

A regular meeting of the City Council of the City of Iola was held on November 13, 2012, at 6:00 p.m., at the Riverside Park Community Building, 510 Park Avenue, Iola, Kansas.

## **CALL MEETING TO ORDER**

Mayor Shirley called the meeting to order at 6:00 p.m.

## **ROLL CALL**

Mayor Shirley, Council Members Becker, Kilby, Stewart, French, Wicoff, Franklin, Ford, and Toland were present. Also present were Administrator Slaugh and City Clerk Hutton.

## **REVIEW & APPROVAL OF AGENDA**

Motion made by Council Member Stewart and seconded by Council Member Kilby to approve the agenda as presented. All in favor. Motion carried.

## **EMPLOYEE RECOGNITION**

- Kenneth Powell – Fire Department – 10 Years of Service 5/23/2002
- Dustin Stone, Sanitation – 10 Years of Service 11/20/02
- Debra Troxel – Clerk’s Office – 20 Years of Service – 9/8/1992
- James Portenier – Electric Production – 30 Years of Service – 10/13/1982

Mayor Shirley presented a plaque to Debra Troxel and James Portenier for their service to the city.

## **PUBLIC COMMENTS**

- Judy Brigham asked to put her comments off until later in the meeting because she was waiting for a guest to arrive.
- Donna Houser - informed the council that Marci Penner will be in Iola on Friday evening as part of the Iola Reads Program which is on Saturday.
- November 23<sup>rd</sup> the Christmas activities will be going on at the square.
- Donna Houser reported to the group the CITF group repainted the Salon Nyne building.
- Thanked city crews for moving the Santa house. The Chamber and other volunteers repainted the Santa house.

## **CONSENT AGENDA**

**A. Minutes Approval** – October 22, 2012 and November 1, 2012

**B. Appropriations Approval** – 2012-21

**C. Personnel Action Items** –

- **Carla Brown – Clerk’s Office – New Hire**

Administrator Slaugh informed the group that the HR position has been changed to an hourly position and placed under the supervision of the City Clerk as in the past.

Motion made by Council Member Franklin and seconded by Council Member Stewart to approve the consent agenda as presented. All in favor. Motion carried.

## **NEW BUSINESS**

- A. City Attorney Discussions** – Administrator Slaugh reported to the council that several cities have separation of duties between the city attorney and the prosecutor. Council Member Stewart asked if anyone had shown interest in the prosecutor position. Administrator Slaugh stated that no one other than those that had previously shown an interest. Council Member Toland asked if the city council decides to split out the duties would we advertise again. Administrator Slaugh stated that all of the applicants indicated their desire of possibilities. The city could spread a wider net and possibly advertise for a prosecutor. More discussion will follow after the council goes into executive session to discuss the applicants.
- B. CDBG Housing Rehab Grant – Shonda Jefferis-** Shonda presented a request for payment for the house at 321 S Third in the amount of \$29,817. Motion made by Council Member Toland to approve the request for payment. Motion seconded by Council Member Becker. All in favor. Motion carried. Council Member Toland asked for an update on the program. Shonda gave an update on the program stating that at least one house will be demolished. It looks as though all of the money will be expended. Council Member French stated he wasn't aware that houses could be demolished through the program. Shonda stated that the program did allow for it. The one property in question has been contacted by her department and he has not returned his application. Council Member Toland commended staff for their good work at expending the dollars.
- C. Kansas Pride Program** – Donna Houser presented a resolution to the council for approval. If the city is declared a city of excellence it will give the city an advantage when applying for grants. Motion made by Council Member Stewart and seconded by Council Member Franklin to approve the resolution. All in favor. Motion carried.
- D. KDHE Revolving Loan Application** – Administrator Slaugh informed the council that modifications were made to the previously approved application. In order to qualify a loan amount of \$785,000 (minimum \$628,364) is needed to obtain the EPA grants that total \$768,000. Council Member Toland asked if the cash reserves will be used to pay the loan back or if they will be used as cash flow. Administrator Slaugh stated that the funds will be used for cash flow, however if needed the funds could be used to pay back the loan. In 2008 the cash reserves were \$926,000, the money was used for some maintenance, to camera the system and a \$300,000 transfer to the water department. Motion made by Council Member Becker to approve the resolution authorizing application for a KDHE revolving fund loan in the amount of \$785,000 to cover the matching share of the project costs for a wastewater system improvement project in the approximate amount of \$1.5 million

and authorize the mayor to sign the necessary documents. Motion seconded by Council Member Toland. All in favor. Motion carried.

## **UNFINISHED BUSINESS**

**A. Option to Purchase – Cedarbrook-** Assistant Administrator Schinstock informed the group that Mr. Carlson wanted to include the previous earnest money against the purchase price. Council Member French stated that he felt the previous contract was clear that the earnest money would be forfeited if he was unable to obtain the funding and this should be a new and totally separate contract. Council Member Toland stated that he understood what Council Member French is saying concerning the earnest money, however we should feel lucky to have a developer interested in building 29 homes in the area to help replace part of the homes that were damaged in the 2007 flood. He doesn't want to send him a message that we are not interested over \$10,000. Council Member French stated that he doesn't feel there was a miscommunication. It is nice to have some low income homes in the area; however it would be nice if some were built for middle income families. For example if you work at Russell Stover's you can qualify for these homes but if you work at Gates you don't. Council Member Toland stated that these were federal guidelines and the city cannot do anything about them. Motion made by Council member Toland to accept the proposal to include the previous earnest money as credit toward the total purchase price of \$217,500. Motion seconded by Council Member Kilby. Voting in favor of the motion were Council members: Toland, Ford, Kilby, Stewart, Wicoff and Becker. Voting against the motion were Council Members Franklin and French. Motion carried by a majority vote.

**B. Purchasing Policy - Policy Change Adoptions** –Administrator Slaugh presented the changes to the council noting that he had sent the changes to Attorney Apt with no feedback received. Administrator Slaugh would like to have an exception to the policy for a bid opening which will be held on Thursday, November 15<sup>th</sup> at City Hall due to the fact that these changes would not go into effect until after publication. Motion made by Council Member Stewart to grant the waiver for the bid opening. Motion seconded by Council Member Toland. All in favor. Motion carried. Council Member Toland asked Administrator Slaugh why this policy is an ordinance. Administrator Slaugh stated that the policy is adopted by reference which is not unusual. Motion made by Council Member Stewart to approve the attached ordinance amending the April 9, 2012 purchasing policy adopted by reference in the Iola Municipal Code and authorize the mayor to sign the document. Motion seconded by Council Member Becker. Voting in favor of the motion were council members: Toland, Ford, Stewart, Wicoff and Becker. Voting against the motion were council members: Kilby, French and Franklin. Motion carried by a majority vote.

## **ROUNDTABLE**

**A. Grant Opportunities** – Assistant Administrator Schinstock presented the options for grant opportunities. The first grant is a TE grant or transportation enhancement grant that is federal funding disbursed by the Kansas Department of Transportation (KDOT) and is funded at an 80% state and 20% local. With this grant there are three categories you can apply for historic, pedestrian and bicycle facilities and scenic and environmental. The TE grant is one that the city has been fortunate to receive in past years allowing us to build both phases of the Prairie Spirit Rail Trail within the pedestrian and bicycle facility category. The second grant is the Recreational Trail Program (RTP) offered from Kansas Department of Wildlife, Parks and Tourism (KDWP&T), it is also funded at the 80/20 funding level as KDOT's is. The third grant is the Safe Routes to School (SRTS) that is offered by KDOT and is a 100% reimbursement program on all eligible expenditures. The purpose of this type of grant is to provide infrastructure and non-infrastructure improvements that encourage children to walk or bicycle to school more safely. Council Member French stated he is a big proponent of sidewalks, noting a number of kids walk and bike to and from school. Council Member Toland echoed his concerns for safe routes for the school children. Council Member Franklin stated that there is a need for a route on State Street to Wal-Mart. Council Member Toland stated that with the Vision Plan already in place the city could show that the plans are already in place for the safe routes to school and the sidewalks. The city needs to continue progress that we have been making in these areas, a lot of money to tackle all at once; however it could continue to be completed in smaller projects. The city needs to hire an engineering firm to get some solid numbers. Mayor Shirley stated that several residents have asked if the city is planning on putting in a sidewalk to the new hospital. Motion made by Council Member Toland to move forward with applying for all of the grants and approval to solicit qualifications of interested engineering firms for conceptual planning and cost estimates for any possible projects. Motion seconded by Council Member Franklin. All in favor. Motion carried. Motion made by Council Member Toland and seconded by Council Member French to submit the application for the RTE grant which has a November 30, 2012 deadline. All in favor. Motion carried. Assistant Administrator Schinstock gave an update on the trail project stating that there is one final payment due and will bring it to the next council meeting. They are over the project 14 days, four of which are due to dry hot temperatures of which they couldn't do the landscaping, however the other 10 days he would like the support of the council to hold them liable for.

Judy Brigham read from the enclosed statement requesting payout on her other 50% sick pay, two months' severance and \$25,000 for legal fees. Council Member French asked if the legal fees were not part of the previous settlement. Judy Brigham stated that part of the settlement was that she would be allowed the ability to come back and request the additional funding. Council Member Toland stated that he wanted to table this issue until all of the councilmembers had a copy of the settlement in front of them. Assistant Administrator Schinstock left the meeting to make copies of the settlement agreement.

**B. 2012 Budget Update and Review** – Administrator Slauch stated that the DUI and Domestic cases had been moved to district court because of the changes in the

law. Council Member French noted that he was comfortable with the email explanation that Attorney Apt had sent. Judge Saxton addressed the council, noting the extra expenditures that the city would have to bear if those cases continued to be prosecuted in municipal court. Mayor Shirley noted that Allen County Attorney Wade Bowie told him that the city should receive up to \$5,000 per year from the district court to offset those lost revenues. Administrator Slaugh stated that he has put restrictions on the general fund budget expenditures to keep from amending the budget. Fire Chief Donald Leapheart and Tim Thyer addressed the council concerning the overtime issues in the department noting that the Safer Grant will help reduce overtime as well as Donald covering as the fourth man while he is on duty. The Fire Department employees spoke about ISO ratings going down if response time is lengthened due to not having the four man staff at the station when the call comes in. A red flag could go up with OSHA if a fireman was hurt in a fire if the four man crew is not on scene when the firemen enter the building. Council Member French noted that this is a service to the community and is not going to make more money.

Ron Conaway stated that if the ambulance revenues were coming in as budgeted then the spending would be more in line with the budget. Council Member French stated that if bunker gear was needed for the department and a grant was awarded the money should be expended. According to Council Member French the tone of the administrator and the fire department communication doesn't seem to be as it was represented and is one of the reasons why he encouraged the union to come in. Council Member Toland stated that the budget figures need to line up with reality. Council Member Wicoff stated that actual cost to run the department needs to be stated in the budget. Assistant Administrator Schinstock stated that every department has a budget and every department participates in the process. When one department goes over budget the other departments have to make up for overspending. Chief Leapheart stated that some of the men need their bunker gear; the current gear is unsafe. Council Member Toland stated that it is Administrator Slaugh's job to look over the budget and monitor revenues and expenses, however the men and the residents need to be safe and therefore we need to have a budget document that is as accurate as it can be.

**8:07 p.m. Mayor Shirley declared a five-minute break.**

**C. EMS Billing Discussions** – Administrator Slaugh looked into a few EMS billing companies stating it is something the city could try if the council is interested. Council Member French stated that according to the information he saw the company withholds anywhere from 8-10% for their service. This sounds like a good option to him. Council Member Ford stated that they are experts in the field and do it full time. Administrator Slaugh informed the council that he would obtain proposed contracts from some companies and bring back to a future council meeting for review.

Council Member Kilby made a motion to release the freeze on spending of grant monies supported to buy the bunker gear as needed for November and December. Motion seconded by Council Member Stewart. All in favor. Motion carried.

- D. Strategic Planning Session Discussions** – Administrator Slaugh proposed holding a strategic planning session for Friday evening and Saturday morning, January 25-26, 2013. Council will look at their schedules and plan on tentatively holding a strategic session on these dates.

## **COUNCIL & ADMINISTRATOR REPORTS**

Judy Brigham stated her case requesting the other ½ of payout on her sick pay, the two months of severance pay and \$25,000 for her legal fees. Council Member Stewart made a motion to table this matter until the city had obtained a new city attorney due to the fact that prior council had told them that her legal fees were a part of the agreed upon settlement. Penny Moylan, attorney stated that while she is not acting on behalf of Judy Brigham she is only interpreting the agreement from an attorney perspective, stated that the agreement states that the settlement does not cover Ms. Brigham's legal costs. Motion was seconded by Council Member Franklin.

- Council Member Wicoff noted that this has gone on too long. The council needs to consider what Judy and all those involved have gone through. After more than thirty years of service she has been put through a lot. It is time to put a nail in it and be done with it.
- Judy stated she agreed upon the settlement to resolve the issue with the good faith understanding that the council would consider her further requests. It is time the city moves forward. This council needs to move forward with city business.
- Council Member Becker stated that the city could have settled on September 26, 2012 for \$2,500, it has continued to drag on and now it is \$25,000.
- Vote taken: voting in favor of the motion were council members: Stewart, Franklin, and French. Voting against the motion were council members: Toland, Ford, Kilby, Wicoff and Becker. Motion failed for lack of a majority vote.
- Motion made by Council Member Becker to pay the \$25,000 in legal fees, the remainder of Ms. Brigham's sick payout and the two month severance package at an estimated cost of \$56,000. Motion seconded by Council Member Wicoff. Voting in favor of the motion were council members: Becker, Wicoff, Kilby, Ford and Toland. Voting against the motion were council members: French, Franklin and Stewart. Motion passed by a majority vote.

### **A. Mayor Shirley –**

- Attended the LKM supper in Neodesha with Administrator Slaugh and Council Member Franklin and was very disturbed by the report from Don Moler about the financial state of the State of Kansas. He encouraged the council members to get involved and be concerned about this crisis.

### **B. Council Member Stewart –**

- None

**C. Council Member Ford –**

- None

**D. Council Member Wicoff –**

- None

**E. Council Member Franklin –**

- Council Member Franklin stated that she was very concerned about the report on the state financial status also.

**F. Council Member Kilby –**

- None

**G. Council Member Becker –**

- None

**H. Council Member Toland –**

- Thanked city staff for their help on the marathon.
- Wondered if the city couldn't look into printing an annual report in an Iola Register supplement as was done years ago. Thought it would be helpful and interesting to the citizens of Iola.
- Mayor Shirley commended the city employees for their participation in the Veterans Day Parade.

**I. Council Member French –**

- None

**J. Administrator Slauch –**

- Noted that a vacancy remains on the Planning Commission. If anyone knows of someone that might be willing to serve please let him know.
- Reminded council of the joint meeting between city and county governing body members that will be held on November 19<sup>th</sup> at 6:00 p.m. at the Bowlus. Fred Heismeyer will be the moderator.

**EXECUTIVE SESSION – Non – Elected Personnel/ City Attorney Applicant Considerations 8:45 p.m. K.S.A.75-4319**

Motion was made by Council Member Franklin and seconded by Council Member Becker to recess into "Executive Session" for the purpose of conducting a meeting to discuss Non-Elected Personnel/City Attorney Applicant Considerations. All in favor. Motion carried. Present: Mayor Shirley, Administrator Slauch and Council Members, The open meeting to resume in the Commission Room at 9:15 p.m.

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Motion made by Council Member Toland to separate the city attorney and the city prosecutor duties. Motion seconded by Council Member Franklin. All in favor. Motion carried.

Motion made by Council Member Toland made a motion to appoint Robert Johnson II as City Attorney and have Mayor Shirley and Administrator Slaugh negotiate a contract with him. Motion seconded by Council Member Kilby. Voting in favor of the motion were council members: Toland, Kilby, Wicoff, Becker and Franklin. Council Member Stewart abstained from the vote since he did not participate in the interview process. Voting against the motion were council members: French and Ford. Motion carried by a majority vote.

**DATE / TIME OF NEXT MEETING**

City Council Meeting 6:00 p.m. Monday, November 26<sup>th</sup>, 2012

City Council Meeting 6:00 p.m. Monday, December 10<sup>th</sup>, 2012

**ADJOURNMENT**

**9:21 p.m.** Motion made by Council Member Stewart and seconded by Council Member Franklin to adjourn the meeting. As the vote was unanimous, the meeting was declared adjourned.

Approved by the City Council of the City of Iola, Kansas this 26<sup>th</sup> day of November 2012.

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Mayor, William A. Shirley

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City Clerk, Roxanne Hutton