

## **Westphalia Board of Aldermen Meeting Minutes for May 24, 2023**

The Westphalia Board of Aldermen meeting was called to order by Mayor Tammy Massman. Roll call was taken. Aldermen present were Aldermen Delbert Wieberg, Stanley Heckman, Jake Plassmeyer and Lori Asel. Others present at the meeting were Dougg Stultz-City Attorney of Schreimann, Rackers & Francka, Aaron Lachowicz of Mid Mo Operations, and Theresa Brandt-UD reporter.

The meeting minutes from the April monthly meeting were reviewed. A motion was made by Alderman Stanley Heckman and was seconded by Alderman Jake Plassmeyer, to approve the April monthly minutes. Aldermen votes: Delbert Wieberg-yes, Stanley Heckman-yes, Jake Plassmeyer-yes, and Lori Asel-yes.

The May monthly expense report was reviewed. The city expenses note the amount of \$4,686.95, sewer system expenses in the amount of \$8,997.49, special road district expenses in the amount of \$369.40. City receipts in the amount of \$8,038.20, sewer system receipts in the amount of \$8,682.50, and special road district receipts in the amount of \$332.96. Total city checking account balance of \$178,505.19, total sewer system checking account balance of \$60,117.44, total special road district checking account balance of \$55,813.22, and total special road district savings account balance of \$5,114.48. Total city CDs in the amount of \$441,313.53, total sewer system CDs in the amount of \$524,628.76, and total special road district CDs in the amount of \$524,981.51. A motion was made by Alderman Delbert Wieberg, and was seconded by Alderman Stanley Heckman to approve the May monthly expense report. Aldermen votes: Delbert Wieberg-yes, Stanley Heckman-yes, Jake Plassmeyer-yes, and Lori Asel-yes.

The sewer system report was next on the agenda. Mayor Massman acknowledged that a report was submitted by Mid MO Operations. Sewer operator-Aaron Lachowicz reported to the council that the decant line has broken off at the swivel last week. Operators assessed that it was made out of aluminum and will not be able to be patched, welded or repaired. Operators, Alderman Wieberg, and Lane Brandow of Big Timber Welding have been working on assessments for replacements. Welding repairs to the brackets holding the decant line were performed prior, but further welding repairs to the line were unable to be achieved due to the amount of corrosion. Stainless-steel replacement parts have been recommended. Alderman Wieberg will continue to work with operators to assess repairs and assist with ordering of new stainless-steel parts. Operator Curtis Wheat has ordered the new check valve for the blower. It is anticipated to arrive in the next couple weeks, with noted cost around \$300.00. Once the check valve arrives, operators will have it installed. Lachowicz continued voicing they will be likely collecting 2nd quarter sludge samples also in the next couple weeks. Collection samples are required to be collected prior to June 30, 2023 which denotes the end of the 2<sup>nd</sup> quarter. Lachowicz reports that the plant continues to look good even with the recent needed repairs. Operators are continuing to await pricing from Trojan to replace a bolster that is out on one of the UV lamps. Lachowicz notes that ballasts are limited in supply. Lastly, Lachowicz proposed to the board a renewal of a 3-year sewer maintenance contract. The current sewer maintenance contract with Mid MO Operations has expired. It was set on an annual renewal cycle, which Lachowicz did note could continue, but was proposing for this renewal, for the board to consider a 3-year contract. The contract would include the same scope of work as previous, with no increase in cost. Mayor Massman reported that new certificates of insurance coverage have been provided by operators, noting a continued good standing in liability and workers compensation coverage. Mayor Massman encouraged board members to consider and approve Mid MO Operations proposal for the 3-year contract given the positive working relationship thus far and especially given there is to be no increase in fees for services. A motion was made by Alderman Delbert Wieberg, and was seconded by Alderman Stanley Heckman to approve a 3-year contract with Mid MO Operations with the same provisions as the prior contract relating to scope of work and with no requested increase in monthly fee. Aldermen votes: Delbert Wieberg-yes, Stanley Heckman-yes, Jake Plassmeyer-yes, and Lori Asel-yes. Mayor Massman will prepare the new contract for signatures noting the change to a 3-year contract, effective 6/1/2023 thru 6/1/2026.

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Mayor Massman requested circling back to discussions related to the upgrades for the decant line. Mayor Massman questioned if these updates and repairs were going to be the initiation of use of ARPA funding. Lachowicz stated yes. It was noted that updates to the air header diffusers and other major plant updates could continue over the next several months and be paid for with ARPA funds in efforts that the use of all ARPA funds would be spent within one reporting cycle. Mayor Massman will forward information regarding the amount of ARPA funding available to Mid MO Operations for review, denoting that the close of the next ARPA reporting cycle is set for March 31, 2024. Alderman Wieberg noted that if a billing were received by company-MKS, that it would require payment from ARPA funds. Wieberg noted that MKS is the supplier for the new stainless-steel parts for the decant line upgrades. Alderman Wieberg has provided MKS with the city's tax exemption information. Mayor Massman questioned Lachowicz if he was aware if any engineering inspections would need to be performed when using ARPA funds. Lachowicz voiced that he felt confident that those rules have been changed from the original requirements, and that oversight has lessened, so that projects could be completed in a timelier fashion.

Mayor Massman continued the meeting with the next agenda item-Insurance renewal. Mayor Massman noted that a renewal quote had been received from MO PERM reflecting the requested increases of coverage on the city's buildings. The quote received was in the amount of \$5,885.00 for the annual renewal of general liability coverage. It was noted that last year's premium was \$5,395.00. The small increase in premium renewal was primarily noted to be attributed to the increases of coverage limits for the properties and in reference to equipment breakdown coverage increases. Mayor Massman voiced that the annual renewal for workers compensation through MEM is also being negotiated. The audit information has been sent into MEM for review and an invoice is anticipated as well in the coming weeks. Mayor Massman noted that the preliminary quote from MEM is also within a couple hundred dollars of the \$959.00 cost for last years coverage. The total insurance package (MO PERM and MEM) last year was \$6,354.00. Total package this year is anticipated to have an overall increased cost of about \$650.00 – \$700.00. Mayor Massman noted that with the requested increases in coverage limits, the insurance carrier did perform a quote audit and the current carriers in place proved to be still be the most cost-effective option. Insurance renewal premiums would be required to be paid prior to the July 1<sup>st</sup> renewal. A motion was made by Alderman Stanley Heckman, and was seconded by Alderman Delbert Wieberg to approve paying the annual insurance premium renewals. Aldermen votes: Delbert Wieberg-yes, Stanley Heckman-yes, Jake Plassmeyer-yes, and Lori Asel-yes.

Mayor Massman continued the meeting opening it up for other business. Alderman Wieberg reported that he had received a proposal from Schwartz Roofing to replace the shingled roof portion at the city's salt shed at the corner of East Main Street and Bridge Ave. The proposal included general specifications including removal of the single layer of old shingles, replacement of any decking plywood and flashing as needed (\$50.00 per sheet), underlayment, piping, ventilation, ice and water barrier, wall flashing, roof edge, and cleanup for a cost of \$2,162.00. No opinion or quote was received with regard to the metal roofing portion of the building. An anticipated start date was not identified. Given the size of the project, it would likely be worked in between other roofing jobs. A motion was made by Alderman Delbert Wieberg, and was seconded by Alderman Lori Asel to accept the roofing proposal from Schwartz Roofing. Aldermen votes: Delbert Wieberg-yes, Stanley Heckman-yes, Jake Plassmeyer-yes, and Lori Asel-yes. Mayor Massman will notify the contractor by phone and send signed correspondence of the accepted proposal, informing him to proceed with the project as his schedule allows.

Alderman Wieberg next informed the council that he had received the quote back from All Seasons Roofing (ASR) in the amount of \$25,520.00. The scope of work as provided by ASR was reviewed which included a rubber roofing product that carried a 20-year warranty. The bid did not include any tuckpointing services and did not include removal of the existing chimneys below the decking surface. Alderman Wieberg also proceeded

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with soliciting a bid from contractor, Frank Rustemeyer Masonry for tuckpointing services on the City Hall building. A proposal bid was received in the amount of \$3,200.00 for tuckpointing services. The bid included costs to grind and tuckpoint above the roof and in all damaged areas in the mortar using a type of historic mortar with a bonding additive. Use of a protruding rounded mortar joint will be performed to match the existing historic mortar joints. Alderman Wieberg did not bring the quote with him, but will forward it to Mayor Massman following the meeting. Alderman Wieberg questioned if the other council members felt it was necessary to invest these amounts of money into restoring the City Hall building. Alderman Heckman questioned necessity as well as Wieberg. Alderman Plassmeyer noted that the roofing and tuckpointing restorations would only be the beginning of the repairs. Alderman Heckman reminded council members of the possible availability of a meeting room space at the maintenance building that could be utilized, with likely less expense, to bring it up to par. Alderman Wieberg voiced he had not proceeded with contacting any other roofing contractors, due to wanting further feedback from the council. Contractors such as MO Builders and Weathercraft Roofing were again identified as other possible bidders for the City Hall project. Wieberg was unsure whether bids could even be obtained from those larger contractors given the small scope of work. Mayor Massman reminded the council that considerations for spending in these dollar amounts, would require additional attempts to solicit bids, even if it was to record that the contractor declined the option to bid. Alderman Asel voiced that she would like to see the City Hall building be preserved noting the building has served historically as an icon for the community and that she would like to see it be utilized for more things than just a single meeting a month. Alderman Heckman noted beyond the exterior, many more repairs and updates would have to follow in the interior. Alderman Wieberg questioned what the next phase would include following the exterior restorations; questioning heating, electrical, and possible plumbing upgrades. Discussions continued among members regarding upgrades. Attorney Stultz reminded the council that maintenance of any building is going to be ongoing. Mayor Massman noted that during the previous meeting, an option of selling the building was mentioned. Mayor Massman noted uncertainty that this was a viable option with it being an entity/structure of the municipality. Reference was made with respect to the old city jail, that was gifted to the Westphalia Historical Society for ongoing maintenance and repair endeavors. Alderman Heckman again reiterated that it was going to take several thousands of dollars to restore the City Hall building. Mayor Massman suggested the council members visit/tour the city maintenance building location; given some aldermen have never seen this other potential meeting space; and be aware that some utilities in the building have been turned off. Mayor Massman voiced that in considering this alternate location, it too was going to take some time and money to bring the space up to meeting readiness. Mayor Massman noted that the water utilities have been turned off there for over a decade and the integrity of its heating and electrical sources would likely also require some maintenance and upgrades. Mayor Massman voiced to the council entertaining a group field trip to tour the maintenance building. Alderman Plassmeyer voiced he was open to a field trip but agreed with Alderman Asel on considering further preservation efforts for the City Hall building. Mayor Massman concurred. Mayor Massman reminded the council that a restoration project can be considered to occur over time and budget years, if necessary, as is done with the sewer maintenance projects and road district projects. The council does not have to exclusively approve and perform all restoration projects at one time unless that is what is voted on to be approved. Alderman Heckman noted that either way, with restoration especially for the City Hall building, hosting meetings away from the site would be inevitable. Alderman Heckman voiced favor of a field trip to the maintenance building. Alderman Wieberg voiced that he did forget to mention that included in the tuckpointing bid, was the removal of the interior chimneys from where the roofers stop below the decking. Council members agreed this was an added bonus included in the bid. Mayor Massman offered again the proposal of either a group or individual visits to the city maintenance building to assess the alternate meeting room site. Mayor Massman suggested that further discussions be tabled until next meeting, when additional roofing proposals could be further entertained, and following a site visit to the maintenance building.

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Alderman Wieberg revisited the discussion of gifting the City Hall building. Attorney Stultz voiced that if the council were to further entertain gifting the building, that it was possible to consider in the negotiations, to in turn rent the building back for continued city use. Alderman Heckman voiced he agreed that he wanted to see the building preserved, and was open to ongoing conversation. All council members agreed. Further conversations were tabled until more bids for repairs could be obtained. Mayor Massman volunteered to solicit a roofing bid from Weathercraft and Alderman Heckman volunteered to solicit a roofing bid from MO Builders. The same scope of work as outlined in the bid from All Seasons Roofing will be utilized for equal comparisons.

Next in other business, Alderman Asel requested to revisit the topic of pending requests for home-based businesses. Alderman Asel noted she had been studying up on things, having looked into other cities and their planning and zoning codes. Asel wanted to share that specifically in the City of Pacific that updates were recently made in their zoning to reflect changes in some new laws passed in 2022. Asel stated that her understanding is that Missouri is in favor of promoting home-based businesses and felt that the City of Pacific was making good strides in changing their zoning to be more inclusive for home-based businesses. Asel cited some of the City of Pacific changes made to their zoning and ordinances. Asel referenced that the changes reflected a “no impact statement” addendum for issuances relative to home-based businesses and were attached to business licensing requirements, waiving some of the licensing requirements. Asel voiced that she felt the no impact statement provisions were less restrictive. Asel continued providing information on her understanding related to food regulations and cottage law. Asel voiced she felt that the council should implement some of these same changes given there are pending requests for home-based businesses within the city limits. Asel voiced that she felt the city’s current licensing requirements were restrictive. Mayor Massman questioned Asel if she was then proposing wanting to change the current planning and zoning code. Mayor Massman noted further that Asel was specifically identifying certain language related to cottage law and home-based businesses and questioned if she was proposing these changes only in part to her own knowledge of a business that she has come into light of, that is in need of a home-based business license. Attorney Stultz questioned also if Alderman Asel was proposing an amendment to the planning and zoning code. Asel responded, yes-correct. Attorney Stultz questioned if Asel was wanting to use also the same as what the City of Pacific adopted. Asel acknowledged yes to an extent. Asel stated she felt that the Westphalia Planning and Zoning code excludes the food aspects of home-based businesses. Mayor Massman discussed that the city’s current business license application is all encompassing and that not all pieces are required of certain businesses, citing requirements for restaurants are different of those for hair salons, grocery stores, etc. Mayor Massman noted that these exemptions are discussed with the applicant at the time to provide more clarity instead of having 6 different versions of a business license application. Attorney Stultz followed up with discussions regarding cottage law and that it can assist persons with getting around certain FDA regulations and health inspections, but it does not exempt you from zoning laws. Attorney Stultz continued with noting that he felt he knew where Alderman Asel was wanting to go with the topic, but noted that the undertaking is not one that would be quick. It would be a very large extensive process to change and or amend what is currently in place as the regulations for planning and zoning. Alderman Asel voiced she wants to just simplify the process of the business licensing, especially for home-based businesses, citing she felt they should not be the same as for brick-and-mortar businesses. Alderman Wieberg questioned Asel, as to who is to make the decision regarding whether a business is to be considered for this “no impact” provisions. Mayor Massman voiced that an applicant can not get around business licensing requirements without first adhering to zoning regulations. Attorney Stultz confirmed this notion. Attorney Stultz requested clarification from Alderman Asel. Are you proposing wanting to change zoning codes and regulations? Alderman Heckman noted that changing the code would be a huge undertaking, with having to modify the language throughout, involving multiple ancillary boards, holding multiple public meetings, etc. and so on. Attorney Stultz confirmed what Heckman was touching upon, the expansiveness of the project. Alderman Asel voiced she did not believe it should be that hard to accomplish addressing the concerns more for home-based businesses. Conversation continued. Attorney Stultz noted that Asel’s

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discussions were being referenced in general terms and not in respect to specific details. Noting that what was being cited was primarily for non-city regulated instances, and that those details do not exempt a person from zoning restrictions within the city limit. Attorney Stultz reinforced that the current planning and zoning code that is in place, is what the council has taken an oath to uphold. Attorney Stultz further noted that current ordinances in place are also what is to be upheld. Alderman Asel voiced, “then there needs to be some amending there too”. Attorney Stultz questioned Asel again what her specific intentions were for the board to be considering. Stultz encouraged Asel to get a proposal together to be considered. Recommending that it be something that can be circulated, reviewed and discussed with the council, giving special attention to the details she is wanting amended; starting with the planning and zoning code and then ordinance; following the rules on how to amend them and the code respectively. Stultz recommended Asel start there and prepare a draft.

Mayor Massman furthered conversation with the council, questioning if the council would want to consider removing requirements of the current business license application as Asel was suggesting, which Massman voiced is the city’s only insurance that an applicant has been registered and is in good standing with the state and county. An applicant/business then is held accountable and responsible for appropriately recording and paying their due taxes, which in turn filters back down to the city. Alderman Asel stated she wasn’t in disagreement with a person’s responsibility to pay taxes and have applicants produce those licenses. Mayor Massman questioned what it was that Asel wanted to remove from the business licensing application. Asel replied she didn’t feel it was necessary for a business to be established as an LLC. Mayor Massman responded that there is no requirement for how a business is to establish, continuing that that is a personal preference or discussion of the business owner and their accountant on how to establish, whether it be a LLC, sole proprietor, corporation, etc. Alderman Asel stated “the process is just too hard”. “This is America and we should be able to start up our own home-based businesses on our own property without all these requirements, there is just too much red tape to have to file variances or conditional uses.” Attorney Stultz again clarified that his understanding is that Alderman Asel wants to simplify things, but voices that it isn’t that simple. Attorney Stultz stated that he doesn’t take a position either way, but that there has to be an understanding that what the city has in place right now, is what the law is currently here. “We didn’t make it up, and we are required to adhere to.” It was noted that changes could be made to it, but it will require you to come up with a draft proposal of what you are wanting with specific language, be vetted, and work it through the proper channels of having it amended. Alderman Wieberg stated he wasn’t against having home-based businesses, but did agree that applicants do need to follow the process to be considered for approval if it isn’t clearly spelled out for approval in the current code. Attorney Stultz followed up on Wieberg’s comment, noting that there is built in to the current code, application processes to file for exceptions and that the council cannot ignore that, because “you may feel it’s too hard.” Stultz continued voicing, “You don’t get to look past these rules, you were elected to uphold these rules.” As an example, Stultz continued, “let us consider a that a license was approved and a business started, but another resident or neighbor questions why it has been approved. If the applications are incomplete, processes for obtaining the license are incomplete, an exemption is not requested, public hearings are not held, and so on; it is not documented, you board members will be called to the carpet for not doing your jobs.” Alderman Asel clarified that she didn’t think that the ordinances or zoning per say needed to be changed, she just didn’t want so many requirements imposed. Citing again that the City of Pacific did it recently, how can we merry with the law and make changes. “They did it in a one-page document.” Attorney Stultz questioned Asel again, voicing “I am not clear on what you (Asel) are asking for, saying sometimes you want to change or amend the ordinances and code, the applications, the variances, conditional uses; this has become very confusing for what exactly you are wanting.” Asel confirmed she wasn’t sure either what wording needs to be changed. Conversation continued. Asel noted the code is just too overwhelming. Mayor Massman offered clarification that the planning and zoning code book is the framework for governing over the zoning codes and rules. It was recognized as the document of law with the passage of an ordinance making that document the rule to follow. Attorney Stultz reinforced that the planning and zoning code book would have to be changed and

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then passed by amending the ordinance that sets it as the rule. Alderman Asel questioned again what needs to be changed or taken out. Attorney Stultz reinforced with Asel that what you are asking is not anything simple, it is a large undertaking with having to rework any portion of the current code.

Alderman Asel questioned Stultz, how do we get around that without reworking the code. Stultz replied to Asel noting that what you are suggesting be changed or wanting to do will be a large undertaking. That it isn't going to be a simple task as you want it to be. Stultz again recommended that Asel put together a proposal clarifying specifically what she is wanting to achieve. Alderman Asel followed up voicing, "so, we in the meantime, just say no to any new businesses wanting to come into the city," which Asel attributes to why people are moving out of the city. Both Mayor Massman and Attorney Stultz refuted Asel's comment. Mayor Massman followed up reinforcing Stultz's comment earlier about the council's obligation to uphold the code that is currently in place until efforts to pursue revisions are made. The rules that are in place were put there for a reason, to protect the different districts. Alderman Asel continued to request for change of the ordinances and code. Attorney Stultz opened the notion again for Asel to continue to review the documents in place and pursue putting together, providing some new proposals for the board to consider. Attorney Stultz addressed the council again stating that he "would rather see the public faulting this council for following the rules too closely, instead of looking at you and saying they just ignore the rules. That's how municipalities get in trouble." Alderman Wieberg confirmed that that is what we need to do, noting that neighbors change and maybe your new neighbor doesn't agree with the practices taking place. Then it will come back on all of us if we don't do it the right thing the first go round. Attorney Stultz emphasized attention to procedures, that when procedures are followed in these decisions, there is no room for accusations that procedure was not handled accordingly and then there is no argument further about what the decision was. Someone is always likely to have a grievance about a decision, but if the process and procedure of how the decision was reached is protected it cannot be further mitigated. Attorney Stultz again encouraged Alderman Asel to continue in her efforts of research and come back with some proposals for how the city may be able to simplify its current zoning code based on more current versions from other municipalities. Conversation continued. Mayor Massman shared with the council that her practice has always been that if there is any question related to code adherence, if it is clearly not understood, it is always brought before the city's attorney to review and assist with interpretation and guidance. Alderman Asel then wanted to clarify the process for conditional use applications. Mayor Massman provided the defined step by step process for the council. An appeal process was also outlined and discussed. Alderman Asel questioned uses. Attorney Stultz then provided the code book to Alderman Asel and pointed out the different zoning districts and where it defines accepted uses and what provisions are in place to file for variances and or conditional use permits. Alderman Asel continued to push further that uses, she felt needed to be included were not in all districts. Attorney Stultz reiterated again to Asel that she then needs to work towards preparing those proposals to be considered. Conversations continued with discussions and concerns to be considered in relation to plans for growth with residential areas becoming more commercialized, parking concerns and potential hinderances and integrity for the neighboring properties.

Mayor Massman requested that Alderman Asel provide a copy of the City of Pacific amendment that she had cited, as Mayor Massman would like to review it also. Asel agreed to email it to the city email and voiced plans to prepare some proposals. Alderman Asel then questioned Mayor Massman and Attorney Stultz whether a license was placed on hold and is currently under review, but did not identify anything specific or license for which she was referring to. Attorney Stultz voiced that the question could not be refuted or denied without Asel being clearer about what she was asking. Stultz stated that when he is asked by the mayor about interpretations of the code, that he does review them and does offer his legal opinion of the language and recommend what procedures should follow next. Stultz continued by voicing that he takes a very conservative approach and that if the language or request is not clear, he encourages that conditional use permits and variances be filed so that

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procedure is then not able to be questioned.

Lastly, Mayor Massman shared information related to an upcoming conference in June, being hosted by MML for newly elected officials as well as for current council members to attend and review in broad spectrum multiple topics relative for municipalities. Mayor Massman extended the offer for anyone interested to see her after the meeting to ensure registration deadlines were met. Mayor Massman voiced she would be attending the conference, as it has been several years since she has attended. Alderman Asel voiced she had applied for a scholarship independently and was awarded a spot with plans to also attend.

The next city meeting date was discussed. Alderman Wieberg noted he will be not be able to attend on June 27<sup>th</sup>. Alderman Heckman offered Tuesday, June 20 as an alternate date. Mayor Massman noted that considerations are being reviewed for a tentative public hearing to discuss a conditional use permit at the next meeting. All members confirmed availability to schedule and attend the meeting on Tuesday, June 20, 2023 at 6:00 p.m. at City Hall.

A motion to adjourn the regular meeting was made by Alderman Stanley Heckman, and seconded by Alderman Jake Plassmeyer. Aldermen votes: Delbert Wieberg-yes, Stanley Heckman-yes, Jake Plassmeyer-yes, and Lori Asel-yes.