

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

The Marshall City Council met in Regular Session at 6:00 p.m. on Monday, March 20, 2023 in the Council Chambers of the City Office Building, 214 N. Lafayette, Marshall, MO 65340, with the following members present: Mayor Dewey Hendrix; Council Members Leon Thompson, Phil Perkins, Drew Green, Robert Ashford, Charles Guthrey, Dan Brandt and Steve Cook; City Administrator JD Kehrman, City Counselor Josh Taylor and City Clerk Julie Lewis. Council Member Craig Thompson excused absent.

Council Member Brandt made a motion, seconded by Ashford, to adopt the agenda as written. A roll call vote was taken with Guthrey, Brandt, Cook, Leon Thompson, Perkins, Green and Ashford voting aye; Craig Thompson excused absent. Motion carried.

Council Member Leon Thompson made a motion, seconded by Perkins, to approve the Regular Session minutes of March 6, 2023. A roll call vote was taken with Brandt, Cook, Leon Thompson, Perkins, Green, Ashford and Guthrey voting aye; Craig Thompson excused absent. Motion carried.

BUSINESS FROM THE AUDIENCE

Sharon Liggett, resident of High Street, said she has questions in regard to the proposed changes to High Street.

Carol Wolfe, resident of Viking Lane, expressed her concerns about trash service, airport workers, MMU billing for trash service, reserve funds, rate hikes, the purchase of new trash trucks, funds being moved around, moving acreage around and disciplinary actions with a Councilmember. She asked the Council to work as a team and provide transparency.

Ashley Davis, resident of Lyon Ave., spoke about her family's personal financial information being obtained and posted on social media by Council Member Green.

Alicia Robinson, resident of Marshall, spoke about her issues with the judicial system in Marshall.

Emma Luscomb, resident of English Ave, inquired about newly erected No Parking signs in the 700 block of English Ave. and asked where is she supposed to park?

Gina Brown, resident of High Street, spoke against proposed changes to High Street.

Merle Minkler, resident of High Street, spoke against proposed changes to High Street.

Crystal Noamesi, resident of Gordon Street, said Council Member Green is transparent and she appreciates his videos. She asked the Council to not move forward with proposed disciplinary action.

Mike Harlow, resident of Shamrock, spoke against the proposed disciplinary action with Council Member Green. He feels there are other ways to handle the situation.

Vicky Gochenhour, resident of Marshall, spoke against the proposed changes to High Street.

COMMITTEE REPORTS

PUBLIC RELATIONS AND PUBLIC SAFETY COMMITTEE:

Council Member Green reported the Committee is working on an ordinance regarding ATV and golf cart usage on city streets, an ordinance prohibiting marijuana use in public places and Police Department customer service.

MUNICIPAL SERVICES AND PERSONNEL COMMITTEE:

Council Member Brandt reported curbside yard waste collection will begin on April 1st and run through November 30th. Pick up schedule is Ward 1 on Thursday, Ward 2 on Wednesday, Ward 3 on Tuesday and Ward 4 on Monday. Yard waste must be placed in disposable containers not more than 50 pounds in weight.

Pot hole patching and crack sealing will begin soon.

PROPERTY, FINANCE, BUDGET AND AUDIT COMMITTEE:

Council Member Leon Thompson reported that he attended the Board of Public Works meeting to ask MMU to revisit the loan that we have for the demolition of the Habilitation Center buildings. He asked if they would participate in sharing with the City as an investment into the school district.

COMMUNITY DEVELOPMENT AND CODE COMMITTEE:

No report.

CITY ADMINISTRATOR'S REPORT:

City Administrator JD Kehrman said he wants to clarify several items that were in a published statement.

It was stated that the charge over RTS base rate represents an illegal charge. That is not correct, an impact fee is legal.

The transfer of prior year's funds from sanitation into street funds for street work is not illegal. It is appropriate for elected bodies of third class cities to authorize transfers to streets. The sanitation trucks ran for many years and took a toll on streets without paying an impact fee.

There have also been allegations of Sunshine Law violations. Nothing has been brought to my attention; if you are aware of violations, please bring them to the City Attorney.

MAYOR'S REPORT:

Mayor Hendrix said he will be meeting with a Missouri Department of Transportation engineer tomorrow morning to view the final possible designs of what they would like to see happen regarding railroad crossing closures and upgrades including High Street becoming a truck route. After tomorrow's meeting, he is willing to meet with citizens concerning the project. There will also be public hearing set up in the near future.

Emma Luscombe asked what she is supposed to do about the parking situation after No Parking signs have been erected on North English which is a snow route.

City Administrator JD Kehrman said he will follow up with the Municipal Services Director to make sure the signs were placed in the proper location and then follow up with Ms. Luscombe.

Council Member Cook said he is buffaloeed by High Street and it is in his Ward so he would like to be a part of any discussions.

DISCUSSION AND APPROPRIATE FOLLOW UP

BIDS – LAWN MOWING SERVICES:

Bids were received and opened on March 15, 2023 for lawn mowing services at the City Office Building, Martin Community Center and Municipal Court Building. A total of three bids were received.

It is the recommendation to accept the bid of Quality Lawncare in the amount of \$175 per mowing.

Council Member Brandt made a motion, seconded by Perkins, to accept the bid as recommended. A roll call vote was taken with Brandt, Cook, Leon Thompson, Perkins, Green, Ashford and Guthrey voting aye; Craig Thompson excused absent. Motion carried.

BIDS – LAWN FERTILIZATION/TREATMENT:

Bids were received and opened on March 15, 2023 for lawn fertilization, treatment and care services at the City Office Building, Martin Community Center and Municipal Court Building. One bid was received.

It is the recommendation to accept the bid of E Z Green in the amount of \$1,212.00

Council Member Ashford made a motion, seconded by Brandt, to accept the bid as recommended. A roll call vote was taken with Cook, Leon Thompson, Perkins, Green, Ashford, Guthrey and Brandt voting aye; Craig Thompson excused absent. Motion carried.

RESOLUTION

Paul Martin, attorney for the City of Marshall, explained the disciplinary process. If the resolution is passed by Council a public hearing will be set and a Hearing Officer will be hired. Council Member Green is entitled to due process and his own lawyer. Mr. Martin stated the resolution refers to Exhibit A – Notice of Charges and Specifications and read the notice in full:

1. With regard to the contract between the City of Marshall and RTS Waste Services LLC, Councilman Green:

A. Has represented that an informational flyer concerning the contract, and the contract itself, were based on “lies and deceit”;

B. Has stated that the Marshall City Council was not transparent in its consideration and approval of the contract and that the council did not know or understand the contents of the RTS contract before approving same;

C. Has said that the cost of the contract to the city was not fixed, that RTS would not be able to deliver the promised services at the contract rates, that RTS could and would demand rate increases, and that if the city did not grant the rate increases, RTS would cease work in the city, leading to uncollected solid waste and costly litigation; and

D. Has suggested that RTS was unlawfully dumping paper recyclables in a landfill and that the city was overpaying RTS under the contract.

Such representations were either false, unsubstantiated, or speculative, such that Mr. Green has mischaracterized the contract, city staff’s representations regarding the contract, and the council’s consideration of the contract. By doing so Mr. Green has (i) undermined the lawful authority of City Administrator Kehrman, Mayor Dewey Hendrix, and the Marshall City Council, (ii) disseminated unsubstantiated rumors and falsehoods to the residents and business constituents of the City of Marshall, (iii) failed to support the ordinance enacted by the city council to adopt the RTS contract (City Ordinance No. 8704), (iv) placed the city at risk of a defamation lawsuit by RTS, and (v) failed to demean himself in office, all in violation of his oath of office and his duty to the city as prescribed by Section 77.260 RSMo.

2. With regard to City Clerk Julie Lewis, Councilman Green:

A. Has made multiple and lengthy telephone calls to Ms. Lewis concerning his grievances over the RTS contract and other matters and persons;

B. Has demanded that she research, compile, and produce records and reports regarding the RTS contract and the history of the city’s solid waste collection practices;

C. Has threatened to publicly shame Ms. Lewis for the costs incurred by the city to respond to his requests for information; and

D. Has threatened Ms. Lewis' job by telling her that she "is not elected" but rather is "appointed by the council".

By doing so Mr. Green has: (i) exceeded the authority of his office as prescribed by law, (ii) interfered with Ms. Lewis' required and lawful duties and responsibilities of office, (iii) interfered with the lawful authority of Mayor Hendrix and City Administrator Kehrman over Ms. Lewis, (iv) failed to demean himself in office by causing Ms. Lewis undue and unnecessary stress over her employment and reputation, and (v) violated his duty to the city as prescribed by Section 77.260 RSMo.

3. Councilman Green has:

A. Suggested that Mr. Kehrman engineered the city council's approval of the RTS contract for reasons not related to the best interests of the city;

B. Complained to City Clerk Lewis that Mr. Kehrman and others lied about the RTS contract;

C. Contacted Municipal Services Director Terry Gibson in an attempt to discover compromising information on Mr. Kehrman; and

D. Invited Finance Director Aimee Klinge to opine on the propriety and efficacy of the RTS contract.

By doing so Councilman Green has undermined the lawful authority of City Administrator Kehrman and has failed to demean himself in office, in violation of his oath of office and his duty to the city as prescribed by Section 77.260 RSMo.

4. Councilman Green has:

A. Falsely represented that City Counselor Joshua Taylor represented RTS in a lawsuit;

B. Accused Mr. Taylor of unethical behavior by conducting such representation during the city's negotiation and consideration of the RTS contract;

C. Threatened to file a complaint against Mr. Taylor with the Missouri Bar; and

D. Suggested to City Clerk Julie Lewis that Mr. Taylor was "slow rolling" Green's request for records to frustrate his ability to conduct an investigation into the RTS contract.

By doing so Councilman Green has undermined the lawful authority of City Counselor Taylor and has failed to demean himself in office, in violation of his oath of office and his duty to the city as prescribed by Section 77.260 RSMo.

The foregoing provides notice of the charges and specifications brought against Councilman Drew Green as of the date indicated below. Marshall Special Counsel reserves the right to supplement such charges and specifications should Councilman Green's subsequent behavior so justify.

Council Member Cook asked for a definition of the word demean.

Mr. Martin said his definition of the term "demean himself in office" means he is an advocate of the City and that he treats City employees with respect.

A resolution entitled "A RESOLUTION CONCERNING THE DISCIPLINARY HEARING OF DREW GREEN, COUNCIL MEMBER OF THE CITY OF MARSHALL, MISSOURI" was read by title only.

Council Member Green said there are better ways to handle this, including a face to face discussion. A lot of taxpayer money will be wasted and a trial will be lengthy.

Council Member Green said he has been given no opportunity to be heard in an interview even though he is willing. He received an email from Mr. Martin with two times available to interview but his schedule was unable to meet those times.

Council Member Cook said there seems to be the concession that this is something Council is doing but the Council is not doing this, however they will have to decide. He spoke about potential lawsuits and being accused of not caring about employees so he believes it is in everyone's best interest to clear this up.

Council Member Green agreed that both sides need to be heard; he feels that we can have a sit down so that his side can be heard. He suggested tabling the resolution until he can get an interview.

Council Member Green asked Mr. Martin if the suggested hearing officer is a friend of his.

Mr. Martin said he does not socialize with the proposed hearing officer.

Council Member Cook made a motion, seconded by Guthrey, to approve the resolution. A roll call vote was taken with Leon Thompson, Perkins, Ashford, Guthrey, Brandt and Cook voting aye; Green voting nay; Craig Thompson excused absent. The resolution is thereupon declared passed and so endorsed by the President of the Council, approved by the Mayor and numbered Resolution No. 2023-1. The Public Hearing is set for May 24, 2023 at 6:00 p.m.

ORDINANCES

An ordinance entitled "AN ORDINANCE AUTHORIZING AND DIRECTING THE BOARD OF PUBLIC WORKS OF MARSHALL, MISSOURI, TO EXECUTE A CONTRACT WITH BURNS & MCDONNELL ENGINEERING CO., INC." was given its first reading by title only.

Marshall Municipal Utilities General Manager Jeff Bergstrom explained the Board of Public Works approved the contract with Burns & McDonnell for a study of the water treatment plant.

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

An ordinance entitled “AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF MARSHALL, MISSOURI, TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF MARSHALL AND ENGLEMEYER & PEZZANI, LLC, FOR THE PROVISION OF LEGAL SERVICES” was given its first reading by title only.

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

Ordinance No. 8749 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 Leon Thompson. A roll call vote was taken with Brandt, Cook, Leon Thompson, Perkins, Green, Ashford and Guthrey voting aye; Craig Thompson 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 Ashford asked MMU General Manager Jeff Bergstrom what MMU’s policy is regarding giving out account information.

Mr. Bergstrom said he does not know if there is a policy. He was contacted by City Attorney Josh Taylor on Friday and he is looking into it. Certain information is not to be given out.

There being no other Council Business, Council Member Brandt made a motion, seconded by Perkins, to adjourn the meeting. A roll call vote was taken with Cook, Leon Thompson, Perkins, Green, Ashford, Guthrey and Brandt voting aye; Craig Thompson excused absent. Motion carried and the meeting adjourned at 7:17 p.m.

Julie A. Lewis
City Clerk