

=====

City Council Meeting
December 11th, 2023
Monday, 4:30 p.m.

The regular meeting of the City Council of the City of Marion, Kansas was held Monday, December 11th, 2023 at 203 N. 3rd, Marion, Kansas in the lower level at 4:30 p.m. with David Mayfield presiding as Mayor and Council Members Zach Collett, Kevin Burkholder, Ruth Herbel, and Jerry Kline in attendance. Also in attendance, Brogan Jones, City Administrator, Janet Robinson, City Clerk, Zach Hudlin, Arlene Stika, Margo Yates, Community Enrichment Director, Michael Powers, Margaret Wilson, Amy Smith, Roger Hannaford, Darin Neufeld, Tim Baxa, Ronald Herbel, Ruth Lange, Lloyd Meier, Steven Hart, Landon Pederson, Marion County Record reporters, Phyllis Zorn and Eric Meyer.

Call to Order: Mayor Mayfield called the meeting to order following the Pledge of Allegiance.

Agenda: Herbel made a motion to approve the agenda; Burkholder 2nd; motion carried 5-0.

Consent Agenda: Collett made a motion to approve the consent agenda; Burkholder 2nd; motion carried 5-0.

- * Approval of the November 27th, 2023 meeting minutes
- * Approval of warrants in the amount of \$93,400.69
- * Approval of payroll in the amount of \$36,992.76
- * Approval of 2024 CMB Licenses: Carlson's Grocery, Inc., Caseys #1931, Tacos Food Truck, LLC, Family Dollar, Wily J's and Sher bowl Lanes
- * Approval of 2024 Class A Club License: Ecker-Fulkerson-Slifer Veterans of Foreign Wars Post #6958
- * 2024 Pay/Holiday Schedule
- * Housing Board Reappointment - Lala Lovelady

Pickle Ball Court at East Park: Roger Hannaford asked council members to consider turning one of the tennis courts at East Park into a pickle ball court. Hannaford told council members an outside court would be good for the community. After discussion, Mayor Mayfield made a motion to approve Hannaford moving forward with checking into the costs involved with converting one of the tennis courts into a pickle ball court; Collett 2nd; motion carried 5-0.

Kansas Water Office Grant Opportunities: Darin Neufeld told council members that 2 grant opportunities were available, one for 5 million for 5 years for tech assistance with the water plant and the other for a water plant project for 12 million for 5 years. Neufeld recommended that the city apply for the tech assistance grant which could be used for a design study on the water plan. Neufeld told council members that the grant was 100%, and no matching funds would be required with the study grant, but told council members that if the city was going to apply, they would need to move quick because the deadline was December 29th, 2023. Herbel made a motion to approve applying for the tech study grant; Kline 2nd; motion carried 5-0.

GAAP Resolution 23-06: Collett made a motion to approve Resolution 23-06 for the GAAP waiver; Mayor Mayfield 2nd; motion carried 5-0.

Councilor Reports; Herbel stated that 2 weeks ago when she was absent, Mr. Burkholder stated that a couple of weeks ago, Ruth had got on Brogan for sharing a confidential email she had sent to him that he forwarded to the rest of the city council. Correct me if I'm wrong, but once an email is sent, is it not a matter of public record that falls under the KORA guidelines? My response to that is, I missed the speech Mr. Burkholder made at the last council meeting, I would like to reply to the statement where he said my confidential email was public record. Public record refers to information that has been recorded and or filed in a public agency. These are documents in possession of a government entity that are supposed to be made available to members of the public, upon request, to inspect the copies of public record, which are non-exempt from disclosure by a specific law. Open record means a record, other than a confidential record, Kansas State Statute 45-221, Item 30 that states public records containing information of a nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy. I think that forwarding the confidential email which included names, addresses and violations of what was necessary for the person to correct the violation, would be considered a violation of privacy. Mr. Burkholder misconstrued the definition of public and open records and the bottom line is the public record becomes an open record when requested to be copied or inspected, not when forwarded, such as Mr. Jones did. The Kansas Open Records act guarantees your right to inspect and obtain copies of state and local public records. Using Kansas Open Records Act is easy, you simply submit a request to the public agency describing the record you want to inspect. The request should be addressed to the custodian of records, in this case it would be Mr. Jones. Public records are documents or pieces of information that are not considered confidential and generally pertain to the content of the government. When the email that was sent to the council, was the email redacted, blocking all pertinent information, such as the identification, charges of the violation and corrections be taken to correct the DUI? If not, does this make the sender, Mr. Jones, guilty of identify theft, the same thing Chief Cody used to issue a search warrant and affidavit for my home, cell phone and computer when I forwarded the confidential email to Mr. Jones, who forwarded it to the council members. Does this make Mayor Mayfield guilty of the same thing? He is the one who said, and I quote, "forward all of Ruths emails to the council members so they know what she's doing." Not only was this a confidential email, it should not have been shared, and it should not have been sent to the council. This could have changed the vote on the subject at the council meeting. It was not an open record which a request had not been made to copy or inspect it, it was a public record that should have not been shared because of confidential information. Did you know that you can request a list of the city employees and their salaries by making a KORA request to the custodian of records. This is an example of something that would not be shared as public record as requested. I hope you understand the difference between public record and open record now. It appears that the new council would benefit from training of KORA and KOMA as there has apparently been 2 violations before being seated. As a sidenote, I sent Mr. Jones 10 emails on the catering/liquor license, and not one of them stated I wanted to deny the liquor/caterer license per Ms. Newell. Those are lies by Chief Cody, and he even stated that Mr. Jones stated that I wanted to deny the license, and this will eventually come out in court and then we will see who the liars are. Thank you. Collett asked Herbel why she felt like the council members shouldn't have been informed on what Herbel was sending to Jones. Mayor Mayfield stated that he instructed Jones to forward the information on to all council members


because Herbel was asking for a decision that needed to be made by the council as a whole, and not just her.

Kline commended the electrical department on the job they are doing getting the electrical lines replaced.

Department & Staff Reports: Yates told council members that the Community Christmas would be helping out 50 families. Hudlin no report. Robinson no report. Jones no report.

Public Forum: State Representative Scott Hill told council members that funding was available through KRWA for water control, and anything he could do to assist the city, he would do.

Motion to Adjourn: Kline made a motion to adjourn the meeting; Mayor Mayfield 2nd; motion carried 5-0.


Ruth Herbel, Vice Mayor


Janet Robinson, City Clerk