



APRIL 4, 2023 * RECORD OF PROCEEDINGS

CITY OF PACIFIC
REGULAR MEETING OF THE BOARD OF ALDERMEN
300 HOVEN
PACIFIC, MISSOURI

The meeting was called to order at 7:00 p.m. by Mayor Filley. The meeting was held at City Hall. The Public was able to attend in person and was streamed live on the City of Pacific You-Tube channel.

A roll call was taken with the following results:

- Present at Roll Call: Alderman Pigg
- Alderman Cleeve
- Alderman Gendron
- Alderman Presley
- Alderman Eversmeyer
- Alderman Lesh

- Also present: Administrator Roth
- Attorney Jones
- Chief Melies
- Collector Kelley
- Community Development Director Myers
- Public Works Commissioner Brueggemann
- City Clerk Barfield

Pledge of Allegiance

The Pledge of Allegiance was done.

Prayer

Pastor Tim Reeves offered prayer this evening.

Approve Agenda

Motion made by Alderman Pigg, seconded by Alderman Eversmeyer to approve the agenda. Mayor Filley asked for any discussion. A voice vote was taken with an affirmative result. Nays: none. Abstain: none. **Mayor Filley declared the motion carried.**

Approval of Minutes

A. Regular meeting on March 21, 2023.

Motion made by Alderman Cleeve, seconded by Alderman Gendron to approve the minutes of the regular meeting on March 21, 2023. Mayor Filley asked for any discussion. A voice vote was taken with an affirmative result. Nays: none. Abstain: none. **Mayor Filley declared motion carried for approval of the minutes.**

Public Participation

Mayor Filley stated there was one speaker card and you will have 5 minutes to speak.

Gary Meadows, 2010 Highway N, Pacific, MO stated he wanted to address what showed up today as a Resolution for Newly Elected Officials Code of Conduct. He thought this doesn't work and is a silly idea, in the way that it has been put forth. He had heard there was talk about putting together a Code of Conduct. He read through Section 1, has errors but good information, Sections 2 & 3 it goes off the rails. He thought Mr. Roth indicated in his report to the Board that it is aspirational and doesn't create anything binding. He continued that it actually includes a provision in Section 3 that the Board or Administration could vote a member off. He is not about that, someone can be impeached, but to unilaterally vote someone off the Board because you don't like what they have to say he wasn't sure of. He looked through the grounds for which Board of Aldermen can be removed, he saw inappropriate use of social media, misconduct at meetings, acting above reproach, etc., these are all vague and completely un-enforceable. Even aldermen have the right to speak out, sometimes feelings get hurt, but that don't lead to the idea that they should be punished even in public or otherwise. The idea of trying to get someone off because of this he believes probably violates the First & Fourteenth Amendments of the Constitution. He continued that if there is a complaint by anybody it goes to Mr. Roth, who gives it to Mr. Jones. He doesn't think that legally works. As a representative, he can't get into disagreements in between you. You would need a neutral party. This is a poorly conceived idea. There should be clearly defined goals and objectives. This seems like a device to keep people from talking out of fear. Maybe the intentions were good in the beginning, but he would recommend against it.

New Bills

Mayor Filley asked for a sponsor for Bill No. 5193. Alderman Eversmeyer stated he would sponsor the Bill.

- a. **Bill No. 5193 An Ordinance authorizing execution of a First Amendment to the Intergovernmental Wastewater Treatment Agreement with Brush Creek Sewer District. (1st reading)**

As posted pursuant to the ordinance, City Clerk Barfield read Bill No. 5193 for the first reading by title only.

Consideration of Bills Previously Introduced

- a. **Bill No. 5191 An Ordinance approving a Zoning Change (Map Amendment) from C-1 Downtown Commercial to M-1 Light Industrial for Lot 5 Route 66 Business Park Plat 1, St. Louis County Locator No. 30Z310293, being generally located at Route 66 Business Parkway and East Osage Street, Pacific, MO (2nd reading)**

Motion made by Alderman Gendron, seconded by Alderman Presley to read Bill No. 5191. Mayor Filley asked for any discussion. Alderman Lesh stated he remembered this Planning & Zoning Meeting and the minutes, this Plat, Lots 1-4 were originally zoned as a PUD-MUD so you could mix the use with light industrial and commercial. Lot 5 was not included in this; one could speculate why it wasn't but he didn't think we should assume anything. This is not zoned light industrial, which is why they are asking for a rezoning. The bigger point, this is on E. Osage, right across the street is the Plaza, which has large occupancy. A lot of us are proponents of the old business district, and he wanted to point out that Plaza. Vero Fitness is expanding, and it is good. The land across the street, if left commercial could be good. If we continue to just let people build, we continue to have a mixture along the streets. There are examples of it all over. He thought this was one of our last best places, and this corridor is important. He thought this land should be left commercial and it will benefit this town. Alderman Cleeve stated with Red Cedar visiting, this is one of the first places they will see. A roll vote was taken with the following results. Ayes: Alderman Gendron, Alderman Presley, Alderman Eversmeyer. Nays: Alderman Pigg, Alderman Cleeve, Alderman Lesh. **Mayor Filley declared this was a tie of 3-3. She would break the tie with a "nay" vote. Therefore, Bill No. 5191 fails.**

- b. **Bill No. 5192 An Ordinance authorizing a Conditional Use Permit for property located at 129 E. Pacific Street, Franklin County Parcel ID's 19-1-12.0-4-014-204.000, 19-1-12.0-4-014.204.100, 19-1-12.0-4-014-204.200, 19-1-12.0-4-014-204.300 in the City of Pacific.**

Motion made by Alderman Pigg, seconded by Alderman Gendron to approve Bill No. 5192. Mayor Filley asked for any discussion. Alderman Lesh stated in the Administrator's report, there was reference to an area there was ambiguity on regarding hard surfacing on that lot, and he asked us to address that. He brought this up before, the storage lot is mainly a parking lot even though storage; to require it to be asphalt or another hard surface may not be the right requirement. It doesn't make sense to say it needs to be hard surface, in addition to it being in the flood plain with runoff, asphalt when it does flood winds up in the river. He thought it was better to be crushed rock or concrete. Also, Mr. Vogt mentioned to Planning & Zoning what he was going to use the property for. Mr. Vogt came forward. Alderman Lesh stated at Planning & Zoning he said everything would be stored on trailers. Everything here is what Mr. Vogt referenced at Planning & Zoning regarding use. Alderman Lesh asked if he was going to use the other part for storage, or would it just be the northern part. Mr. Vogt stated "no we don't plan to use that other part for storage" and he was fine with crushed rock or asphalt. Alderman Lesh stated these are the things he was pointed out here and conditions that he thought should be included in the Bill. **Motion made by Alderman Lesh, seconded by Alderman Cleeve to amend Bill No. 5192 to include these bullet items handed out.** Mayor Filley asked for any

discussion on the amended motion. A roll call vote was taken on Amended Bill No. 5192 with the following results: Ayes: Alderman Cleeve, Alderman Gendron, Alderman Presley, Alderman Eversmeyer, Alderman Lesh, Alderman Pigg. Nays: none. Whereupon, Mayor Filley declared the motion to Amend Bill No. 5192 carried 6-0.

Motion made by Alderman Cleeve, seconded by Alderman Eversmeyer to read Amended Bill No. 5192. Mayor Filley asked for any discussion. **A voice vote was taken with an affirmative result, and Mayor Filley declared the motion carried 6-0.**

City Clerk Barfield read Amended Bill No. 5192 by title only.

Motion made by Alderman Cleeve, seconded by Alderman Eversmeyer to approve Amended Bill No. 5192. Mayor Filley asked for any discussion. Alderman Lesh stated the public expressed a lot of interest in this property and wanted us to explore more options with it. For this reason, he thought this item should be tabled or postponed. A roll call vote was taken with the following results: Ayes: Alderman Gendron, Alderman Presley, Alderman Eversmeyer, Alderman Pigg, Alderman Cleeve. Nays: Alderman Lesh. **Mayor Filley stated with a vote of 5-1, Amended Bill No 5192 becomes Ordinance No. 3371.**

Unfinished Business

New Business

Resolution No. 2023-29 A Resolution to authorize use of \$ 50,000 in fund from the City's Contingency Fund to make the second of three payments on a loan from the Missouri Development Finance Board.

As posted pursuant to the ordinance, City Clerk Barfield read Resolution No. 2023-29 by title only. **Motion made by Alderman Eversmeyer, seconded by Alderman Cleeve to approve.** Mayor Filley asked for any discussion. Administrator Roth stated we received a loan from Missouri Development Finance Board, and the terms of the loan are interest free if paid off in 3 years. This is the second of three payments. The funds were used to complete the Voluntary Flood Buyout Program from 2020. We did receive money from CDBG and those funds were deposited into the contingency fund. **A voice vote was taken with an affirmative result. Nays: none. Abstain: none. Mayor Filley declared the motion carried.**

Resolution No. 2023-30 A Resolution authorizing and directing the Mayor to execute an Agreement with CM Archer Group, PC for Professional Services relating to the Construction Phase Engineering Services for the Lift Station 2 / Forcemain / Wastewater Treatment Facility Headworks Facility Improvement Project in the City of Pacific.

As posted pursuant to the ordinance, City Clerk Barfield read Resolution No. 2023-30 by title only. **Motion made by Alderman Pigg, seconded by Alderman Gendron to approve Resolution No. 2023-30.** Mayor Filley asked for any discussion. Alderman Lesh asked about financing. Administrator Roth stated we have tentatively scheduled Stifel Nicolaus for the next board meeting for a presentation. He understands there may be new members taking office that

night, but this is a question for the mayor. The financing is not in place. A few meetings ago a Resolution was passed that allowed the city to be reimbursed when the financing is in place and engineering is in place. We have that discretion to reimburse ourselves, although he would not recommend that. He thought the engineering cost could be carried in the existing revenues. Alderman Lesh asked if we would have an answer on financing before we entered into construction. Administrator Roth stated yes, we have to have financing in place prior. That process needs to start very soon, and he hopes to begin at the next meeting. Alderman Lesh asked if after engineering we stop, are we reimbursed? Administrator Roth stated this contract was for services rendered. **A voice vote was taken with an affirmative result, and Mayor Filley declared the motion carried. Opposed: none. Abstain: none.**

Resolution No. 2023-31 A Resolution adopting a Newly Elected Officials handbook for the City of Pacific.

As posted pursuant to the ordinance, City Clerk Barfield read Resolution No. 2023-31 by title only. **Motion made by Alderman Cleeve, seconded by Alderman Presley to table this and send back to the Administrative Committee. He knows he is on this committee, and part of it, and there are twenty-three items that he thought needed to be changed and wasn't ready for the Board to take action.** Mayor Filley asked for any discussion. Alderman Lesh asked if he could add that he thought this was two different documents and needed separated. They could be handed out at the same time, but thought they addressed different items. He thought there was language Attorney Jones drafted that needed to be reviewed. Attorney Jones stated that he did make changes. Mayor Filley stated if this does go back to Administrative Committee maybe it be called an "Elected Official" and take out the "newly". She thanked Alderman Cleeve for bringing up this type of guide. Doing it this way, it may be able to keep as one document. Alderman Lesh stated he thought the danger in doing this is, we are telling them this is how it is. One of the biggest things that helped him was he was forced to go out and find the answers, and he thought everybody should do this, because you find many answers. The danger of making it one document is people think this is the way it is. In this whole arena, it is not black and white. There is an advantage of having the new official going out on their own. There is Newly Elected Official Training that is a great resource. Administrator Roth stated there is information circulating in the community that alleges that this document is a trespass of his authority. It is ridiculous and not true. His role is prescribed by Chapter 115, Article VII, which he read from. He has been in this position for seven years, and city administration for eighteen years. He has always conducted himself in this fashion and will continue to do so. It reads later in the ordinance "at no times shall the powers or duties of the city administrator supersede the actions of the mayor and board", at no time shall his powers supersede your actions. It's how he does business, and it's how the professional city administrator does business, whether it's me or another professional. This is how the city is governed per the ordinance, and goes back to 1980. It's been the same way, for everyone in this role. It is untrue of the idea that I would pick and choose from elected officials that pleases me and is ridiculous. At the last Administrative Committee meeting he spoke to this very issue. At that meeting, it's recorded live, anytime there is a complaint against an elected official and staff is involved, it is territory that we don't want to be involved in. We do have a role, but a complaint against an elected official is a very serious matter. In 18 years, he has never experienced it. It has not happened. If it happens, what do we do, we have an obligation to review that. We would take that whether the handbook is in place

or not. Then forward to city attorney, and ultimately to the Board for decision making. We do that whether this is in place or not. At the committee meeting, he said the role has to be as neutral as can be. Staff is not political, and we are neutral and dedicated to that concept. That is how professionals operate. You do not see me up here participating in a legislative decision, I don't do it. There is debate among the board, but being involved in that is not my role. There is a thought in the community that somehow, I am pulling strings, it is very frustrating. This idea that the Code of Conduct, that communicates expectations and how we govern, and ethics, and the idea that this is a powerplay is madness to him. We always try to conduct ourselves professionally. I don't get all my decisions right, and welcome debate. It is his role, but when he is accused of this type of trespass is not how he operates and he is tired of being accused of it and he cannot let it pass without being addressed. Alderman Pigg stated she had mixed feelings about this document. First, she is a big fan of throwing you out in the ocean and letting you figure this stuff out. You should come to the Board with the basic understanding of government, legislature, executive and judicial and know your place. This Board is legislative, sometimes we have to figure this out. A lot of it is just common sense, and follow the RSMO as far as being removed, it's impeachment. The Board has the right to start that process. Use your head when your up here, but part of the fun is figuring it out and, it can be frustrating. You don't know what you can learn until your up here. A guide that might be helpful is the best thing we can do. Collector Kelley stated possibly coming on, this was not anything she signed up for so this is a little confusing to see this show up now. She appreciates this committee. It was not given to her prior to becoming a candidate, and she thought some items are a little overboard. She has served 18 years up here, she is asking not to pass, send it to committee or fail it. She is not comfortable with stuff like this given to me, when there is a chance, I could be elected tonight. She had no intentions of all this different stuff being put on me. It is hard, now I am an employee and an elected official and some days you don't know where you're at or what you should do. This is going to do the same thing to her. She is asking the Board not to pass this. Alderman Cleeve stated he did not disagree with Alderman Lesh or Alderman Pigg but it was his idea to have a newly elected guide. He thought it was still a good thing, but the third part he did not want, which is why he tried to separate them. He is schooled, but he struggled the first few months, and if he could help anyone new that is what he was trying to do. He didn't think he was effective the first few months. If we can save someone 10 hours of just figuring stuff out, is what he was trying to do with the manual. He agreed it should go back to committee, and he still thought it should be separated. The newly elected guide did not improve the code of conduct. He honestly didn't think part 3 was something that was intended to put us against the wall. He knows there are people critical of Mr. Roth, but he is not one of them. He has never seen him do anything purposefully to mess up, and if anyone sees something different show me the proof. Alderman Lesh asked where the origins of this document. Mayor Filley stated they looked at other cities across the state and took pieces from it and put this document together. Alderman Eversmeyer stated MIRMA also has a Newly Elected Guide. **A voice vote was taken with an affirmative result, and Mayor Filley declared the motion carried. Opposed: none. Abstain: none. Mayor Filley stated this would go back to the Administrative Committee.**

Resolution No. 2023-32 A Resolution establishing a policy to allow Public Comment / Participating during Public Meetings.

As posted pursuant to the ordinance, City Clerk Barfield read Resolution No. 2023-32 by title
Board of Aldermen 4-4-23

only. **Motion made by Alderman Cleeve, seconded by Alderman Presley to approve Resolution No. 2023-32.** Mayor Filley asked for any discussion. **A voice vote was taken with an affirmative result. Opposed: Alderman Eversmeyer. Abstain: none. Mayor Filley declared the motion carried 5-1.**

Mayor Report

Mayor Filley stated the IT people have been contacted and we have a bad switch, and we are waiting for it to come in. Hopefully this fixes our microphone issues. She wished everyone good luck who was on the election ballot and the propositions out there.

City Administrator Report

a. Budget

Administrator Roth stated we are mid-stream in preparation. He has provided a schedule, and asked that Monday, May 22nd be discussed as a possible date for a meeting. There are a few options, we could do the presentation at the May 16th regular meeting, or earlier that evening, or the special meeting, and he suggested the May 22nd date for a special meeting. Alderman Cleeve thought the 22nd was a good idea, and thought we should set it and we can cancel it if we decide to. Administrator Roth stated we would reserve that date and time of 7 pm and as we go forward, he will present more information and can finalize.

Capital Expenditures – he asked Department Heads for their lists, and it is in the packet. There is a lot of information there. He hasn't had a chance to review with them yet. He has told them it is important what some of the requests are before we narrow them down. The April 18th will be another budget update, and then moving to final drafts.

The general fund cash reserves were very good. He mentioned the funds we took in from CDBG and we are now at \$ 2.2 million in Contingency. He suggested in an Administrative Meeting that we consider reducing or eliminating this transfer from general fund and directing it to the payment. At some point, the Board could discuss the real target. This is about a 40% fund balance, which is pretty healthy. We could push it further; other cities have lesser goals.

b. Sewer connection request, 114 Highway AT, Western Oil Travel Center

The city accepts the sewer from the Brush Creek Sewer District through an Intergovernmental Agreement, since 2003. The city has to approve any non-residential connection. This project is off of Hwy 100 and AT and they have petitioned the city for approval for the project. There is documentation in the packet. They are proposing 5,192 gallons per day, which is acceptable. The strength of the sewer is standard commercial. His recommendation is for approval of this request. **Motion made by Alderman Cleeve, seconded by Alderman Gendron to approve the request. Mayor Filley asked for any discussion. A voice vote was taken with an affirmative result. Nays: none. Abstain: none. Mayor Filley declared the motion carried.** Administrator Roth stated the big sewer project under contract will increase our capacity. At some point we will want to amend this agreement, and the strength of the sewer would be

reviewed but the question of capacity will not be in question. So going forward, this type of provision probably won't be in the agreement.

Chief of Police Report

Speed Study – Chief Melies stated the speed study that was requested was in the packet and a letter of how it works. Alderman Lesh stated the resident that contacted him, lives in this subdivision, is there a speeding problem on that street. Chief Melies stated there was not, and reviewed the report in general. It's important to remember the list of speeders is 1 mph over, so it's a little tricky regarding tolerance. Any speeding is dangerous, and they will monitor. There is only one speed limit sign in there, so another sign could be helpful. Mayor Filley stated that something Chief pointed out to her was the larger the vehicle, the closer you are to it, the faster it appears to be going. She thought that was good to remember. Chief stated a few people in the subdivision were spoken to, along with parents. We try to address the problems. Chief stated this speed limit sign is already on the schedule, just an additional sign needed.

Public Works Commissioner

PW Commissioner Brueggemann stated he will install the additional speed limit sign. Denton Road is coming along. Alderman Cleeve asked if there was an update on the pool. PW Commissioner Brueggemann stated he did not know; Chris is handling it. Mayor Filley stated there was a call from a resident about a water break on Sunday, and they complimented the Public Works Department and how fast we were on the project. She thanked them. PW Commissioner Brueggemann stated he found a new site to dump, so they won't be dumping up on Second Street anymore. He is not sure what he is going to do to clean up the current site. Alderman Lesh stated the fence is falling down, and don't look the best from Osage. PW Commissioner Brueggemann stated it was tough with the rock bluff, he will probably grade over and seed and straw.

Director of Community Development

Director Myers stated his report was in the packet. He also has received calls about a bulky trash pickup, and this is done in the fall, generally October. Also, the electronic message board, months ago he put out there was 15 restaurants. He changed the wording to "great places to eat" and he put it out there. He challenged everyone that we can call attention to the city in a good way, items to draw good attention to, organizations we have a contract with. If you think of anything please send it his way.

City Attorney Report

Nothing to report.

City Collector

- a. Approve the land and lot delinquent list and the personal delinquent list as per RSMo 94.170.

Collector Kelley stated this is required by statute. This list is passed from the County to us. **Motion made by Alderman Presley, seconded by Alderman Eversmeyer to approve the land and lot delinquent list as presented.** Mayor Filley asked for any discussion. Alderman Lesh asked if approving means acknowledging receipt. Attorney Jones stated yes. A voice vote was taken with an affirmative result. Opposed: none. Abstain: none. Whereupon, Mayor Filley declared the motion carried.

Collector Kelley stated there were two different list on the dais. This is what is going on in her office, the first is Special Tax Bills and these are submitted to the auditors. The auditors have noted they may be uncollectable, but they are still on file. The second one is PW District # 3 debt, and she has spoken with Attorney Jones about. There is also this debt in the office. Also, the city's audit has not been returned. She asked for any guidance if she exists out and the audit not here yet. Attorney Jones stated to the extent you are still available they may need your help to conclude this.

Operations Committee Report

Alderman Eversmeyer stated there is no report.

Administrative Committee Report

Alderman Pigg stated there was nothing to report.

Park Board Report

Alderman Cleeve stated the next meeting is April 17th. He has conflicts, and Alderman Lesh is going to attend as the liaison. Alderman Lesh stated there is also an Historical Society meeting and he would attend that as well if that was okay. Mayor Filley agreed that was okay.

Miscellaneous

- a. **Approve petty cash in the Collector's Office in the amount of \$ 23.55.**

Motion made by Alderman Pigg, seconded by Alderman Cleeve to approve petty cash. Mayor Filley asked for any discussion. **A voice vote was taken with an affirmative result. Opposed: none. Abstain: none. Whereupon, Mayor Filley declared the motion carried.**

Reports of City Officials

Alderman Pigg – Stated she received a call regarding the water bills and shut off. It used to be at two months in the rears you were placed on the shut off list. Now it's the 21st, she understands why, but we might want to review this. Alderman Cleeve asked if this would improve with the new meters. Administrator Roth stated that was just the meter project. The software is a capital request. He asked City Clerk about the policy. City Clerk Barfield stated if it's not paid on the

5th, there is a notice that needs to be paid by the 20th, if not paid then the 21st the shut off list generates. Since COVID we have not reinstalled the \$ 25.00 shut off and since rates have increased it was moved to \$ 40. Anything over \$ 40 if not paid by the 21st is put on the shut off list. Collector Kelley stated penalty is also applied after the 5th. It is all within the same month, the procedure was changed back in 2011.

Alderman Cleeve – No report.

Alderman Gendron – No report.

Alderman Presley – No report.

Alderman Eversmeyer – No report.

Alderman Lesh – today was a big day, and hoped people participated.

Closed session

Mayor Filley stated there was closed session under RSMo 610.021 (2).

Motion made by Alderman Lesh with minutes being taken to include all discussion. Attorney Jones stated minutes have always been taken. Alderman Lesh stated that was not the minutes he got. Attorney Jones was not sure what he was talking about. Alderman Lesh stated he had minutes right here. Attorney Jones asked that he please not talk about closed session in open session. We can talk about it in closed session if you would like. Motion was seconded by Alderman Eversmeyer. A roll call vote was taken with the following result: Ayes: Alderman Pigg, Alderman Cleeve, Alderman Gendron, Alderman Presley, Alderman Eversmeyer. Nays: Alderman Lesh. Mayor Filley stated with a vote of 5-1 we will go into closed session.

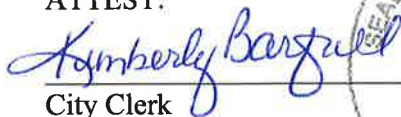
The Board went into closed session at 8:10 P.M.

The Board reconvened at 8:45 P.M.

Adjournment

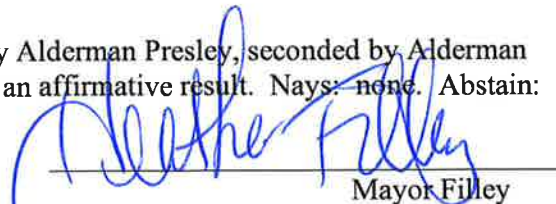
There being no further business, motion made by Alderman Presley, seconded by Alderman Cleeve to adjourn. A voice vote was taken with an affirmative result. Nays: none. Abstain: none. The meeting adjourned at 8:46 p.m.

ATTEST:


City Clerk

Board of Aldermen 4-4-23




Mayor Filley