

**CITY COUNCIL MINUTES
NOVEMBER 24, 2020**

The Council of the City of Fulton, Missouri, met in Regular Session on Tuesday, November 24, 2020 in the Council Chambers of City Hall located at 18 E. 4th Street. Present and presiding were: Mayor Lowe Cannell; William R. Johnson, Director of Administration; Laure Long, Deputy City Clerk; and Steve Myers, Police Chief. The meeting was called to order by Mayor Cannell at 6:30 p.m. Roll call was taken by the Deputy City Clerk, and members of the Council present were: Braun, Pace-Snook, Rehklau, Sebacher, Shiverdecker, Simmons, Stone, and Washington. Also present were: Kathy Holschlag, Chief Financial Officer; Darrell Dunlap, Superintendent of Utilities; Kyle Bruemmer, Interim City Engineer; Dennis Houchins, Planning & Protective Services Director; Clay Caswell, Parks & Recreation Director; Robert Boone, Assistant Director of Administration; Rev. Bruce Williamson; Helen Wilbers of *THE FULTON SUN*; Darin Wernig, Audio/Video; and visitors: Kevin Langworthy, Webb Langworthy, Timothy Riley, Donald P. Lofe, Jr., and Kirt Kleindienst.

INVOCATION:

Invocation was given by Rev. Williamson.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Rev. Williamson.

COMMENTS FROM VISITORS:

There were none.

Mayor Cannell stated he received many emails from concerned citizens in regards to the proposed face covering ordinance.

APPROVAL OF THE CONSENT AGENDA:

The following items were distributed to each member of the City Council for review and study as a part of their council packet. Mayor Cannell presented each item and stated the Council may choose to remove any item from the Consent Agenda for discussion at this time.

- a. Approval of the City Council meeting minutes of October 27, 2020.
- b. Approval of the City Council meeting minutes of November 10, 2020.
- c. Approval of the Director of Administration Report of October.
- d. Approval of a request from Presiding Commissioner Gary Jungermann to close Fifth Street between Court St. and Market St. on Wednesday, November 25, 2020 from 7:00 a.m. to 12:00 noon to allow for a monument to be set.
 - i. This request has been reviewed and approved by Chief Myers. This section of the street is the same section routinely closed for the Farmer's Market.

Motion was offered by Councilman Braun and seconded by Councilwoman Sebacher to approve the items on the Consent Agenda, as presented. Motion carried with eight members of the Council voting in favor.

PRESENTATION AND ACCEPTANCE OF THE FINANCIAL REPORT FOR THE MONTH OF OCTOBER.

The Financial Report for the month of October was presented for acceptance, and Kathy Holschlag, Chief Financial Officer, was present to answer any questions from the Council.

Holschlag reported the city's sales tax collections are 3.2% ahead of this period in 2019, which she described as "remarkable".

Holschlag also reported \$1.6 million draws on the construction loan for the community recreation center. Additionally, it was discovered the 10% local match spent on the airport MoDOT grant will be reimbursed from the Federal Government by the CARES Act.

Motion was offered by Councilman Shiverdecker and seconded by Councilwoman Rehkla to accept the Financial Report for the month of October, as presented. Motion carried with eight members of the Council voting in favor.

UNFINISHED BUSINESS:

- a. COVID-19 update and discussion

Mayor Cannell said more discussion would follow later in the meeting with a presentation of a face covering ordinance, but reported there were more positive COVID-19 cases recently within some of the City of Fulton departments.

NEW BUSINESS:

- a. Timothy Riley, Director and Chief Curator of the National Churchill Museum, will be present to provide information regarding ongoing improvements at the Museum.

Riley gave a presentation and provided an update on the improvements taking place at the Church of St. Mary the Virgin, Aldermanbury. Riley said the Museum has been closed since March 15, 2020 and will remain closed to engage and accelerate the preservation elements on the historic building.

Riley said the building has been standing here for 50 years and was in need of some TLC. Windows have been replaced, the concrete deck will be replaced, and they will refurbish all of the church windows and will be treating stones. Additionally, they have temporarily removed the iconic Winston Churchill post to undergo conservation treatment, and it will be back next year.

Riley also reported the undercroft of the museum was flooded and suffered some water damage. They saw the watershed uphill was causing the damage. They came up with an engineering plan to build a new watershed to funnel the water away from harms way and ran into problems and needed help from the City. Riley said the City very quickly sent a crew and were very helpful in solving the issue.

Riley thanked everyone at the City for their assistance, and said it was a great partnership. He said when they called for help, the City answered, and they were very pleased. Riley said the improvements project is one they are very proud of, and will continue into the spring of 2021.

As a token of gratitude and thanks, Timothy Riley and Interim Westminster College President, Donald P. Lofe, Jr. presented a plaque, with a glass pane from the church, to Mayor Cannell and the City of Fulton.

Councilman Braun said he was being informed from viewers at home there were audio issues with the streaming of the meeting, and asked if they could take a break to fix the sound.

Mayor Cannell called a recess of the Council at 6:49 p.m.

Bill Johnson, Director of Administration, announced the City was experiencing technical issues and said KRCG and ABC 17 news reporters were present and broadcasting live. Johnson suggested citizens could view the meeting from their Facebook pages. Johnson thanked those stations for their live broadcasting.

The Council reconvened at 7:13 p.m.

b. Well #4 repair discussion and authorization

Darrell Dunlap, Superintendent of Utilities, reported the starter went bad in Well #4 and caused it to fail and burn the motor up. Dunlap said it will be repaired and the estimated cost to repair is \$41,000.

Motion was offered by Councilman Braun and seconded by Councilman Shiverdecker to approve the amount for Well #4 to be replaced. Motion carried with eight members of the Council voting in favor.

COUNCIL CONCERNS:

Councilman Simmons noted he is seeing a lot of leaves everywhere, and expressed concern with rain and the leaves starting to plug up the storm sewers and would like to see that concentrated on by the street sweeper.

Councilman Stone stated a citizen who resides on the edge of Ward 2 and Ward 3, is having some ongoing watershed issues. Councilman Stone said this issue was brought up a couple of years ago, and he feels it is at a point that the City needs to find a solution for the resident.

Councilwoman Rehkla also commented on the watershed issue Councilman Stone spoke about and hoped the City could find a resolution.

RESOLUTIONS:

Resolution No. 3387 was presented for adoption by Councilwoman Rehkla.

- a. Resolution No. 3387: A Resolution authorizing the Mayor, on behalf of the City of Fulton, Missouri, to enter a Lease Agreement with Yamaha Motor Finance Corporation, USA, for the lease of sixty (60) Yamaha Golf Carts, one (1) Bistro Golf Cart, and one (1) Range Picker Golf Cart for a period of six (6) years with an annual cost of Thirty-Eight Thousand One Hundred Fifty-Four Dollars (\$38,154.00).

Motion was offered by Councilwoman Rehkla and seconded by Councilman Simmons to adopt Resolution No. 3387 at tonight's Council meeting.

Some discussion followed on whether a five or six year lease was more cost effective. Councilman Braun felt the five year plan would be better for the City, but Clay Caswell, Parks and Recreation Director, explained the lease agreement locked in a better price with a six year plan. Caswell said it would cost an additional \$17,000.00 to do a five year plan, and it would be better to initially go with the six year plan, rather than choosing a five year plan and then extending it a year after that.

After some discussion, motion carried with six members of the Council voting in favor, and two members (Braun and Sebacher) opposed.

ORDINANCES:

FIRST READING

Bill No. 1600 was presented for First Reading by Councilwoman Pace-Snook.

- a. Bill No. 1600: An Ordinance enacting regulations related to Face Coverings, Occupancy Limits, and Physical Distancing to respond to the COVID-19 pandemic; establishing an effective date; and establishing a termination date.

Motion was offered by Councilwoman Pace-Snook and seconded by Councilman Shiverdecker to place Bill No. 1600 for Second Reading at the next regularly-scheduled council meeting.

Councilman Stone questioned the procedure of Bill No. 1600. Mayor Cannell explained to the Council they could move forward with the bill as presented, or it could become an emergency ordinance, and explained an emergency ordinance would take six votes of the Council to pass, and could take effect immediately.

Motion was offered by Councilwoman Rehklau and seconded by Councilman Stone to amend the agenda and change Bill No. 1600 to an emergency ordinance.

After some discussion, motion to amend the agenda and change Bill No. 1600 to an emergency ordinance carried with five members of the Council voting in favor, and three members (Braun, Sebacher, and Shiverdecker) opposed.

EMERGENCY ORDINANCE

Bill No. 1600 (EMERGENCY), As Amended, was presented in its entirety for First Reading by Councilwoman Pace-Snook and Mayor Cannell.

- a. Bill No. 1600 As Amended: An Emergency Ordinance enacting regulations related to Face Coverings, Occupancy Limits, and Physical Distancing to respond to the COVID-19 pandemic; establishing an effective date; and establishing a termination date. (Title-only included here)

Motion was offered by Councilwoman Pace-Snook and seconded by Councilman Stone to place Bill No. 1600 (EMERGENCY), As Amended, for Second Reading by title-only at tonight's Council meeting.

Councilman Braun stated it had not been an easy decision on anyone's part and feels the ordinance as presented needs amended. Councilman Braun said he doesn't want to shut down small businesses and wants to see the occupancy limits amended.

Councilman Braun would also like to see the \$100.00 fines removed, and would like to see the ninety (90) day expiration date changed to January 12, 2021.

Councilman Stone agreed with amending the occupancy limits and with removing the \$100.00 fines.

Some discussion followed on establishing an end date.

Councilman Braun asked those present at the meeting if they would like copies of the Bill to look over and see each item he would like removed. Councilman Braun handed out copies of Bill No. 1600 (EMERGENCY), As Amended, to those who did.

Councilman Stone stated he is not in favor of passing a law that affects a person's behavior, and has challenged the numbers all year long. However, Councilman Stone stated he feels, in his opinion, the City is at that point and something needs to be done. Councilman Stone said 1 out of 4 people tested in Callaway County is positive, and the virus is now out of control. Councilman Stone feels the City needs to take a proactive approach and become our own first line of defense and said he's at a point he cannot ignore the data and science.

Mayor Cannell noted no one came forward to speak at tonight's meeting, but reported he received an outpouring of emails both in support and opposition of an ordinance.

Councilman Braun went over what he would like to see removed from Bill No. 1600 (EMERGENCY), As Amended. Much discussion followed.

Councilwoman Pace-Snook expressed concern with removing all occupancy limits because part of this safety measure is to reduce interaction between persons, and by removing occupancy limits from the ordinance, it would still allow for large gatherings to take place in places of business.

Councilman Shiverdecker said if the Council wants to change occupancy limits, a State of Emergency needs to be declared again. Councilman Shiverdecker said that's where the occupancy limits were created and that it doesn't need to be outlined in the ordinance also.

Councilman Simmons stated the purpose of this ordinance is to enforce masks. Councilman Simmons said businesses are trying to suggest mask wearing, and the City has asked and pleaded for people to wear masks, and people are still not wearing them.

Councilman Shiverdecker has concerns with enforcement, and that it would still be a suggestion if the City cannot enforce it, and doesn't feel a mask ordinance is the right way to go. Councilman Shiverdecker feels the Council is not medically-approved to do anything that's going to require people to do something that could be harmful to their health, and said none of the Council has the medical credentials to make this decision. Councilman Shiverdecker said the Callaway County Health Department won't make this decision, and in his opinion, are the only ones that have the ability to do so and doesn't feel the Council should be able to. Councilman Shiverdecker feels it's your own responsibility to do what makes you feel safe.

Councilwoman Pace-Snook suggested speaking to your physician and your doctors, as they will tell you what to do, and she was told she should wear a mask. Councilwoman Pace-Snook said she has received messages on both sides, and said since our Governor has decided it is not his place to help Missouri, that it is the Council's place to try to help our community feel safe. Councilwoman Pace-Snook said the Council is only trying to help protect our community, not to restrict or take away freedom.

Councilwoman Rehkla reported she had sixty-two messages, and only two were against it.

Much discussion followed on what the Council would like to see removed from Bill No. 1600 (EMERGENCY), As Amended.

There was some discussion on Penalties. Councilman Braun wants to be consistent with other ordinances that we have in the Code of the City of Fulton, Missouri. Councilman Stone brought to attention the fines currently state in the proposed ordinance “a fine not exceeding \$100.00”, so no fine would be greater than \$100.00. The Council was okay with that remaining as is.

Mayor Cannell expressed concern with limiting child care occupancy limits if the Council isn’t going to limit small businesses, and thinks it is a conflict.

Councilwoman Pace-Snook thinks daycare providers are already practicing some of these safety precautions, and said it could be removed and left up to the daycare provider to implement if they chose to.

Discussion followed on the sunset date of the ordinance. Councilwoman Pace-Snook noted a provision that states it will cease to be on 90th day of passage unless the Council amends the sunset day. Councilwoman Pace-Snook also said the Council could always amend the date at a later time.

After some discussion about a start date, some members of the Council proposed to implement Bill No. 1600 (EMERGENCY), As Amended, beginning Tuesday, December 1, 2020.

Motion was offered by Councilman Braun and seconded by Councilman Stone to amend Bill No. 1600 (EMERGENCY), As Amended, as discussed with all occupancy limits removed (as further defined below), to implement the start date on December 1, 2020, and to implement the expiration date on the ninetieth day after passage.

SECTIONS REMOVED

Page 3, Item a. Retail or Personal Service Businesses., Number 1. “Businesses providing personal care services or businesses engaged in retail sales to the public shall limit the number of all persons, including but not limited to employees, vendors, and customers, in any particular Business location at any one time to a maximum of:

One-half of the current occupancy permit limit, if one exists. If no such occupancy permit limit exists, then no more than 1.6% of the total square footage or 16 people per every 1,000 square feet shall be permitted.”

Page 4, Item b. Restaurants., Number 1. “Counter seating and self-service buffets shall not be allowed.”

Page 4, Item c. Sports spectators., Number 4. “The maximum number of customers and/or patrons allowed in a facility or outdoor space shall be limited to one half of the current occupancy permit limit, if one exists. If no such occupancy permit limit exists, then no more than 1.6% of the total square footage or 16 people per every 1,000 square feet shall be permitted.

Page 5, Item d. Enhanced risk activities., Number 2. “Notwithstanding any other provision in the Ordinance, an Enhanced Risk Activity is subject to the following at any one time at a particular facility:

a. The maximum number of customers and/or patrons allowed in a facility or outdoor space shall be limited to one half of the current occupancy permit limit, if one exists. If no such occupancy permit limit exists, then no more than 1.6% of the total square footage or 16 people per every 1,000 square feet shall be

permitted.”

Page 5, Item d. Enhanced risk activities., Number 3. “No counter seating shall be used during any Enhanced Risk Activity.”

Page 5, Item e. Swimming pools., Number 1. “ The maximum number of customers and/or patrons allowed at any one time at a particular swimming pool shall be limited to the bather load of the pool times 50 percent.”

Page 5, Item f. Childcare programs and day camps., Number 2. “Day camps and other childcare services must be carried out in stable groups, with 25 or fewer children (“stable” means that the same 25 or fewer children are in the same group each day); children must not change from one group to another; and if more than one group of children is cared for at one facility, each group must be in a separate room. Groups must not mix with each other; and childcare providers must remain solely with one group of children.”

Page 6, Item g. Special events., Number 1. “Authorization for a Special Event using City-owned property, public right of way, public streets, public buildings, or other city facilities shall not be granted unless the maximum number of participants is limited to the result of the total square feet of the space or area in which the Special Event is held divided by 30 times twenty-five (25) percent.”

Motion to amend Bill No. 1600 (EMERGENCY), As Amended, carried with six members of the Council voting in favor, and two members (Sebacher and Shiverdecker) opposed.

Councilman Simmons said the Council has asked and pleaded with people and have done everything they can, yet there are still people who feel it is not necessary to wear a mask. Councilman Simmons said the Callaway County Health Department, the Governor, the Federal Government, and the Centers for Disease Control and Prevention (CDC) all are recommending masks, and many places around Fulton are mandating masks, and he thinks the City of Fulton needs to wear masks. Councilman Simmons said we have one more tool, and that’s to pass a law that you will wear a mask, and feels this virus is bad enough that the Council needs to do this.

Councilman Washington said the latest information he’s received from the news and doctors from Washington D.C. on wearing masks, is that they do help you as well as the other person, and feels good about the passage of a mask ordinance.

After much discussion, motion carried to move Bill No. 1600 (EMERGENCY), As Amended, by title-only to Second Reading at tonight’s Council meeting with six members of the Council voting in favor, and two members (Sebacher and Shiverdecker) opposed.

Bill No. 1600 (EMERGENCY), As Amended, was presented for Second Reading by title-only by Councilwoman Pace-Snook.

Motion was offered by Councilwoman Pace-Snook and seconded by Councilman Stone to place Bill No. 1600 (EMERGENCY), As Amended, by title-only for Third Reading at tonight’s council meeting.

After some discussion, motion was offered by Councilman Stone and seconded by Councilwoman Pace-Snook to remove “occupancy limits” from the title of Bill No. 1600 (EMERGENCY), As Amended, as all occupancy limits were removed from the bill. Motion carried with six members of the Council voting in favor, and two members (Sebacher and Shiverdecker) opposed.

Motion carried to move Bill No. 1600 (EMERGENCY), As Amended, by title-only to Third Reading at tonight's Council meeting with six members of the Council voting in favor, and two members (Sebacher and Shiverdecker) opposed.

Bill No. 1600 (EMERGENCY), As Amended, was presented for Third Reading by title-only by Councilwoman Pace-Snook.

Motion was offered by Councilwoman Pace-Snook and seconded by Councilman Stone to place Bill No. 1600 (EMERGENCY), As Amended, for Final Passage at tonight's Council meeting. Motion carried with six members of the council voting in favor, and two members (Sebacher and Shiverdecker) opposed.

Roll call vote of the members of the Council were as follows: Pace-Snook, YES; Rehklau, YES; Sebacher, NO; Shiverdecker, NO; Simmons, YES; Stone, YES; Washington, YES; and Braun, YES. Bill No. 1600 (EMERGENCY), As Amended, having received the affirmative vote of six members of the council, was declared passed by the President of the Council.

Councilwoman Sebacher asked Mayor Cannell for a break. Mayor Cannell called a recess of the Council at 8:31 p.m.

The Council reconvened at 8:35 p.m.

SECOND READING

Bill No. 1598 was presented for Second Reading by Councilman Stone.

- a. Bill No. 1598: An Ordinance authorizing the Mayor, on behalf of the City of Fulton, Missouri, to sign all necessary documents in relation to the Accelerated Innovation Deployment (AID) Program to fund the Second Street Bridge replacement, authorizing the city's match, and accepting the grant award.

Motion was offered by Councilman Stone and seconded by Councilwoman Rehklau to place Bill No. 1598 for Third Reading at tonight's Council meeting. Motion carried with eight members of the Council voting in favor.

Bill No. 1598 was presented for Third Reading by Councilman Stone.

Motion was offered by Councilman Stone and seconded by Councilwoman Pace-Snook to place Bill No. 1598 for Final Passage at tonight's Council meeting. Motion carried with eight members of the Council voting in favor.

Roll call vote of the members of the Council was as follows: Rehklau, YES; Sebacher, YES; Shiverdecker, YES; Simmons, YES; Stone, YES; Washington, YES; Braun, YES; Pace-Snook, YES. Bill No. 1598, having received the affirmative vote of eight members of the Council, was declared passed by the President of the Council.

THIRD READING

Bill No. 1597 was presented for Third Reading by Councilwoman Sebacher.

- a. Bill No. 1597: An Ordinance adopting an official budget and capital improvement program and appropriating the funds of the city for the fiscal year beginning January 1, 2021 and ending December 31, 2021.

Motion was offered by Councilwoman Sebacher and seconded by Councilman Simmons to place Bill No. 1597 for Final Passage at tonight's Council meeting. Motion carried with eight members of the Council voting in favor.

Roll call vote of the members of the Council was as follows: Sebacher, YES; Shiverdecker, YES; Simmons, YES; Stone, YES; Washington, YES; Braun, YES; Pace-Snook, YES; Rehklau, YES. Bill No. 1597, having received the affirmative vote of eight members of the Council, was declared passed by the President of the Council.

ANNOUNCEMENTS:

- a. The final 2020 City Council meeting will be held December 15th at 6:30 p.m.
- b. Candidate packets for the offices of 1st – 4th Ward Councilmembers and City Prosecuting Attorney are available in the office of the City Clerk M-F 8:00 a.m. to 5:00 p.m. unless otherwise noted. Candidate filing opens December 15, 2020 at 8:00 a.m. and closes January 19, 2021 at 5:00 p.m. For additional information, contact the City Clerk at 573-592-3111.

EXECUTIVE SESSION:

Mayor Cannell stated there was not a need for an Executive Session at this meeting.

Councilman Braun asked if the City should notify citizens about the County Health Department not doing contact tracing anymore. Mayor Cannell responded that he felt the County was going to send out a flyer to everyone, and that it should be taken care of.

ADJOURNMENT:

There being no further business to come before the Council, motion was offered by Councilman Shiverdecker and seconded by Councilman Braun to adjourn this meeting. Motion carried with eight members of the Council voting in favor, and the meeting adjourned at 8:40 p.m.

Lowe Cannell, Mayor

Laure Long
Deputy City Clerk