



**City of Fort Wright Council Meeting
Wednesday, September 4, 2019 6:00 p.m.**

CALL TO ORDER

The meeting was called to order at 6:00 PM by Mayor Hatter. Mayor Hatter led the Pledge of Allegiance followed by a moment of silence. City Clerk Susan Ellis called the roll.

Councilman Abeln	Here
Councilman Feinauer	Here
Councilman Wall	Here
Councilman Weber	Here
Councilman Wessels	Here
Councilwoman Witt	Here

Also present for the meeting were:

City Administrative Officer Jill Bailey
City Attorney Todd McMurtry
Police Chief Marc Schworer
Fire/EMS Chief Steve Schewe
Public Works Director Jeff Bethell
City Clerk Susan Ellis

CITIZEN COMMENTS/GUESTS

Mike Hoerlein – Former COFW Council Member Recognition

Mayor Hatter expressed his appreciation to Mr. Hoerlein for many years on City Council and presented him with gifts.

Jack Toeppen – Former COFW KCPC Representative Recognition

Mayor Hatter recognized Mr. Toeppen and thanked him for his service.

Officer Bradford & Officer Lukes – Introductions

Mayor Hatter reported that the Police Department is at full strength.

Chief Schworer introduced Officer Thomas Bradford. He reported that Officer Bradford has completed field training and is doing a good job already. Officer Bradford addressed the council stating that he was thankful for the opportunity and is looking forward to meeting everyone.

Chief Schworer introduced Officer Timothy Lutes. Officer Lutes came from Ohio with 15 years of experience. He lives in Kentucky and will be in Field training for a couple weeks. Officer Lutes thanked Fort Wright for the opportunity to work here and serve the city.

MINUTES

Councilwoman Witt made a motion to approve the minutes of the July 17, 2019 Special Meeting. Councilman Feinauer made a second. City Clerk Susan Ellis called the roll.

Councilman Abeln	Yes	
Councilman Feinauer	Yes	
Councilman Wall	Yes	
Councilman Weber	Abstain	
Councilman Wessels	Yes	
Councilwoman Witt	Yes	MOTION CARRIED

Councilman Weber made a motion to approve the minutes of the August 7, 2019 Council Meeting. Councilman Wall made a second. City Clerk Susan Ellis called the roll.

Councilman Abeln	Yes	
Councilman Feinauer	Yes	
Councilman Wall	Yes	
Councilman Weber	Yes	
Councilman Wessels	Abstain	
Councilwoman Witt	Yes	MOTION CARRIED

The minutes of the August 21, 2019 Caucus Meeting were tabled until the October 2, 2019 Council Meeting.

UNFINISHED BUSINESS

Smoothie King Development Update

Mr. McMurtry reported on the settlement for Walmart and the surrounding areas between Walmart, the developer, and the City. Design guidelines were incorporated into the settlement and apply to that entire development. Records are incomplete and do not show the complete picture. Anyone deviating from these guidelines at risk for lawsuit. A request by Smoothie King to build something that deviates from guidelines has been received. The City Administrator can approve this request with the Mayor's recommendation. Mr. McMurtry stated he was not sure if the City has the ability to approve. The settlement was from 2003 and many may not care, but there still is a risk. An option is to go back to court to clean it up.

Mayor Hatter asked if Walmart on its own had violated the guidelines by painting their sign. Mr. McMurtry responded yes. He said the recourse the city has is to say that the agreement was violated and it needs to be put it back, however, if Smoothie King is allowed to do something outside of the guidelines, the City would be unable to enforce the guidelines with Walmart. Smoothie King needs to apply to PDS. PDS will apply the guidelines to their design and come back with a recommendation. The City can then either accept or reject it. The risk is with Walmart or the developer. An option would be for all three parties of the lawsuit to come to a new agreement.

Mr. Greg Dale, and Smoothie King's operations manager were in attendance. Mr. Dale addressed the council stating that he would like to take a different approach by not deviating but utilizing the built-in flexibility in the standards. The City has already shown that flexibility. At 15+ years old, some standards are obsolete, and the language could establish flexibility and encourage creativity by allowing, at the City's discretion, to substitute materials. The new construction would be similar to the design of neighboring businesses and the suggested material is of higher quality and did not exist when Walmart was constructed. He cited the diverse set of architecture of the buildings in the development stating that it shows a history of allowing flexibility, referencing Dairy Queen, Texas Roadhouse, and Walmart, and asked that the City take that into consideration.

Mayor Hatter requested Mr. Dale to document these examples of design flexibility and diversity in an email and send to city. Councilman Weber requested the area operations manager have Smoothie King's attorney review Mr. Dale's email and provide a letter to the City of Fort Wright stating that in his opinion Mr. Dale's letter complies with the wording of the standard.

Councilman Weber asked Mr. Dale if he could provide documents to support allowances had been made. Mr. Dale responded that he had collected this information through observation and did not know how it was approved, but that somehow it was approved. Councilman Weber responded that the statement that the allowances were approved cannot be assumed. City Officials at the time may not have had the knowledge or expertise and thus just did not act.

Mayor Hatter commented that he had no recollection of discussing any of these points in the past (Dairy Queen, Texas Roadhouse, Walmart). Councilman Feinauer stated that there was no information. Mayor Hatter commended that the previous City Administrator and the previous Public Works Director had approved changes without discussion. Staffing has changed over the years and as a result, there has been a difference in interpretation.

Damages for non-compliance were discussed. The Risk would be to Smoothie King. It was determined that something does not comply, they would need to fix it.

It was determined to allow the PDS process to consider the Smoothie King requests. The staff recommendation would go to the City Administrator and she and the Mayor will facilitate a response.

NEW BUSINESS

Executive Order 08-19 - Appointing Timothy Lukes, Police Officer

City Attorney Todd McMurtry read the Executive Order.

Councilman Feinauer made a motion to approve the Executive Order. Councilman Weber made a second. City Clerk Susan Ellis called the roll.

Councilman Abeln	Yes
Councilman Feinauer	Yes
Councilman Wall	Yes
Councilman Weber	Yes
Councilman Wessels	Yes
Councilwoman Witt	Yes

MOTION CARRIED

Municipal Order 06-19 – Disposal of Surplus Property

City Attorney Todd McMurtry read the Municipal Order.

Councilman Abeln made a motion to approve the Municipal Order. Councilman Weber made a second. City Clerk Susan Ellis called the roll.

Councilman Abeln	Yes
Councilman Feinauer	Yes
Councilman Wall	Yes
Councilman Weber	Yes
Councilman Wessels	Yes
Councilwoman Witt	Yes

MOTION CARRIED

The Grove @ Fort Wright Development – Tony Berling

Mr. Tony Berling addressed the council regarding the 4.3-acre site on Park Road. It is zoned Residential 2 and the previously approved site plan was for 42 units of apartments.

Mr. Steve Berling addressed the council with the new plan for two 14-unit buildings and two 7-unit buildings of condos. Selling prices are estimated to be \$180,000-\$190,000 with a condominium association. The units would be 1100 square feet each with units on the bottom, middle, and top.

Council expressed concern if there was enough space for garbage trucks and firetrucks to turn around. Mr. Tim Berling responded that the standard design is a 22-foot width, but that their plan was for a 25-foot width. They wish to eliminate the cul-de-sac and change it to an L-shaped turn around. Estimated date of completion is May or June 2020.

Councilman Weber made a motion to enable Mayor Hatter to write a letter to PDS supporting the change from a cul-de-sac to an L-shaped turn around. Councilman Abeln made a second. City Clerk Susan Ellis called the roll.

Councilman Abeln	Yes
Councilman Feinauer	Yes
Councilman Wall	Yes
Councilman Weber	Yes
Councilman Wessels	Abstain
Councilwoman Witt	No

MOTION CARRIED

Resolution 07-19 – Telecommunications Franchise Agreement

Ms. Bailey reported that Assistant City Attorney Kyle Winslow had worked on this extensively and deferred to Mr. McMurtry. Mr. McMurtry reported that MCI Metro is installing 5G networks. They need proper legal authorization to enter into the right of way. Mayor Hatter responded that there is a lot of controversy about 5G regarding potential health issues, but he had not seen anything conclusive. He recommended further research. Mr. McMurtry stated that there is no ready mechanism to block it and need to assume it is inevitable. All this resolution does for the City is create the legal mechanism to allow them to put it in.

After some discussion it was determined further research was needed. A presentation from MCI Metro would be requested, questions should be sent to Mr. McMurtry, and this would be put on the agenda for the caucus meeting on September 18, 2019.

Executive Order 09-19 – appointing Todd Berling, COFW KCPC Representative

City Attorney Todd McMurtry read the Executive Order.

Councilman Feinauer made a motion to approve the Executive Order. Councilman Wessels made a second. City Clerk Susan Ellis called the roll.

Councilman Abeln	Yes
Councilman Feinauer	Yes
Councilman Wall	Yes
Councilman Weber	Yes
Councilman Wessels	Yes
Councilwoman Witt	Yes

MOTION CARRIED

CAO REPORT

City Administrative Officer Jill Cain Bailey referred to her written report. She stated that the most pressing issue is Chief Schworer retiring. It is a key priority to replace him and move forward. Mayor Hatter reported that the plan in place and interviews are taking place to promote someone to captain so that person can work closely with Chief Schworer. Ms. Bailey added that Chief Schworer brought very good culture to the Police Department.

Administration/Finance - City Clerk Susan Ellis reported that another delinquent property tax payment had been received and that she is working closely with Chris Sturm of GovCollect on the conversion to the new property tax system. It is expected to have current year information available online as well as 11 years of historical information.

Fire/EMS Department - Fire Chief Steve Schewe reported that the pumper is at the paint shop. He did not have a report on the new ambulance.

Legal Counsel - City Attorney Todd McMurtry reported that liens have been filed on delinquent taxes and they will be starting the foreclosure process. All properties will go up for sale.

Police Department - Police Chief Marc Schworer reported that the Police Department will be assisting with Oktoberfest at St Agnes at the end of month. Officers will be there, two on Dixie Hwy and two to walk grounds. He has met with the program manager for accreditation. Fort Wright has been participating in this for approximately 20 years. There are 200 standards to meet to be considered accredited. Benefits are discounts for insurance, professional and statewide recognition, policies, and minimized liability. He announced that the gym is open and thanked Ms. Bailey.

Public Works - Public Works Director Jeff Bethell reported that they are continuing to mow. They mulched the playgrounds and completed hot patch repairs. The department also helped with Battery Hooper Days. Mr. Paul Wigger and Mr. Mike Hoerlein attended flagger training in Lexington. The street project is underway with curb repair expect to be completed on Monday and milling and paving in the next couple weeks. The project manager recommended closing Rivard for safety reasons when those repairs are underway. Next week the department will be bush hogging right of ways. Mayor Hatter reminded that the street program information is on the City website. Mr. Bethell added that the project, as a whole, is approximately 5 weeks to completion.

Mayor Hatter asked if there was any information from the state about the Kyles/Dixie project. Mr. Bethell responded that Mr. Mike Bezold had informed him that they would be putting up streetlights over winter, with construction next summer. Ms. Bailey reported that the State is not interested in doing anything decorative. Signage is a possibility and Mayor Hatter asked citizens for ideas. Updates will be posted.

SPECIAL ANNOUNCEMENTS

Employee Recognitions/Special Thank Yous

- Service acknowledgment email for Officer Bellau who went out of her way to give a little boy badge stickers while she was at Speedway
- Thank you to Officer Keller and another officer for assisting an out of town traveler to locate a repair shop for her vehicle and facilitating the shop to stay open to complete the repair.

COUNCIL COMMENTS

Councilwoman Margie Witt thanked Public Works for doing such a beautiful job with the mowing this year.

Councilman Adam Feinauer reminded everyone now that school is in full force to pay attention to the rules regarding traffic and school busses.

Councilman Dave Abeln – no report

Councilman Scott Wall – no report

Councilman Jay Weber – no report

Councilman Bernie Wessels commended the Public Works department. He also commented that the construction teams for the new dentist building are doing a really nice job.

OTHER COMMENTS

Chief Schworer commented on the Police vehicle on display in the Infinity tower as part of the "Drive Sober or Get Pulled Over" campaign. It is the oldest vehicle and will be there until Friday. Mayor Hatter expressed his thanks to Infinity of Northern Kentucky.

Mayor Hatter reported that TANK is doing a survey for proposed changes. He also offered prayers and condolences to former Councilmember Joe Averdick whose mother passed away recently.

ADJOURNMENT OF THE COUNCIL MEETING

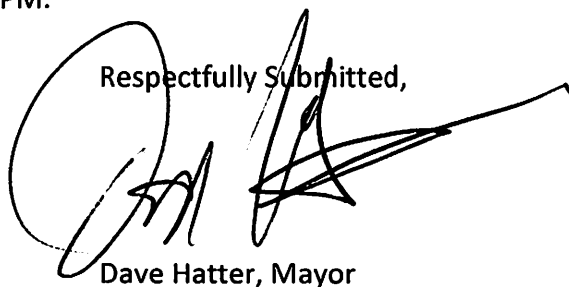
Councilman Wessels made a motion to adjourn the Council Meeting. Councilwoman Witt made a second. City Clerk Susan Ellis called the roll.

Councilman Abeln	Yes
Councilman Feinauer	Yes
Councilman Wall	Yes
Councilman Weber	Yes
Councilman Wessels	Yes
Councilwoman Witt	Yes

MOTION CARRIED

The Council Meeting was adjourned at 7:55 PM.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Dave Hatter", is written over the text "Respectfully Submitted,".

Dave Hatter, Mayor

Attest:

A handwritten signature in black ink, appearing to read "Susan Ellis", is written below the "Attest:" text.

Susan Ellis, CMC, KCMC
City Clerk