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**City of Mt. Vernon, Illinois  
Regular City Council Meeting  
Tuesday, February 21, 2012**

**MINUTES**

The Mt. Vernon City Council met for a Regular City Council Meeting on Tuesday, February 21, 2012, at 7:00 p.m. in the Rolland W. Lewis Community Building at Veterans Park, Mt. Vernon, Illinois.

Mayor Mary Jane Chesley called the meeting to order.

The Invocation was given by Don Bingham of the Jefferson County Ministerial Association.

The Pledge of Allegiance was given.

**ROLL CALL**

Roll Call showed present: Council Members Ron Lash, Todd Piper, David Wood and Mayor Mary Jane Chesley. Council Member Dennis McEnaney was absent.

**JOURNAL**

The Journal for the January 17, 2012 Regular City Council Meeting and the February 6, 2012 Regular City Council Meeting were presented to Council for any additions, deletions or corrections. Motion by Council Member Piper to approve the Journals. Second by Council Member Lash. Yeas: Lash, Piper, Wood and Chesley. Council Member McEnaney was absent.

**CONSOLIDATED VOUCHERS FOR ACCOUNTS PAYABLE**

The Consolidated Vouchers for Accounts Payable were presented for Council's consideration. Council Member Lash asked City Manager Ron Neibert for clarification on Item #9 FGM Architects - \$11,517.00 — 2<sup>nd</sup> payment on Aquatics Facility. City Manager Neibert noted the design work is underway and expected to be completed in July. Council Member Piper inquired about the legality of the Letter of Intent from Lincoln Park Foundation for donation of the land. City Manager Neibert stated that a survey will be completed shortly and then a Quit Claim Deed will be prepared using the legal description from the survey.

Council Member Wood made a motion to approve the Consolidated Vouchers for the Accounts Payable in the amount of \$654,035.45. Second by Council Member Piper. Yeas: Lash, Piper, Wood and Chesley. Council Member McEnaney was absent.

### **BIDS & QUOTES**

There were no bids and quotes.

### **CITY MANAGER**

City Manager Neibert presented a Request for Permission to Waive Bid Procedures for Purchase of an F-350 Dump Truck from Badger Truck Center through the State of Illinois Joint Purchasing Contract. Mayor Chesley inquired if the City has made similar purchases in the past. City Manager Neibert advised 'yes' and they have been very successful for the City. Council Member Wood inquired if this is an additional dump truck or a replacement. City Manager Neibert noted it is a replacement for a 20-year old truck. Once the new truck is received, the City will bid out the old truck. The purchase price is \$24,270.00 and is a budgeted item.

Council Member Piper made a motion to approve the Request for Permission to Waive Bid Procedures for Purchase of an F-350 Dump Truck. Second by Council Member Lash. Yeas: Lash, Piper, Wood and Chesley. Council Member McEnaney was absent.

City Manager Neibert presented a Request for Permission to Seek Bids for Demolition of Dangerous and Dilapidated Structures. A list of 13 structures was included with the Agenda. The City plans to complete the demolition before the end of the 2011-2012 fiscal year and expend the \$100,000 that was allocated for demolition. Mayor Chesley asked for an approximate number of structures already demolished this fiscal year. City Manager Neibert stated 13. This is an ongoing program to clean up neighborhoods.

Council Member Wood noted that this year's demolition budget was double that in previous years. However, the City was forced to miss a year of demolitions because of budget cuts. He noted this is a really important process. Some homes are in bad shape and very hazardous. He understands that it is very hard to be motivated to maintain your property when a dilapidated home is on your block. He asked citizens who see properties in dilapidated condition to call the City Manager's Office and ask the City to inspect the property. It may be the kind that should be removed from a neighborhood. The City has an active program that probably needs to be more active than in the past. Maybe the City will have enough money in the budget to do some additional demolitions.

Council Member Lash asked City Manager Neibert to explain the process that takes place before the actual demolition occurs and what a lengthy process it is. City Manager Neibert commented that it is a very time consuming process because first the City must become aware of the property. The City must have access to the property so that the structure can be inspected. Once the inspection is complete and the deficiencies are identified the City will again attempt to contact the owner of the property and ask them to make the necessary repairs. Sometimes property owners just disappear. In the case of an owner who doesn't have the means to make repairs, owners have the option to deed the property to the City. In the case where the City can't locate the owners, it is necessary to go to court to obtain an Order of Demolition. Once enough houses have accumulated either through ownership or Order of Demolition, they are presented to the City Council for permission to seek bids for demolition.

Council Member Piper added that he examined a list that contained properties that are in the process of seeking demolition. He asked that the City Manager give the media a copy of the extensive list (about 30, including residential and commercial). The City has a limited budgeted for these demolitions.

Mayor Chesley asked City Manager Neibert to obtain a list of City owned properties that are vacant, and a map containing these properties will be available in her office.

Council Member Wood noted that if it is City owned property the only impediment to demolishing the structure is having the money to pay someone to tear down the structure.

City Manager Neibert advised that once the 13 structures on tonight's agenda are demolished there will be no City owned property with a house on them. There are still some houses in the process or pipeline, but the City is getting current on tearing down structures that are ready to be demolished.

Council Member Lash made a motion to approve the Request for Permission to Seek Bids for Demolition of Dangerous and Dilapidated Structures. Second by Council Member Wood. Yeas: Lash, Piper, Wood and Chesley. Council Member McEnaney was absent.

#### **CITY ATTORNEY**

City Attorney David Leggans presented for Council's consideration a First Reading on Ordinance Rezoning Property Located at 1710 Veterans Memorial Drive from the Zoning Classification R-3 to B-2. Petitioning Party: Kenneth Aydt.

Kenneth Aydt was present at the meeting. He stated that several developers are interested in purchasing this one acre parcel of land at the corner of 17<sup>th</sup> Street and Veterans Memorial Drive. One of the developers is KSI Pharmaceuticals and others, but he was not sure the others want their names made public. The Zoning & Planning Commission unanimously approved this request and there were no objectors at the Commission meeting. Mr. Aydt requested that the First Reading be waived. Council Member Piper inquired if this is just a portion of the property owned by Mr. Aydt. Mr. Aydt advised this request is for one acre, but he may be coming back to the Council for additional rezoning in the future. He owns more property on Veterans and down 10<sup>th</sup> Street.

Council Member Wood noted he has not viewed the property in question and requested that Mr. Aydt describe where the property is located. Mr. Aydt stated it is located where you turn on 17<sup>th</sup> Street onto Veterans to go to Anchor; it's the farm field on the southeast corner. It is now a vacant field.

Council Member Piper made a motion to suspend the rules and vote on the Ordinance at this meeting. Second by Council Member Lash. Yeas: Lash, Piper and Chesley. Abstain: Wood. Council Member McEnaney was absent.

Council Member Piper made a motion to adopt Ordinance No. 2012-4 Rezoning Property Located at 1710 Veterans Memorial Drive from the Zoning Classification R-3 to B-2. Second by Council Member Lash. Yeas: Lash, Piper, Wood and Chesley. Council Member McEnaney was absent.

City Attorney David Leggans presented for Council's consideration a First Reading on Ordinance Approving Right of Entry-Administrative Inspection Warrant. City Ordinances already allow City Inspectors with the right to inspect and case law holds that the right to inspect includes the right to obtain Administrative Warrants to search if the need arises. In the past the City has obtained a Search Warrant, probably three or four times. The most recent time involved the Park Plaza property. The City essentially used the procedure set forth in the proposed Ordinance, but it was not codified in any Ordinance. There was a lengthy court hearing on the question of whether a Warrant should issue. One of the issues that was raised was why doesn't the City have a procedure set forth in its Code of Ordinances that outlines the obligation of the City,

the right to the property owner, and the procedure to be used when the City feels the need to obtain a Warrant. The City was able to answer all those questions to the satisfaction of the Judge, and the Court issued the Warrant. It really was an unnecessary hearing because if the City had this procedure in an Ordinance all of the arguments made at that court hearing would not have been made. Essentially, the City's Legal Department and Inspection Department are seeking to have the Council set forth in its Ordinances matters that the Court's going to consider and matters that the City has to comply with to eliminate confusion and misunderstanding as to exactly what is occurring when the City asks for a Warrant.

City Manager Neibert noted the proposed Ordinance does not give the City any more authority than it has currently. It simply puts in writing the procedure the City is required to follow when seeking an Administrative Warrant.

Council Member Wood commented the City didn't have the procedures set out in an Ordinance, but the Court used the procedures described. The project was delayed and the City incurred legal fees because of this technicality. The Courts don't make recommendations at the end of the case when they make their ruling, but if so they would have advised the City to fix this technicality and place these procedures in an Ordinance. City Attorney Leggans noted that the City incurred expense, it experienced delay, and yes, the City took the hint. Council Member Wood also stated that this Ordinance grants no more power to the City, but actually restricts the City from the way the Ordinance was originally drafted. A property owner who is served an Administrative Warrant has the opportunity to dispute the reasonable cause in litigation. City Attorney Leggans confirmed the Ordinance as drafted is more restrictive on the City than the case law that applies to Search Warrants, and this procedure has been used three or four times in 20 years. The procedure only permits issuance of a Warrant if a Judge, after hearing both parties, finds there is reasonable cause to believe that a violation inside the structure is present. In every case the City has to convince a Judge that the City has a good enough reason to inspect the property.

City Manager Neibert confirmed to Council Member Lash this Administrative Warrant will only be used under specific circumstances where there is probable cause to believe there are dangerous circumstances related to the housing structure. If the owner chooses not to allow the City's access to the property and the City believes there is an eminent health and safety threat to the occupants of the structure then at that point the City will implement the procedures to obtain an Administrative Warrant. Council Member Lash noted the procedure applies to commercial and residential property.

Council Member Piper noted he had three questions but they were all answered during this discussion. He inquired if other Municipalities in our area have a similar Ordinance. According to Attorney Leggans, not having an Ordinance on this topic is the exception. Nearly every community that has an inspection department will have a similar procedure in place to avoid issues raised in the Park Plaza case.

Mayor Chesley reiterated that the proposed Ordinance will not change the rights of the individual property owner. If anything it helps to delineate the rights of the property owner, and it is used following a hearing by a Judge.

The Council announced this Ordinance is a First Reading only.

City Attorney Leggans presented for Council's consideration a First Reading on an Ordinance Amending Section IV of the Salary Ordinance. City Manager Neibert advised this is an amendment to the Salary Ordinance fixing the salaries and benefits of certain employees of the City. It covers the recent transfer of a Fire Captain to the Inspection Department and requires that the City raise the authorized salary in the

Inspection Department to the salary level commensurate with what a Fire Captain receives. This is not a new position, but a transfer.

Council Member Wood made a motion to suspend the rules and vote on the Ordinance at this meeting. Second by Council Member Lash. Yeas: Lash, Piper, Wood and Chesley. Council Member McEnaney was absent.

Council Member Wood made a motion to adopt Ordinance No. 2012-5 Amending Section IV of the Salary Ordinance. Second by Council Member Lash. Yeas: Lash, Piper, Wood and Chesley. Council Member McEnaney was absent.

### **MAYOR**

Mayor Chesley presented for Council's consideration the Appointment of Galen Monk to the Mt. Vernon Airport Authority to serve the remainder of Paul Dickerson's term. The Mayor and Council gave a special thank you to Paul Dickerson for his outstanding service to our City by serving on the Airport Authority Board. Mr. Dickerson spent a lot of time and effort and as a result, the Board is making outstanding progress like never seen before. Unfortunately, Mr. Dickerson is unable to serve due to health reasons and he has resigned. Galen Monk lives in the City limits, has owned and operated several small businesses, has a FAA pilot license, and is very familiar with the operation of the Airport. He has valuable credentials, energy and ideas to contribute to an effective and strong Airport Authority Board.

Council Member Piper made a motion to approve the Appointment of Galen Monk to the Mt. Vernon Airport Authority. Second by Council Member Wood. Yeas: Lash, Piper, Wood and Chesley. Council Member McEnaney was absent.

The National Weather Service in Paducah, Kentucky is holding a Storm Spotter Class on Tuesday, February 28, 2012 at 6:30 p.m. at the Mt. Vernon Outland Airport.

Burning in the City will be allowed March 1 through April 30 on Friday, Saturday, Sunday and Monday from 8:00 a.m. to 5:00 p.m.

### **CITY COUNCIL**

Council Member Wood advised that the Mayor, City Manager and he met in the City Manager's Office to discuss the Mobile Home Ordinance which prohibited placement of mobile homes where one does not currently exist, and a topic at the City Council's Special Meeting on Monday, February 13, 2012. Fifty to 75 citizens attended the special meeting. After the Special City Council Meeting, it was decided that an injustice existed in the proposal for people that already reside in a mobile home. A possible solution was to give a grandfather provision for a period of 10 years. After considerable discussion and listening to the citizen's concerns, the City made a commitment to prepare a revision based on that meeting. Council Member Wood suggested with previous consent from the other Council Members and Mayor Chesley that a draft of the Mobile Home Ordinance as revised be prepared and available to the public before the City Council considers it again. Also, Council Member Wood acknowledged this action to be non-binding, but he proposed that the City Council give direction to the City Manager to prepare an Ordinance in accordance with what Council Member Wood will make in a motion. City Attorney Leggans stated he will dictate the Ordinance and have it typed in the morning. It will be available in the City Clerk's Office at 1:00 p.m. tomorrow (February 22, 2012).

Council Member Wood made a motion to make mobile homes prohibited use in R-M2 districts which is the same as before but existing mobile homes will be allowed to remain and may be replaced without any time limit. Also to amend the age on the replacement of mobile homes to those homes no more than ten years old. The current Ordinance is 20 years.

Council Member Wood stated he hopes the proposed Mobile Home Ordinance addresses the concerns that were raised. It seems like a reasonable compromise for those who own mobile homes in the City. The City is not picking on mobile home owners but trying to protect all neighbors and residents and preserving the value of the homes and properties. He drove down 13<sup>th</sup> Street and 22<sup>nd</sup> Street and there are stick homes that are in bad shape needing to be demolished. Some stick homes are in good shape and some are not. There were mobile homes in bad shape. Unfortunately, over the years the City has allowed for about 1,200 lots that are qualified for mobile homes in almost every neighborhood. When a lot is already zoned R-M2 on a street full of stick built homes with no mobile homes and fire destroys the stick house but the owners cannot afford to rebuild, a mobile home could be placed on that lot without going to the Zoning and Planning Commission and without City Council approval. He encouraged residents to view the map that is available in the Mayor's Office showing spot zoning of R-M2 lots.

Council Member Piper seconded Council Member Wood's motion. Mayor Chesley commented the proposed Ordinance change did not just come up suddenly without getting input from the community, but rather the Council had a Special Meeting and listened to concerns from residents and took the time necessary to consider all points of view. She thanked residents for their extremely good comments and concerns and more importantly, the Council listened to the comments. It's time to move forward. Changes are being made to the Ordinance based on comments from the public. This issue will not appear before the City Council until the second meeting in March.

The media stated the Ordinance is not on tonight's Agenda. City Manager Neibert noted that Council Member Wood's and the second by Council Member Piper is not legislative action but rather a directive to the City Manager. Yeas: Lash, Piper, Wood and Chesley. Council Member McEnaney was absent. Council Member Wood noted that he previously spoke to Council Member McEnaney and he agreed to the compromise.

#### **VISITORS/CITIZEN REQUESTS/ADDRESSES FROM THE AUDIENCE**

Donte Moore shared his concern that mobile homes cannot be placed on R-M2 zoned lots in Southtown if needed. Council Member Lash noted that some elderly in Southtown fall under the rehab program which enables them to remain in their stick built home.

Barbara Green stated it is not right that the City tells her that she cannot place a mobile home on the lot that she owns. She feels the City Council ignored the residents' concerns.

City Manager Neibert stated the City Council is trying to make changes to improve the quality of living in our community through the Rental Ordinance and by limiting mobile homes to make the entire City better which includes Southtown.

Council Member Lash noted that if a home burns or is destroyed most people have homeowners insurance and will be able to replace it. Some families bring their elderly loved ones to live with them or relocate them in a senior citizens home.

Berniece McWilliams asked if the City has a plan for what kind of homes will be placed on the empty R-M2 lots. HUD homes?

City Manager Neibert stated that modular homes, stick built homes or a duplex can be placed on the empty R-M2 lots, and the City has no intention of constructing HUD or Section 8 homes. There is interest from individuals that want to invest and build quality homes in the Southtown area, but they are not willing to make an investment in property when 30 days later a mobile home can be placed next to the investment which will negatively affect the value of the stick built home they just constructed. That's our goal. The City is trying to raise the level of quality of living not only in Southtown but in the community as a whole.

Council Member Wood asked when the City can announce a new housing project. City Manager Neibert noted that the investor should be making application for building permits at any time.

Horton Petties strongly objects to the Mobile Home Ordinance change. He believes that citizens from each part of south, east and west town should have been involved in the decision about the Ordinance.

John & Ann Gaston thanked the City Council for reconsidering the Mobile Home Ordinance. Being able to replace their mobile home if it is damaged or destroyed is very important. Mrs. Gaston apologized to Council Member Wood personally because she made derogatory remarks about Mr. Wood when it was reported in the newspapers that he brought the topic to the City Council's attention. Council Member Wood thanked Mrs. Gaston for her gracious apology. He added that the process has been very difficult and challenging. He reminded everyone that the City Council invites public comments and then attempts to react in the best way for the community.

#### **EXECUTIVE SESSION**

No Executive Session was requested.

#### **ADJOURNMENT**

Motion for adjournment was made by Council Member Piper. Second by Council Member Wood. Yeas: Lash, Piper, Wood and Chesley. Council Member McEnaney was absent. The meeting adjourned at 7:40 p.m.

Respectfully submitted,

Jerilee Hopkins  
City Clerk