

MINUTES OF THE MARCH 8, 2011 REGULAR MEETING OF THE MOUNT CARROLL CITY COUNCIL

Leslie Neis of Girl Scout Troop #5094 rang the bell to announce the start of the meeting. Mayor Carl Bates called the meeting to order at 7:30 p.m. RINGING OF BELL
Roll call: Mayor Carl Bates, present, Aldermen John Boelkens, present, Nina Cooper, present, Diane Lego, absent, Doug Bergren, present, Mike Risko, present, and Doris Bork, present. CALL TO ORDER
ROLL CALL

Alderman Bork led the Pledge of Allegiance.

Mr. Richard Fortner, Mt. Carroll Catholic Church, gave the invocation.

Alderman Boelkens moved and Alderman Risko seconded to approve the minutes of the February 22, 2011 regular meeting as presented. Roll call vote: Aldermen Boelkens, yes, Cooper, yes, Bergren, yes, Risko, yes, Bork, yes, and Lego, absent. Vote: 5 yeses, 0 noes, and 1 absent. The motion was carried. MINUTES

Alderman Bork moved and Alderman Cooper seconded to pay the bills except ACCOUNTS PAYABLE for the payroll which will only be paid after an independent audit of the pay cards to indicate the hours worked are the hours claimed. Roll call vote: Aldermen Cooper, yes, Bergren, no, Risko, no, Bork, yes, Boelkens, no, and Lego, absent. Vote: 2 yeses, 3 noes, and 1 absent. The motion was denied by majority vote of the council members present. ACCOUNTS PAYABLE

Alderman Bergren moved and Alderman Boelkens seconded to authorize the payment of the accounts payable to date for the month of March 2011 as presented. Roll call vote: Aldermen Bergren, yes, Risko, yes, Bork, yes, Boelkens, yes, Cooper, yes, and Lego, absent. Vote: 5 yeses, 0 noes, and 1 absent. The motion was carried. ACCOUNTS PAYABLE

Mayor Bates noted the bank accounts balance as of today were \$572,015.16. FINANCIAL REPORT
Alderman Boelkens moved Alderman Risko seconded to approve the financial report as presented. Roll call vote: Aldermen Risko, yes, Bork, yes, Boelkens, yes, Cooper, yes, Bergren, yes, and Lego, absent. Vote: 5 yeses, 0 noes, and 1 absent. The motion was carried. FINANCIAL REPORT

Alderman Boelkens reported of the March 8th finance committee meeting:

COMMITTEES
FINANCE

1. The bills were reviewed and approved.
2. Alderman Boelkens presented the finance committee recommendation to grant approval for the summer baseball program to display the Kunes' Country Auto Group General Motors sponsor banner at the Point Rock Park during the program games. Roll call vote: Aldermen Bork, yes, Boelkens, yes, Cooper, yes, Bergren, yes, Risko, yes, and Lego, absent. Vote: 5 yeses, 0 noes, and 1 absent. The motion was carried. BALL PROGRAM SPONSOR
3. Mayor Bates reported of an estimate he received from Law's Excavating regarding the roadway improvement of East Benton Street from Clay Street to King Street. When considering the removal of pavement, dirt core out, stone, fabric and 4" of asphalt the cost was \$128,660.00 and with 6" of asphalt the cost was \$163,184.00. Mayor Bates stated he would contact the county engineer about the project proposed here, and noted he felt this should be put into the budget for this next fiscal year. BUDGET ITEMS
4. Mayor Bates asked the committee and council members to review the police department job descriptions before the next committee meeting to be considered for council approval.

Mayor Bates reported of the letter from Sharon Pepin, Community Funding & Planning Services, regarding her taking the position of interim TCEDA DIRECTOR Executive Director of the Tri-County Economic Development Alliance.

Mayor Bates reported of the response letter from the Illinois Department IDOT LETTER Of Transportation regarding the request to conduct a speed limit study or reduce the speed limit along Illinois Route 78 through the downtown area. The letter stated: "Our office is guided by legislation and a Department policy to provide uniform speed limit postings on highways. Our practice has been to also consider many factors, such as the prevailing speed of traffic, crash history, roadway geometry, pedestrian activity, and whether parking is permitted adjacent to the traffic lanes. There is no justification to further restrict maximum speeds of traffic through this section of road. Therefore, we cannot comply with your request to post a lower speed limit along section of IL 78. The existing 30 MPH posted speed is both appropriate and consistent with our policy and practices." Alderman Bergren reported that Mr. DeSpain and he would be contacting the Illinois Historic Preservation Agency about some of the studies they might have in other historic districts.

Mrs. Jane Shaw, Girl Scout Troop #5094 Leader, was in attendance and GIRL SCOUTS introduced some of the girls from her troop that were here this evening to help complete their citizenship/government badge. Those in attendance were Grace Shelly, Leslie Neis, Jean Medenblik, Keeley Rumler and Sarah Curtis. Also attending was Keeley's mother, Ginny. Mayor and council members expressed their appreciation for attending.

Mrs. Lorna May, Adrienne's Angels – St. George Pet Rescue, was in STREET SOLICITATION attendance and addressed the council about her organization's request to conduct a street solicitation at the highway intersection on either May 14, 2011 or May 21, 2011. Clerk Cuckler noted that the Lions Club was looking at a week in May also. That was noted as for May 7th. Alderman Bergren moved and Alderman Bork seconded to grant the street solicitation request to the Adrienne's Angels – St George Pet Rescue for May 21, 2011 at the highway intersection from 9:00 a.m. to 1:00 p.m. Roll call vote: Aldermen Boelkens, no, Cooper, yes, Bergren, yes, Risko, yes, Bork, yes, and Lego, absent. Vote: 4 yeses, 1 no, and 1 absent. The motion was carried by majority of the roll call vote.

Alderman Cooper stated under new business she moved to implement an independent audit as in Section 1-8-2 (D) of the City Code that the City treasurer shall audit or cause to be audited at frequent intervals the financial accounts of every officer or employee who does or may receive or disburse money; and noted under Section 1-8-2 (F) The City treasurer shall examine or cause to be examined and report to the council upon all bills, accounts, payrolls and claims before they are acted upon or allowed, unless otherwise provided by law. She stated that as it stands right now we are not doing this. Mayor Bates stated that in order for this matter to be considered for action it would need to be on the agenda for a future meeting. He stated he felt it could also be something to talk about at a future date, and to submit the action to be considered to him in writing.

Mayor Bates asked if there was any other general audience business to be GENERAL AUDIENCE presented to the council this evening other than the March 2, 2011 Prairie Advocate Newspaper article "Alderman Express Concern over City Hourly Employee Time Cards". No comments presented. Mayor Bates read the following statement included into the record and two letters from the city attorney; one dated April 3, 2008 and one date March 7, 2011.

Statement from Mayor Carl Bates read into the record:

“March 2, 2011 Prairie Advocate-Aldermen Express Concern over City hourly employee time cards

It is hard to believe that any one from our community could accuse an employee of “Fraud” for the sake of accusing – without justification or documentation to the “facts” and not open themselves for a lawsuit personally or professionally – not wanting to play into their “trap”; I have known this group of employees on a personal and professional level for over 35 years – like most of you in the audience.

They have proven integrity time and time again when it snows or storms, we know they will be there, clearing the way for all of us. They continue to go above and beyond. Last year alone they saved the City (YOU) over \$180,000 and completed projects that would need to wait for grants or from sources that could be used for other projects; Digester Cover – Rusty and the crew welded, painted, and put into working order (saving over \$80,000); water to Commercial Street businesses – this would have cost \$30-40,000 – they installed at a cost of around \$10,000 (saving \$20-30,000); Main Street brick replacement, to have that project bid – it still would not be done – a block of brick costs roughly \$250,000 – this project was about one third of a block, so figure \$83,000 – cost to the City approximately \$15,000 (saving \$60,000); Clarifier drives, and without this kind of commitment to your community these types of projects would not be getting done. They know money is tight for everyone – look around- you may not see it, but we are moving forward.

We have discussed “projects” that need to be done in 2011 with having limited resources – Benton Street, Point Rock Park repair, Sidewalks, and Main Street (Brick repair or removal/replacement) just name a few. This is above and beyond their scheduled maintenance of wells, wastewater treatment plant, parks, cemetery and road work- oh, not to mention, the occasional water line break or unscheduled flood or other natural disaster.

As Mayor of the City of Mount Carroll, I was appalled and embarrassed for our constituents, as an undocumented allegation against an employee or employees without the involvement of me and the City Council, and if needed – the assistance of the City Attorney, to review formal written complaint(s). This was not brought to my attention or the City Council’s attention prior to going to the media.

I received a complaint/inquiry in March/April 2008- in that a similar issue/concern was brought to my attention and with the unanimous agreement of the City Council (at that time) we installed the time clocks and to be honest – not another word had been brought to me or the Council. This was clearly outlined in April 2008 letter from our City Attorney and a copy of that letter was given to every Council member.

I do not believe that the Aldermen can hide behind the FOIA (Freedom of Information Act) after the fact that they were rifling through the personal files. As I understand how FOIA works, anyone can fill out a formal request for information and the City has X number hours/days to provide the information or the reason why we cannot provide the information i.e. personal information.

Obviously Alderman Cooper misrepresented herself and the City of Mount Carroll by referencing City employee benefits without truly knowing the facts.

The City of Mount Carroll pays health insurance for the employee only
Employees have a \$250 deductible (80/20)

Doctor visit have a \$20 co-pay for in Network
Rx Card - \$10-\$35 per prescription

The City of Mount Carroll contributes to IMRF (Illinois Municipal Retirement Fund) for our employees at the rate imposed by IMRF and that rate is variable and has been as low as 6% and is currently 13.73% - the employees pay 4.5% towards their retirement.

Social Security – most employers pay 7.65% and an employee is taxed at 7.65% and I honestly do not understand her comment. Recent Social Security mailings state that you should have additional retirement sources and the City of Mount Carroll joined IMRF in early 1970's.

I believe at a minimum – these two Aldermen (Cooper and Bork) owe a public apology to our employees and a rebuttal to the local newspapers – until they have made formal complaints that can be processed through the proper procedures; this is just unfounded rubbish that affects the morale of the City, the employees and the citizens – we do not need to be pulled into the political unrest that seems to (be) taking over our country. We are a hardworking, honest, small-town that is working to make a positive impact.”

Read into the record by Mayor Carl Bates the letter from City Attorney Ronald F. Coplan dated April 3, 2008:

“Re: Public Works

Dear Mayor:

This is a follow up to our discussion of Wednesday morning, April 2nd, during which you indicated to me that certain members of the city council have complained about the work habits of the public works employees of the city. I understand that one or more council members have engaged in observing the employees from their homes as vantage points, and that one or more has compiled a diary or record of what the council member believes are activities, or lack thereof, on the part of the public works employees which would indicate the necessity for some kind of discipline.

I understand that the city council meeting to be held on Tuesday, April 8th, may include a motion to adjourn to executive session to discuss some of these allegations in contemplation of the possibility of discipline.

The city's employees are reappointed annually at the start of each fiscal year. All city employees are essentially “at will” employees who can be discharged without cause. This is not a procedure that I advocate, nor one that I think is really appropriate in today's world, but it is a fact of life in the City of Mt. Carroll. The way to avoid that is to simply decide whether to follow a more enlightened procedure which will afford an employee both procedural and substantive due process in the face of allegations that the employee should be disciplined.

As an aside, I think it is high time that the city adopt a personnel manual that addresses the issues of discipline as well as many other issues that have gone wanting for all these years. That's another topic for another time.

My suggestion is that if the council votes to go into executive session Tuesday night to discuss the imposition of discipline, that the aldermen who are of the opinion that discipline is appropriate should be asked to produce their documentation for review by the council, and review by me as the city attorney, to determine exactly what the allegations are. If there appears to be substance that would warrant a charge being lodged against the employee, then the charge can be specifically alleged so that the employee has an opportunity to respond to it at any subsequent hearing or interview.

I would also suggest to you that any complaining alderman, or any alderman who would serve as a witness at a disciplinary hearing, should disqualify himself or herself from voting on any disciplinary action. I also suggest that any disciplinary action short of termination would be discipline imposed by you in your capacity as mayor and not necessarily discipline imposed by the entire council. You as mayor have the right to appoint employees subject to the confirmation of the city council and, in my opinion, have the right if not the duty to discipline or terminate employees without the council consenting to it. My suggestion is that any discipline be imposed only after an opportunity of the employee to avail himself of due process.

I hope this is helpful and can give some guidance to you in anticipation of Tuesday night's council meeting.

Very truly yours,
Ronald F. Coplan"

Read into the record by Mayor Carl Bates the following letter from City Attorney Ronald F. Coplan dated March 7, 2011:

"Dear Mayor:

This is a follow-up to our earlier telephone conversations regarding the issues raised by two members of the city council reviewing time cards and records for members of the Public Works Department and the police department, and them going to the news media, particularly the *Prairie Advocate*, and expressing their opinions with regard to such an inquiry.

I understand that the two aldermen in question initiated this inquiry without talking with you first, and without seeking your authority or permission to undertake this inquiry. And, further, that after they were rebuked for doing so, only then went to the news media.

Please consider the following as a result of my review of the article in the *Prairie Advocate*, and also my conversation with you.

1. No member of the city council has authority to inspect records in the custody and control of the city clerk solely because that person is a member of the city council. Members of appropriate committees, such as the police committee and/or the public works streets and sewer committee, can most assuredly have access to those records in the course of the committee's deliberations and with the consent of the mayor. Individual aldermen may request information through the Freedom of Information Act just as any citizen can. The city clerk is the keeper of records and is responsible for the integrity of those records, and this is another good reason why council members simply cannot come in and go through records without authority and permission.

2. Apparently, the aldermen in question bypassed you and the relevant committees thereby failing to honor your position and the positions of the members of the committee. You, in your capacity as mayor essentially as the chief executive and chief operating officer for the City of Mt. Carroll. The position of mayor is more than just a first among equals. There are different duties and responsibilities which the mayor has which are not shared with members of the council. Members of the council are primarily legislative in their duties.
3. Contacting the news media and giving statement and information to the news media is divisive to the workings and working relationship within the council, with the mayor, and with the employees. It is destructive to that good relationship and could be considered a declaration of war to some extent.
4. The statements that were made to the media and printed in the *Prairie Advocate* puts the city council at risk. There are accusations of fraud and wrong-doing, which may in fact be defamatory and give rise to a cause of action in one or more employees. There is no reason to believe that an adequate investigation was conducted to determine whether there was any wrong-doing or fraud, and until such an investigation is conducted there should be no opinion formed, and most assuredly no opinion given to the news media.
5. In the event that any individual alderman has obtained information which that alderman thinks points to culpability on the part of an employee, that information should be turned over to you as mayor for your review. And, if you are of the opinion that there is legitimate evidence of wrong-doing, then disciplinary action can be taken, written charges can be drafted and served upon the employee, and the employee can have a hearing before the council or committee thereby affording that employee due process and a sense of fairness.

I hope this is of some assistance in this matter.

Very truly yours,
Ronald F. Coplan”

Mayor Bates opened the floor for comments or questions from the council or audience. Mr. Peter Eiteuner asked, as a future alderman, about the procedure regarding the passage of a motions or legislation put before the council. He questioned if once the mayor might veto that action what happens. City Attorney Coplan noted the procedure for passage of legislation and if there was a mayor's veto. The council then has an opportunity to over ride that veto in the procedure. Alderman Bergren noted he was not aware of a mayor's veto of anything since he has been coming to meeting or been an alderman of the council. Mr. Jim Sobel commented that he questioned a little about the proper protocol of the handling of the city documents. He stated he lived next to the City garage on Mill Street and would see the guys of the crew out at all hours of the day and night moving the trees from the streets when they have come down in storms and he was very impressed with their level of service. Alderman Cooper commented as follows: She stated that she was elected to represent the people in her ward, and that it was her job to see that the money that's entrusted to the City is spent well and that we get what we pay for and that it is accounted for accurately. She stated the question about access to records they looked to see if there was a discrepancy between the two sets of pay records. In 2008 the time clock was placed in the city garage and the cemetery and that this should have provided adequate motivation for the people to come into work on time. She noted that there were employees that are late, known to be taking their children to school, and then some others at times are as much as one and one half hour late. One employee was viewed texting on his phone in his vehicle for an hour before going into work. This appeared to be an ongoing behavior and a chronic problem. The employees work, when they are working, they do a fine job, but it is important for us to know that the money we are spending is being spent as it is intended. If we are paying for an employee to be at the job for eight hours then the employee should be at the job for eight hours. Mayor Bates stated he has asked that if there are complaints they should be presented in writing and not taken to the media. Alderman Cooper stated that what had been discussed in the past had not been handled. Alderman Bork commented that the written card did not match or equal the other card and that they did have a right to go through the time cards of the city employees. City Attorney Ronald Coplan commented that what may or may not be found on the time cards should not be the main issue. There was a process by which to present a specific issue about the payroll and that process should be followed. If there was a question about an employee's time or schedule to present that to the department head and that if there was still an issue that this matter be brought before the council committee. Alderman Risko stated he had a concern about micro management. You cannot know what was discussed between the supervisor and the employee. You cannot know by just looking at the cards and not giving the supervisor an opportunity to discuss the matter before doing this. Alderman Cooper noted that according to the City Code the payroll accounts should be reviewed by the treasurer. The payroll budget amount of around \$500,000 was a lot of money going through just a couple of employees. Alderman Bergren asked if they wanted to look at every pay period and the pay records every two weeks. Alderman Risko stated he felt that the two aldermen should have talked to the others in the council to look at the process. That should have been the next step. Alderman Cooper stated she felt that management needed to be looked at because there were gaps here. Mayor Bates stated he felt that the aldermen should have and still should present a written complaint of what issues need to be addressed that could go to the committee chairs. Alderman Bork stated that she had commented to the newspaper that some of the employees were not always late, but that she was aware that what was on one of the cards was not what was on the other time clock card. Superintendent Eric Dauphin stated that he would please ask that this be presented to him when there is a question like that. Chief Cass commented that their department does not have a time clock, and he noted that during shift changes they would not put some of the time spent reviewing the day on the regular days hours turned in. He felt that (some of what has been presented) has put into question their integrity and honor. Mrs. Paula Trent commented that she had lived here for 13 years and she was very impressed with the City's employees work. The crew has

come to her aid on several occasions. Mr. Gerald Bork stated what was the City's liability if the employee was not on the time clock. How would the City prove they were working? City Attorney Coplan stated that this matter would be identified by the nature of the work. Mrs. Lorna May commented that since she has lived here she was impressed with the crew's work during the winter months. Mr. Tom Cravatta stated that he did not feel that anyone was questioning the integrity of the employees but an alderman's request to maybe consider an audit should not be smothered or ignored. Mayor Bates stated that the (public works) employees know that they were being watched from across the street for several years now. Alderman Bergren asked about what was recommended from here? Mayor Bates and City Attorney Coplan stated that they felt there was a procedure to follow to have this go through the committees and their responsibility to look at. Mayor Bates stated that if there was a disciplinary recommendation to be considered that they (Alderman Cooper and Bork) would not be allowed to vote. Former Police Chief Delbert Hockman commented that he had been in this situation before and as well the Village of Milledgeville. Milledgeville's time clock was now sitting in the basement. He stated he had known these city employees for very many years, worked with them and still associate with them. He stated it would be a shame if the council members left tonight and did not thank them for the job they do and gave them due process (with this matter). Mrs. Kandi Corbett commented that she lived on Mill Street and she knew the work that these employees did during the winter and how they watched over the sewer plant. Mr. Tom Charles commented he felt that the City should look at developing an employee handbook so that the employees knew what was expected of them and that should protect the employee as well as the City. Mr. Reid Law commented that there were over 45 people here this evening. He hoped this was an episodic issue and that it would be smoothed over. If the community would come out for an issue like this why not come together to come up with other ideas to move the community forward.

Alderman Bergren commented that there was some discussion about the Thomson Prison between the state and federal officials. He stated that the local area should contact their legislators about this issue.

Mayor Bates noted that the planning commission had a recommendation about the special use permit application review from this evening. That matter would be on the agenda for the next meeting.

Alderman Boelkens moved and Alderman Bergren seconded to adjourn ADJOURNMENT the meeting. Roll call vote: Aldermen Cooper, yes, Bergren, yes, Risko, yes, Bork, yes, Boelkens, yes, and Lego, absent. Vote: 5 yeses, 0 noes, and 1 absent. Mayor Bates adjourned the meeting at 8:54 p.m.

These minutes were approved by the Mount Carroll City Council at the April 12, 2011 regular meeting.

Julie A. Cuckler
City Clerk & Collector

Note: The documents read into the record for these minutes by Mayor Carl Bates are a part of the original record on file in the City Clerk's office in City Hall.