDING ARTICLE VII OF CHAPTER 115 OF THE MUNICIPAL CODE OF ORDINANCES OF THE CITY OF MARSHALL, MISSOURI” was given its second reading by title only and put to its final passage and approval upon motion of Allen, seconded by Brandt. A roll call vote was taken with Allen, Perkins, Green, Swisher, Thompson, Brandt and Cook voting aye; Guthrey excused absent. The ordinance is thereupon declared passed and so endorsed by the President of the Council, approved by the Mayor and numbered Ordinance No. 8787.

An ordinance entitled “AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF MARSHALL, MISSOURI, TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES WITH HDR ENGINEERING, INC. FOR ENGINEERING SERVICES RELATED TO THE MARSHALL MUNICIPAL AIRPORT” was given its first reading by title only.

City Administrator Kehrman explained the ordinance will provide for engineering new utility lines and moving them to the east.

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

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 Perkins made a motion, seconded by Thompson, to take the ordinance to a second reading. A roll call vote was taken with Green, Swisher, Thompson, Brandt, Cook, Allen and Perkins voting aye; Guthrey excused absent. Motion carried.

Ordinance No. 8788 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 Allen, seconded by Green. A roll call vote was taken with Swisher, Thompson, Brandt, Cook, Allen, Perkins and Green voting aye; Guthrey 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

Council Member Green asked MMU Controller Tony Bersano about MMU's budget in relation to the economy.

Mr. Bersano said there are supply chain issues; the money is still sitting there.

There being no other Council Business, Council Member Swisher made a motion, seconded by Brandt, to go into Executive Session concerning legal actions, causes of action or litigation involving a public governmental body or its representative and its attorneys; leasing, purchase or sale of real estate by a public governmental body, per RSMo. 610.021 (1,2), with the meeting being adjourned at the completion of such session. A roll call vote was taken with Thompson, Brandt, Cook, Allen, Perkins, Green and Swisher voting aye; Guthrey excused absent. Motion carried and Council entered into Executive Session at 6:27 p.m.

Julie A. Lewis
City Clerk