

**CITY OF FENTON, MISSOURI
625 NEW SMIZER MILL ROAD
FENTON, MO 63026
MINUTES
SPECIAL MEETING OF THE BOARD OF ALDERMEN
THURSDAY, JUNE 6, 2019
6:00 P.M.**

CALL TO ORDER: 6:00 P.M.

Mayor Bob Brasses called the Special Meeting of the Board of Aldermen of the City of Fenton, St. Louis County, Missouri to order at 6:00 p.m. on Thursday, June 6, 2019

PLEDGE OF ALLEGIANCE

ROLL CALL

Receptionist Linda Brendel called the roll:

Alderman Seemayer – Present	Alderman Clauss - Present
Alderman Sobey - Present	Alderman Patton - Present
Alderman Wisbrock - Present	Alderman Jokerst - Present
Alderman Maurath - Present	

Seven Aldermen were present at the opening of the meeting.

CITY OFFICIALS:

Mayor Bob Brasses
Community Development Director Nikki Finkbiner
Public Works Director Matt Budd
Receptionist Linda Brendel

Mayor Brasses stated there were citizens who requested to speak. Alderman Patton made a motion to allow public comments. The motion was seconded by Alderman Seemayer. Upon a vote being taken, the motion passed.

PUBLIC COMMENTS:

Larry Howdershell, 6166 Sommerset Ridge, wanted to thank the Mayor and the Aldermen for serving. He has lived here 4 years. He thinks the Ward 3 empty seat should be filled quickly and wondered why there was not a legal opinion from the attorney to help make the decision.

Bruce Rogers is donating his time to Dr. John Glasgow.

Dr. John Glasgow, 947 Woodway Circle, spoke regarding Ward 3 vacancy. Mr. Glasgow's comments are attached to the Minutes for the record.

Daryls Preslar, 1654 Sommerset Ridge, spoke regarding Ward 3 vacancy. Ms. Preslar's comments are attached to the Minutes for the record.

Following public comment, Mayor Brasses clarified, in response to public comment, that he is not cancelling a meeting but rather not calling the meeting open. Mayor Brasses stated that if the other aldermen can establish quorum, they can open and run the meeting without him. However, he plans to keep nominating Robin as it is his right as Mayor. Mayor Brasses stated that he has heard a lot of talk about precedent, but he feels there is precedent for having eight aldermen decide the leadership roles. He talked to Patton because Patton had said in the past that he wanted more than one person to run for the leadership roles. Brasses stated that he does not feel comfortable with breaking a tie and not comfortable that one person is nominated, then a tie, and the Mayor breaks it. He was not comfortable with it last year and not comfortable this year. Mayor Brasses stated he is ok if the Board wants to change how the leadership positions are selected. He is ok if the Board wants to state he cannot break a tie. The Mayor is fine with taking a break and having conversations with neighbors and coming back and trying to have the Board work out an issue without the Mayor breaking a tie. However, Mayor Brasses feels Robin is qualified. If Robyn was rejected because she was not qualified, he is ok with that because that is democracy. He feels they should be able to find a person everyone wants. Mayor Brasses noted that Alderman Seemayer stepped up to serve. Alderman Clauss is a hard worker and Mayor Brasses is proud to sit next to Alderman Clauss. Alderman Brasses said all the people up here are good, but Ward 3 should have representation. He can offer up another recommendation if necessary. Mayor Brasses then nominated Robyn Huels to fill the unexpired term expiring 2020.

- **MAYOR'S APPOINTMENT OF A WARD 3 ALDERMEN TO FILL AN UNEXPIRED TERM EXPIRING APRIL 2020.**

Alderman Jokerst made a motion to accept the Mayor's recommendation and nominate Robin Huels as Ward 3 Alderman. The motion was seconded by Alderman Maurath.

Alderman Clauss asked how many times we can vote on the same issue. Attorney Erin Seele explained that it depended on what she was asking. Per Robert's Rules of Order, to vote on the same matter during the same meeting, only the winning side can make a motion to reconsider the same vote the Board already took. However, if you are discussing different meetings, there really is not limitation because Fenton has a policy that anyone can put something on the agenda. Mayor Brasses questioned whether he can do multiple nominations for different people at the same meeting and City Attorney responded in the affirmative.

Alderman Maurath wanted to note, for the record, that there is no legal precedent from 26 years ago. Ms. Seele explained that the Board can set procedures to fill vacancies, but there is no written policy/procedure established by the Board. She also noted that Fenton does have a history of following past practices even when there is not a written policy for the same.

Alderman Jokerst wanted to confirm her understanding that it would not matter who is appointed, but the timing of the nomination. She stated that she keeps hearing objection to the Mayor bringing the same person, but it is her understanding it is not about the person but the process.

Alderman Clauss stated, from her perspective, it is the process. It is a precedent and if there is a need to change, then we can change it. We have done this for a time, why the change now?

Alderman Maurath stated there is no precedent in his mind because the facts were different, and it was 26 years ago. He believes the City needs eight individuals – strictly to give due process and level the playing field. The law says two aldermen per ward. Twenty-six years ago should not hold. Everyone should be equally represented.

Alderman Clauss stated she is hearing if we don't have eight aldermen present, then we shouldn't conduct meetings. Very seldom is the Board voting on ward specific items. If someone is absent, are we saying we should not hold business at all?

Alderman Maurath responded that if you choose not to be at meeting, that is your choice, but everyone has an opportunity to be at the meeting and that's what it is all about.

Alderman Patton said he appreciated the Mayor's comments but stated that people were available at both times and it took a few meetings to fill the seat in the past. Mayor Brasses stated what he said, or meant, was that he did not know if the persons were available a second after the Mayor's oath like the person was in this situation. Alderman Patton said he misunderstood and did not know that. Alderman Patton continued and stated that this situation has been a train wreck. This has been going on for four meetings and six weeks, although it feels like six months. Alderman Patton stated the primary issue is not who the nominee is but that the vote of the majority of the Board not being respected. As he has stated before, the Mayor has the right to request the way he wants things, but the Board has the right to not agree. This should have been easy. A return to regular order. Approve committees, call special meeting, and have appointment. Then, use the process we have and add to the agenda to discuss a change and if the Board agrees, change the process. Sometimes the path to goal is not a straight line and you have to bend. There does not seem to be many problems with liaisons and President of the Board does not have much to do if the Mayor is present. We now have neighbors fighting, unrest and Staff is stressed. People are one of the City's key assets and we are losing people left and right; it did not start in April but is getting worst. Alderman Patton noted that in the past 15 months, we lost Parks Director Tom Diven, Diane Monteleone, Penny Scovill and current financials are not on time. Lisa Peck is leaving. This is very costly for the City and hard on Staff. You do not lose top people for no reason. Who is going to want to work here with the chaos? Alderman Patton continued that the City could even be jeopardizing tax breaks and not be attractive to new business. He noted an opportunity for fiber optic businesses, but can we take advantage of this? Alderman Patton noted that the postcard stated aldermen were using dirty tactics to maintain status quo. But Alderman Patton wondered what status quo it was talking about? Having regular meetings? – He could get behind that. Status quo that the majority vote is honored? He is for that. Status quo of the City operating? He likes that too. Dirty tricks – Alderman Patton takes offense at that. We should be working together.

Mayor Brasses said he was referring to abstaining votes when he referred to dirty tricks. Alderman Patton stated that abstaining is an established parliamentary procedure.

Alderman Maurath stated state statute talks about abstaining. In response to questioning, Erin said Roberts' Rules is known for frowning on abstaining as such is not a vote, but that abstaining is a legitimate procedural action recognized by Roberts' Rules and Sunshine.

Alderman Seemayer said we need to get along, four feel differently from other three. We have to stay true to our beliefs. There have been references to those three like a team. Alderman Clauss

and Alderman Seemayer do not see eye to eye on issues, so this is not a situation where one group of people are ganging up on another group of people, but each is staying true to their beliefs. Alderman Seemayer noted he did not see this changing.

Mayor Brasses said it will continue on because of what he believes, and he is not going to change either. Mayor Brasses stated that since he is the Mayor, he can do some things the aldermen cannot and he is going to exercise that right. Alderman Seemayer stated that Patton made a good point and that we should get through this, and then after that, discuss as the Board does need to fix this issue.

Following discussion, upon the roll being called, the Board of Aldermen voted as follows:

Alderman Seemayer	<i>Abstain</i>	Alderman Clauss	<i>Nay</i>
Alderman Sobey	<i>Abstain</i>	Alderman Patton	<i>Nay</i>
Alderman Wisbrock	<i>Aye</i>	Alderman Jokerst	<i>Aye</i>
Alderman Maurath	<i>Aye</i>		

It was announced that the motion failed.

- **DISCUSSION OF CITY ADMINISTRATOR POSITION**

It was noted that discussion in public should only be about the position in general and if the Board desired to discuss hiring or promoting a specific person, that part of the discussion should be in closed session. Alderman Sobey stated that the Public Hearing is at 6:45 p.m. and questioned whether the Board should move Executive Session to the Committee meeting. City Attorney Erin Seele noted that closed session was on both meetings so there was no need to amend the agenda, but that it is up to the Board whether they want to go into Executive Session at this time. Alderman Maurath stated we need to put someone in place now. Alderman Clauss confirmed the City Administrator position will not be able to be discussed in open session if specific employees are mentioned. After discussion regarding the Public Hearing, Mayor Brasses asked the audience if anyone was here for the CDBG meeting. No one came forward.

- **EXECUTIVE SESSION: ROLL CALL VOTE TO CLOSE THE MEETING PURSUANT TO SECTION 610.021(1) LEGAL ACTIONS, CAUSES OF ACTION OR LITIGATION... SECTION 610.021(2) LEASE, PURCHASE OR SALE OF REAL ESTATE... AND SECTION 610.021(3) HIRING, FIRING, DISCIPLINING OR PROMOTING EMPLOYEES...**

Alderman Maurath made a motion to go into Executive Session pursuant to Section 610.021(1) to discuss legal actions, causes of action or litigation...and 610.021(3) hiring, firing, disciplining or promoting employees. The motion was seconded by Alderman Jokerst. Upon the roll being called, the Board of Aldermen voted as follows:

Alderman Seemayer	<i>Aye</i>	Alderman Clauss	<i>Aye</i>
Alderman Sobey	<i>Aye</i>	Alderman Patton	<i>Nay</i>
Alderman Wisbrock	<i>Aye</i>	Alderman Jokerst	<i>Aye</i>
Alderman Maurath	<i>Aye</i>		

It was announced that the motion was passed by the Board of Aldermen.

Mayor Brasses reconvened the meeting at 8:00 p.m. Discussion resumed regarding the City Administrator position. Alderman Clauss made a motion to advertise for the position immediately with a 30-day close. The motion was seconded by Alderman Seemayer. Upon a vote being taken, it was announced that the motion was passed unanimously.

City Attorney asked if the Board would be willing to go back into closed session for a quick follow-up discussion. Alderman Clauss made a motion to go into Executive Session pursuant to Section 610.021(1) to discuss legal actions, causes of action or litigation...and 610.021(3) hiring, firing, disciplining or promoting employees. The motion was seconded by Alderman Jokerst. Upon the roll being called, the Board of Aldermen voted as follows:

Alderman Seemayer	<i>Aye</i>	Alderman Clauss	<i>Aye</i>
Alderman Sobey	<i>Aye</i>	Alderman Patton	<i>Nay</i>
Alderman Wisbrock	<i>Aye</i>	Alderman Jokerst	<i>Aye</i>
Alderman Maurath	<i>Aye</i>		

It was announced that the motion was passed by the Board of Aldermen.

Mayor Brasses reconvened the meeting at 8:08 p.m.

Alderman Clauss made the motion to adjourn the meeting at 8:10. The motion was seconded by Alderman Jokerst. Upon a vote being taken, it was announced that the motion was passed unanimously by the Board of Aldermen.

Respectively submitted,



Linda Brendel
Receptionist
City of Fenton

My name is Darlys Preslar and I live at 1654 Somerset Ridge.

Mayor in your ^{card}~~letter~~ sent to the residents of ward 3 this week you mentioned that 4 aldermen on the board were using dirty tactics. Being a regular attendee of city meetings, I've searched my mind and the only dirty tactics I've observed are yours: *Funny that's me*

-Dirty tactic #1: After being newly installed as mayor, you made a motion to seat the new ward 3 alderman before other board positions. A vote is taken, it's 4-3, not the results you wanted. You then said, Okay, everyone, you can go home, there'll be no further meeting tonight. You completely disregarded an official vote of this board and thereby denied representation to those residents who elected those 4 aldermen. It's the biggest dirty tactic I've ever observed at a city meeting.

- Dirty tactic #2: At the next meeting Mayor, you called for this same vote 3 consecutive times. The results were the same for the first 2 votes, and on your 3rd request, a point of order was called to see if you could just keep calling for a vote over and over. The answer was no. It was a failed dirty tactic.

-Dirty tactic #3: At that same meeting when you didn't get the results you wanted, you announced that there'd be no further meeting. You disregarded the fact that only the board of aldermen has the authority to end a meeting. You have cancelled 3 city meetings and told those in attendance that they can "just go home".

-Dirty tactic #4: By showing that you can conduct meetings at your whim and are willing to let the current state of affairs continue indefinitely, you've

let business people sit for hours in this room without a hearing or vote on the business they need conducted.

-Dirty tactic #5: When you went door to door collecting signatures on your petition, you talked with residents who had not been to city meetings and only heard your version of events. I wonder how many signed your petition just to get you on your way so they could return to what they were doing.

Let me point out that I have no issue with who you are wishing to appoint to the vacant ward 3 seat, I simply feel that the precedent set in the past is the correct procedure.
Lastly, I don't know why our terrific city administrator is leaving, I can only conclude that the dirty tactics mentioned have drawn doing business in our city to a crawl, and it is just too much for a professional to observe.

Ms. Peck, so sorry to see you go. Your professionalism could always be counted on.

Thank you,
Darlys Preslar

Please include my comments in tonight's minutes

Revisor of Statutes

State of Missouri

Cities of the Fourth Classification

6/9/2019

<http://revisor.mo.gov/main/OneChapter.aspx?chapter=79>

79.260. Officers' oath — bond. — Every officer of the city and his assistants, and every alderman, before entering upon the duties of his office, shall take and subscribe to an oath or affirmation before some court of record in the county, or the city clerk,

that he possesses all the qualifications prescribed for his office by law; that **he will support the Constitution of the United States and of the state of Missouri, the provisions of all laws of this state affecting cities of this class, and the ordinances of the city, and faithfully demean himself while in office;**

To demean can mean to cheapen oneself by one definition. The second definition is to humble oneself in the face of those they represent, support. To place the interests of constituents first. I am afraid some may have chosen the former versus the later definition. It would be beneficial to all if we decide not to cheapen ourselves and to embrace the role of the humble political servant who distinguishes themselves by building a community that works toward common goals and unravels old and worn disagreements that after many years continue to erode due process.

When an officer relinquishes their role and when they no longer are responsible for that role.

79.050 The following officers shall be elected by the qualified voters of the city, and shall hold office for the term of two years, except as otherwise provided in this section, and **until their successors are elected and qualified, to wit: mayor and board of aldermen.**

The Mayor is still Alderman of Ward 3 until his successor is sworn into office with all responsibilities and voting rights.

79.280. Vacancies in certain offices, how filled. — **If a vacancy occurs in any elective office, the mayor or the person exercising the duties of the mayor shall cause a special meeting of the board of aldermen to convene where a successor to the vacant office shall be selected by appointment by the mayor with the advice and consent of a majority of the remaining members of the board of aldermen.**

The Mayor/Alderman for Ward 3 since being sworn in has through Special meetings diligently worked to install a qualified replacement that is recognized as such by many if not all of the Alderman.

79.070. Aldermen, qualifications. — **No person shall be an alderman unless he or she is at least eighteen years of age, a citizen of the United States, and an inhabitant and resident of the city for one year next preceding his or her election, and a resident, at the time he or she files and during the time he or she serves, of the ward from which he or she is elected.**

There is an underlying rumor/concern that the selected President will take Mayor Brasses place as he steps down once the President is in place. According to 79.100 that is impossible.

79.090. Board to select an acting president, term. — The board shall elect one of their own number who shall be styled "acting president of the board of aldermen" and who shall serve for a term of one year.

79.100. Acting president to perform duties of mayor, when. — When any vacancy shall happen in the office of mayor by death, resignation, removal from the city, removal from office, refusal to qualify, or from any other cause whatever, **the acting president of the board of aldermen shall, for the time being, perform the duties of mayor, with all the rights, privileges, powers and jurisdiction of the mayor, until such vacancy be filled or such disability be removed; or, in case of temporary absence, until the mayor's return.**

The acting president presides as Mayor and votes as Mayor while still voting as Alderman for their ward. Missouri provides examples of where dual roles are and are not acceptable. Holding the role of Alderman and Mayor is a reality with the acting President and it is also a reality when an Alderman becomes Mayor. **until their successors are elected and qualified, to wit: mayor and board of aldermen.** Typically a special meeting is held a person is recommended by the Mayor and the board ratifies the recommendation. At the point where the Alderman is sworn in, they Mayor no longer holds both positions. Due to the delay he has to fulfill both obligations as Mayor and Alderman. Delaying the ratification does not eliminate the vote. Mayor/Alderman Brasses has the right and responsibility to fulfill his obligation as Alderman of Ward 3 until the position is filled.

79.280. Vacancies in certain offices, how filled. — **If a vacancy occurs in any elective office, the mayor or the person exercising the duties of the mayor shall cause a special meeting of the board of aldermen to convene where a successor to the vacant office shall be selected by appointment by the mayor with the advice and consent of a majority of the remaining members of the board of aldermen.**

79.120. Mayor may sit in board. — The mayor shall have a seat in and preside over the board of aldermen, but shall not vote on any question except in case of a tie, **nor shall he preside or vote in cases when he is an interested party.** He shall exercise a general supervision over all the officers and affairs of the city, and shall take care that the ordinances of the city, and the state laws relating to such city, are complied with.

In the above our Mayor is forced into a dual role and is voting as an Alderman and as Mayor, it is allowed by the state.

In the above, a presiding temporary Mayor can vote as Alderman for their ward, but could not break a tie to accept Mayor on a permanent bases because he/she is the interested party. They personally benefit from the outcome.

79.110. Mayor and board — duties. — The mayor and board of aldermen of each city governed by this chapter shall have the care, management and control of the city and its finances, and shall have power to enact and ordain any and all ordinances not repugnant to the constitution and laws of this state, **and such as they shall deem expedient for the good government of the city, the preservation of peace and good order,** the benefit of trade and commerce and the health of the inhabitants thereof, and such