

MINUTES OF THE JUNE 23, 2015 REGULAR MEETING OF THE MOUNT CARROLL CITY COUNCIL

Mr. Robert Speer rang the bell to announce the start of the meeting. RINGING OF BELL
Mayor Carl Bates called the meeting to order at 7:30 p.m. CALL TO ORDER
Roll call: Mayor Carl Bates, present, Aldermen Paul Kaczmariski, present, ROLL CALL
Jim Rose, present, Kevin Powers, present, Doug Bergren, present, Mike Risko, present, and Joe Grim, present.
Alderman Kaczmariski led the Pledge of Allegiance.
Ms. Mary Boelkens gave the invocation.

Alderman Grim moved and Alderman Powers seconded to approve MINUTES
the minutes of the June 9, 2015 CDAP public hearing and regular meeting as presented. Roll call vote:
Aldermen Kazcmarski, yes, Rose, yes, Powers, yes, Bergren, yes, Risko, yes, and Grim, yes. Vote: 6
yeses and 0 noes. The motion was carried.

Alderman Gtim moved and Alderman Powers seconded to authorize ACCOUNTS PAYABLE
the payment of the accounts payable to date for the month of June 2015 as approved by the finance
committee including the payment to Merema Brothers for the new mower. Roll call vote: Aldermen
Rose, yes, Powers, yes, Bergren, yes, Risko, yes, Grim, yes, and Kazcmarski, yes. Vote: 6 yeses and 0
noes. The motion was carried.

Mayor Bates reported the bank account balances were at \$483,247.47 FINANCIAL REPORT
as of today.

Alderman Bergren reported of the June 17th Historic Preservation
Advisory Committee meeting:

COMMITTEES
HPAC

1. In discussion of old business the committee reviewed the district resurvey progress, the repairs to the district walking tour signs and the status of the sign ordinance with the city council.
2. The committee decided to schedule the next meeting for September unless there is other business to be considered.

Alderman Rose reported of the June 23rd police committee meeting:

POLICE

1. Alderman Rose presented the police committee recommendation RESIGNATION
to accept the letter of resignation from Part Time Police officer Ryan Lambert. Roll call vote:
Aldermen Powers, yes, Bergren, yes, Risko, yes, Grim, yes, Kaczmariski, yes, and Rose, yes.
Vote: 6 yeses and 0 noes. the motion was carried.
2. Alderman Rose presented the police committee recommendation RESIGNATION
to accept the letter of resignation from Police Patrol Officer Lucas Bourquin (effective June 24,
2015). Roll call vote: Aldermen Bergren, yes, Risko, yes, Grim, yes, Kaczmariski, yes, Rose, yes,
and Powers, yes. Vote: 6 yeses and 0 noes. The motion was carried.
3. The police committee went into executive session at 7:03 p.m. to EXECUTIVE SESSION
consider the appointment, employment, compensation, discipline, performance, or dismissal of
specific employees. At 7:16 p.m. the police committee was back in open session.
4. Alderman Rose presented the police committee recommendation JUSTIN DESPAIN
to hire Justin DeSpain as a full time officer on the police department at pay grade 12 at \$15.49
per hour. Roll call vote: Aldermen Risko, yes, Grim, yes, Kaczmariski, yes, Rose, yes, Powers,
yes, and Bergren, yes. Vote: 6 yeses and 0 noes. The motion was carried.
5. Alderman Rose presented the police committee recommendation SALARY & BENEFITS
to approve the Salary & Benefits Agreement with newly hired AGREEMENT

Officer Justin DeSpain as presented (Starting pay grade/hourly pay/step raise dates: Pay grade 12 \$15.49 an hour. All other benefits provided by employee handbook. *plus \$1.00 an hour for not taking insurance. Benefits offered other than current Employee Benefits: 10 days vacation time to be used by april 30, 2016 or rolled over to next year. Start date: 6/24/15). Roll call vote: Alderman Grim, yes, Kaczmariski, yes, Rose, yes, Powers, yes, Bergren, yes, and Risko, yes. Vote: 6 yeses and 0 noes. The motion was carried.

Alderman Grim reported of the June 23rd water & sewer committee meeting:

WATER & SEWER

1. Superintendent Handel reported that he felt the donated truck from TRUCK the Lou Schau family would need considerable work. They were not interested to try and keep it. Alderman Grim presented the water and sewer committee recommendation to contact the family of Lou Schau to get confirmation to seek a titly for the truck and then try to sell the vehicle. Roll call vote: Aldermen Kaczmariski, yes, Rose, yes, Powers, yes, Bergren, yes, Risko, yes, and Grim, yes. Vote: 6 yeses and 0 noes. The motion was carried. Mayor Bates stated he would contact the family.
2. Discussed the heavy rainfall recently and the issues at the sewer plant related to that.
3. Reported that swimming pool operations were going well. The State inspection was completed. An issue with the soda ash pump and the lights in the pool need replacing.
4. Discussed the operator training needed for Greg Kloepping.
5. Reported the Annual Consumer Confidence Report (CCR) had been published in the paper. Discussion about the radium levels.
6. Mr. Steve Haring, MSA Professional Services, was in attendance. Report of the sewer lining project and the progress of the Facility Planning Report. Noted a population projection analysis to be added to the report. He stated he needed input from the council about which increase percentage they would like the engineers to incorporate into the plan. The consensus of the council members in attendance was to use the middle percentage level at .5% per year increase.
7. Reported would start fire hydrant flushing the week of July 13th.

Mayor Bates reported that the remainder of the committee meetings that were scheduled for before the were postponed to the council meeting to be able to hold the CDAP Public Hearing so council could consider their business at this time. The license and ordinance and finance committees conducted business as follows:

Alderman Powers provided an agenda for the license and ordinance committee to discuss the proposed sign ordinance and a dog ordinance. He commented about the purpose and issues regarding the placement of signs and stated that he had looked at other communities and the regulations. He stated he had comments from several business owners and they have a problem with the ordinance as proposed. Alderman Bergren stated he felt the objective of the ordinance was to regulate the placement of the bright digital signage in the historic district, and noting that there are some businesses that are located outside of the downtown business district in the historic district. He stated he would like the council to consider some form of regulations.

Alderman Powers stated he wished the council to review the draft of the dog ordinance that had been presented in the past. He noted the need to establish the purpose and issues to developing the ordinance. He stated he questioned whether this was a property right regulating the number of dogs and cats within a household. What are the health and safety issues and possible neighbor complaints? Possibly smell and noise issues. Mayor Bates and Alderman Grim commented about the issues that presented the need to update the City's ordinance about the dogs running at large, so there was also need to review and update all aspects of the dog ordinance that were not effective in the current code. Alderman Powers stated he felt there was some more work to the ordinance that was needed.

Alderman Kaczmarski reported of the following finance committee actions:

FINANCE

1. The bills were reviewed and approved approved by the council this evening.
2. Alderman Kaczmarski reported the Merema Brothers invoice in the amount of \$8,050.00 was approved with the accounts payable with the distribution from the park fund at \$1,500 and the cemetery fund at \$6,550.
3. Alderman kaczmarski moved and Alderman Risko seconded to approve the Community Funding and Planning Services invoice in the amount of \$1,450.00 for grant administation services. Roll call vote: Aldermen Rose, yes, Powers, Bergren, yes, Risko, yes, Grim, yes, and Kaczmarski, yes. Vote: 6 yeses and 0 noes. The motion was carried.
4. Discussion was held regarding the proposed application forms to be used when residents are starting up water service in town. To question the city attorney whether the driver’s license number could be requested on the application before implementing their use.
5. Alderman Grim moved and Alderman Risko seconded to approve the interfund transfer of \$1,000 from the city water fund to the city cemetery fund as a payment towards the outstanding loan. Roll call vote: Aldermen Powers, yes, Bergren, yes, Risko, yes, Grim, yes, Kaczmarski, yes, and Rose, yes. Vote: 6 yeses and 0 noes. The motion was carried.

COMMUNITY FUNDING INVOICE

INTERFUND TRANSFER

Mayor Bates stated the next item on the agenda was the tabled item from the last meeting. Discussion and possible action to approve the planning commission recommendation from the May 28, 2015 meeting to deny the request from Ms. Dondi Polzin, 504 S. Jackson Street, to maintain six (6) dogs at the residence for a specific training program for two of the adult dogs. Mayor Bates stated that he had talked with the city attorney. His comment was that this matter does not qualify for a planning a zoning review and could not be approved in its current state at presented. He stated that he felt the council should take the planning commission’s recommendation. Alderman Powers stated he still questioned whether the amount of animals could be questioned as the city code reads at this time. Alderman Risko moved and Alderman Kaczmarski seconded to approve the planning commission recommendation to deny the request for a special use permit from Ms. Dondi Polzin, 504 S. Jackson Street. Roll call vote: Aldermen Bergren, yes, Risko, yes, Grim, no, Kaczmarski, yes, Rose, yes, and Powers, no. Vote: 4 yeses, 2 noes and 0 absent. The motion was carried.

PLAN COMMISSION RECOMMENDATION

Mayor Bates stated that the issue was still the number of adult dogs at this property and the ordinance violation. Did the council want to the extend the time to pursue the ordinance violation to give time for Ms. Polzin to find somewhere else for the dogs. The matter at this time had only been presented as a letter and not as a citation that would set in motion a follow up into the courts. Mayor Bates stated he felt the city code clearly stated that the limit was four animals. He noted there was a letter from the neighbors presented to him asking that the request on the agenda for this evening be denied as well. Ms. Dondi Polzin, 504 S. Jackson Street, was in attendance and addressed the council. She noted that that she had installed cameras in and around her home. She felt she has been harrassed by the neighbors and others in town over this matter and she has not felt that she was in violation of any ordinance. Alderman Risko stated that he felt the limit was clearly stated in the ordinance at four animals and he did not want to slow up or stop the process any longer. That the ordinance violation needed to be served. Alderman Powers stated that he was not assured that the ordinance could be upheld in court according to what the letter from the city attorney had presented to them. Mayor Bates stated that he would meet with the chief of police this week and talk with the city attorney about how to word the citation. Alderman Powers did ask to have the letter

ORDINANCE VIOLATION

from the city attorney read in its entirety. Alderman Risko read the letter for June 15, 2015 from the city attorney into the record. This letter will be included with these minutes. Alderman Grim stated he was concerned that we had an ordinance with a bunch of holes in it regarding the number of animals, but there were nuisance violations that were in place. Alderman Bergren stated he felt there was a direct violation regarding some of the nuisance issues and he felt the limits were addressed in the ordinance. Mayor Bates stated he would be meeting with the chief to move this matter forward.

Alderman Grim moved and Alderman Risko seconded to pass the **RESOLUTION** Resolution No. R6-2015-1, a Resolution of Support and Commitment of Funds. Roll call vote: Aldermen Risko, yes, Grim, yes, Kaczmariski, yes, Rose, yes, Powers, yes, and Bergren, yes. Vote: 6 yeases and 0 noes. The resolution was adopted by unanimous roll call vote. This resolution of support and commitment of funds for the Phase II sewer lining project with the award of a CDAP grant.

Alderman Risko moved and Alderman Kaczmariski seconded to pass **ORDINANCE** Ordinance No. 2015-6-1, AN ORDINANCE OF THE CITY OF MOUNT CARROLL, CARROLL COUNTY, ILLINOIS ASCERTAINING THE PREVAILING RATE OF WAGES FOR LABORERS, MECHANICS AND OTHER WORKERS EMPLOYED ON PUBLIC WORKS OF SAID CITY. Roll call vote: Aldermen Grim, yes, Kaczmariski, yes, Rose, yes, Powers, yes, Bergren, yes, and Risko, yes. Vote: 6 yeases and 0 noes. Ordinance No. 2015-6-1 was adopted by unanimous roll call vote.

Under general audience, Alderman Grim reported of the pool **GENERAL AUDIENCE** fundraising activities on July 11th and 24th and the turnout for the car cruise night on June 20th. Mr. Bob Sisler, Benton Street, commented about the matter of code and nuisance violations at the South Jackson Street property. Mr. John Swiech, CDC, reported there would be some inout from the city when the county looks to put in the application for an enterprise zone.

Alderman Grim moved and Alderman Risko seconded to adjourn the **ADJOURNMENT** meeting. Roll call vote: Aldermen Kaczmariski, yes, Rose, yes, Powers, yes, Bergren, yes, Risko, yes, and Grim, yes. Vote: 6 yeases and 0 noes. Mayor Bates adjourned the meeting at 8:53 p.m.

The Mount Carroll City Council approved these minutes at the July 14, 2015 regular meeting.

Julie A. Cuckler
City Clerk & Collector

RONALD F. COPLAN, P.C.

ATTORNEY AT LAW

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June 15, 2015

Mayor Carl Bates
City of Mt. Carroll
302 N. Main St.
Mt. Carroll, IL 61053
mtcarroll@icwifi.com

RECEIVED

JUN 17 2015

CITY OF MT CARROLL

Ref: Petition of Dondi Polzin

Dear Mayor,

I understand that Dondi Polzin who resides at 504 S. Jackson Street has petitioned the City to allow her to maintain at least 6 dogs at her place of residence for a special training program for 2 of the adult dogs. My understanding is that this request or petition was referred to the Plan Commission which had a public hearing on the petition, treating it as a request for the issuance of a special use permit for the property. I understand that the City Council considered a recommendation of the Plan Commission, which was to deny the petition, at its meeting on June 9th and that the matter was tabled.

First, let me say that this matter is not an appropriate matter for the Plan Commission to consider. What is being requested is not a special use as utilized in land use and zoning law. A special use is defined generally as a variation on a permitted use according to the zoning district or classification in which the property is located. A special use must be similar in nature to the permitted use. A kennel is not a permitted use in the residential district.

The prohibition or limitation on the number of dogs or cats, or combination, is found in Section 5-2-3(B) of the City Code. It may be unfortunate that the language of that section prohibits kennels within the corporate limits. The limit on the number of animals really is an exception to that prohibition. The substance of that section says that a person who maintains 4 or fewer dogs or cats, or combination thereof, shall not be considered as a kennel.

Nowhere in the City Code is there a provision that says that you may have more than a certain number of animals in your home. Some city codes approach the issue by declaring that the keeping of 4 or more dogs or cats, or a combination thereof, is a nuisance and unlawful, to keep or harbor 4 or more cats or dogs on residential premises, unless the animals are under the age of 10 weeks and with the assumption that the young

animals would be adopted out or disposed of and bring the total number back down to the acceptable limit.

One of our other problems may be that there is no definition of a kennel. A kennel means an establishment where dogs or cats, or dogs and cats, are maintained for boarding, training or other similar purposes, for a fee or compensation; or an establishment which sells, offers to sell, exchange or offers for adoption with or without charge, dogs or cats which have been produced and raised on the premises. A kennel does not include an establishment which harbors 4 or fewer breeding females and which contains dogs or cats under the age of 10 weeks. That's the definition that you find most commonly in municipal codes.

The Mt. Carroll City Code has a provision in the chapter entitled "Nuisances" which peripherally may be connected to the issue, but only peripherally. That is found in Section 5-5-2.1(B) which declares as a nuisance the keeping or maintaining of any animals in an unclean or filthy manner or surroundings, or to keep or maintain any animals which emit any particularly foul or offensive odor. I suppose having a large number of animals at your home can generate those offensive odors and hence might be a nuisance under the Mt. Carroll Code.

Again, this is a request which was inappropriately referred to the Plan Commission because it is not a land use or zoning question or issue in my opinion. It is a different kind of issue and the only way that it can be addressed from my perspective is that the City alter the provisions of the City Code to specifically establish the number of animals which may be located within any residence and declaring that any number beyond that level is prohibited. It does not have to be declared a nuisance although that may well be the effect of multiple animals on a residential site.

You inquired about the request of a land owner of a commercial structure, apparently in downtown Mt. Carroll, who is entertaining the conversion of the first floor of that commercial structure for residential use.

The City Code has a provision that touches on that issue. Section 9-8-2 of the City Code articulates, among the permitted uses, apartments provided they are located above the first floor level. Essentially, that means that first floor residential units are prohibited. The first floor is to be used for commercial or retail purposes. Again, the Code would need to be amended. The first floor residential use is not a special use and it is inappropriate to consider it as one. I hope this helps.

Very Truly Yours,



Ronald F. Coplan

RFC/ri