

City of Dyer
Special Meeting
April 13, 2021

The Special meeting of the Dyer City Council was called to order by Mayor Paul Brown at 6:00pm.

Pledge of Allegiance was said.

Roll Call by Lynn Hubbard Recorder Treasurer

Alderman Myrna Burns-present

Alderman Donna Staton-present

Alderman Katherine Fry-present

Alderman Richard Swearingen-present

Alderman Rhonda Rowell-present

Alderman Jeff Baxter-present

We are going out of order on the agenda so we can gather needed information.

Ordinance 2021-04-13-01 is to set the changes we discussed related to water tap and water meter fees. Recorder Treasurer did a recap for the council of the proposed changes.

\$850 water tap fee plus \$150 meter deposit for ¾ inch service.

\$1350 water tap fee plus \$150 meter deposit for 1-inch water service.

Larger water service must be approved by the Dyer City Council.

Sewer tap increase will require a public hearing. Asked City Attorney how long we needed to have before we could have the hearing, City Attorney stated that he would pull statute to make sure we handle the public hearing correctly before he responded.

Ordinance 2021-04-13-01 AN ORDINANCE ESTABLISHING VARIOUS POLICIES AND PROCEDURES OF THE DYER ARKANSAS WATER DEPARTMENT AND FOR OTHER RELATED PURPOSES.

Council asked if they wanted to read the Ordinance in its entirety at 3 different meetings or 1 time and by title only.

A motion was made by Alderman Donna Staton to read 1 time by title only and seconded by Alderman Myrna Burns.

Roll Call:

Alderman Myrna Burns-yes

Alderman Donna Staton-yes

Alderman Katherine Fry-yes

Alderman Richard Swearingen-yes

Alderman Rhonda Rowell-yes

Alderman Jeff Baxter-yes

A motion was made by Alderman Katherine Fry to adopt Ordinance 2021-04-13-01 AN ORDINANCE ESTABLISHING VARIOUS POLICIES AND PROCEDURES OF THE DYER ARKANSAS WATER DEPARTMENT AND FOR OTHER RELATED PURPOSES and seconded by Alderman Donna Staton.

Roll Call:

Alderman Myrna Burns-yes

Alderman Donna Staton-yes

Alderman Katherine Fry-yes

Alderman Richard Swearingen-yes

Alderman Rhonda Rowell-yes

Alderman Jeff Baxter-yes

A motion was made to declare an emergency to adopt Ordinance 2021-04-13-01 ORDINANCE ESTABLISHING VARIOUS POLICIES AND PROCEDURES OF THE DYER ARKANSAS WATER DEPARTMENT AND FOR OTHER RELATED PURPOSES by Alderman Donna Staton and seconded by Alderman Myrna Burns.

Roll Call:

Alderman Myrna Burns-yes

Alderman Donna Staton-yes

Alderman Katherine Fry-yes

Alderman Richard Swearingen-yes

Alderman Rhonda Rowell-yes

Alderman Jeff Baxter-yes

City Attorney stated that the paperwork he had was drafted by Mr. & Mrs. Morrell's attorney with all bullet points listed and Mayor Brown has been doing research and may want to present and possibly deviate from those. Council for Morrell's set up computer and copied document. This draft was presented to the council to review.

Mayor Brown offered to allow Council for Morrell's to speak. Council stood to say they were here to answer questions after the council had directed Mayor and City attorney to meet and discuss this with The Morrell's and their council to be available to amend something if needed. City Attorney stated that the council had instructed Mayor and City attorney to negotiate and hammer out a resolution and Mayor has researched water rates and sewer rates thru a water study, and he wants to deviate from the terms of the bullet list, and I told him that we were kind of fenced by the bullet points but if he wants to do something different you all would have to approve that. Mayor Brown stated he met with Mr. Morrell and they drove around and looked with property and discussed what he was going to give the city and I started doing my research on the water with Hawkins and Wier and the cost and code issues involved in the system and received a detailed list of what it would cost to bring it up to where it needs to be and what it would cost to have it by code. The Sewer was \$262,000 to bring to code and the water system was going to cost \$147,000. I talked with the Arkansas Health Department and it comes down to if Dyer ever annexes that area, they own that water system. I visited with Thomas Johnson from Little Rock, nothing has to be done to the system immediately, but anything inside the city would need to be approved by the health department. I gave this information to each of the council members last week and told them to do their own research and his recommendation was for the City of Dyer to repeal the annexation and keep water rates like they are. This is the first time in 2 years the water department has been in the black and not been in the red. We lost money in sewer. You all tell me what you want me to do.

The City Attorney stood to say that you would vote to settle the partial litigation. The water rate Ordinance that charges a different rate to property outside the city, and that is litigated. That part of the bullet point will not be dismissed so it will have to be heard in court. Be advised. The Morrell's council stated if they could not agree on the entire thing, we cannot settle the case.

A motion made by Alderman Donna Staton to repeal the annexation and keep the water rates as they are and seconded by Alderman Myrna Burns.

Roll Call:

Alderman Jeff Baxter and Alderman Rhonda Rowell asked if there could be discussion.

Alderman Jeff Baxter asked if annexation would be voted against and the water rates would be kept the same and the lawsuit would likely continue. City Attorney states that this will not end the litigation, that it would just end the annexation. Alderman Rhonda Rowell asked in the studies done was commercial rates on the master meters other than something other than gouge. Mayor Brown states that when we talked the other day that door to door or commercial the money is the same and you can call it what you want to. The City Attorney states that one of the settlement points is that the property annexation is not charged a disproportionate rate the water system needs to be solvent, we would be looking at a rate increase system wide. The settlement does require that you are solvent in your water operation but the way you have went about making it solvent would have to change.

Questions asked by Alderman Rowell and Baxter that were not entirely audible on recording about water. Mayor Brown did state that there would be a in city and out of city rate and a commercial fee. That is really their objection, they view that as retaliatory because it singled out that property and it was retaliatory and not to make the water system solvent. Outside the city limits it is \$25.00 per door and there are 48 units, that's 1000 gallons for the 48 doors at a cost of \$25.00, anything over that is the other fee. The issue is you have multi units on single meters and they were charged the same base and now you have a minimum count usage and that is not a minimum usage count or a residential living unit. That affects commercial property more than anyone else. They argue that this was done as retaliation as a result of their litigation on the annexation. I can also prove that we were in the red for 2 years. Water is going to go up again next year by 3%. Jim Barky from Rural Water said different cities have different things come out of their accounts. Their water can be less, and some can be more. We had a girl come from Mulberry and their water rate minimum is \$29.00 per door. So, I am saying there are different situations. We have to have money coming in, we cannot be in the red anymore, we have to run it like a business. It has not been run that way in the past.

The Morrell's council asked if the question is that you do not want to accept the water and sewer system and the rest of the bullet points are ok. Mayor Brown states, No. City Attorney states that I think The Morrells are willing to have the city take over the water sewer system. Morrell's state this is a negotiation. Mr. Morrell states this has been going on for three months and you come up there one time and you have never met with us and have not showed us any of this documentation, we have not had a fair chance to negotiate. We have asked to negotiate and would like to get this settled because this is going to lead to more lawsuits. Mayor Brown stated to Mr. Morrell that every time I have talked to you that word comes out, you are either going to sue something or I am going to do this, but I will not do this. Mr. Morrell stated he never said that and Mayor Brown states yes you did. We are not going to go back and forth.

Alderman Donna Staton states it started out Mike that you did not want us to annex anything and we are not going to annex anything into the City of Dyer. Mrs. Morrell spoke but recording was not audible to me. But we do not want any of it right now. We put it up to the voters in the City and they said they wanted you. We cannot afford the cost of the water and sewer. Mr. Morrell council attorney asked if a committee could be formed to negotiate. City Attorney stated we have a motion in process that needs to be voted on or withdrew. RT asked if they wanted to complete Roll Call. More discussion that was not audible. It was asked if an executive session could be called and attorney stated not in this issue. Mayor Brown states everyone on this council knows what the budget is for the water and sewer. Alderman Rowell asked about the meeting that Mayor and Mr. Morrell were supposed to have had and Mayor Brown spoke up and said the conversation we had, he was over here, and I was over there and there was no way we were going to meet in the middle. Female voices saying I was not in that meeting and Mayor Brown spoke up and said you're right that was me and Mr. Morrell. Mayor Brown stated City of Dyer has rules that most of you guys created, we are not going to deviate from those rules for this person or that person or another person. Discussion from Mr. Morrell that was difficult to understand on recording. City Attorney said the Mayor says he has reservations about the water and sewer system, that was on the bullet points and I felt if we were going to deviate from that list, I needed the council to approve the deviation. The reason we are here tonight is because I felt we were out of bounds in the original resolution and what we need is the council to guide us going forward. Whether you want to have me, and the Mayor negotiate with The Morrell's or set a committee to address this or say all things are off, see you in court. The guidance comes from the City Council. Alderman Donna Staton said so once you have negotiated with them you would need to come back to council and put it to a vote and City Attorney said yes, that is correct. City Attorney stated he did not want to deviate from the bullet point list without the council approval. Alderman Rowell asked about a negotiation. Mayor Brown states he feels what is best for the city is we have nothing to do with that. With all the information I have, I don't think at this time. If he wants out of the annexation, I am good with that and the water is going to prove itself. Withdraw the motion for repealing the annexation ordinance and keeping water rates as it was made by Alderman Donna Staton and seconded by Alderman Myrna Burns.

Roll Call:

Alderman Myrna Burns-yes
Alderman Donna Staton-yes
Alderman Katherine Fry-yes
Alderman Richard Swearingen-yes
Alderman Rhonda Rowell-yes
Alderman Jeff Baxter-yes

A motion to made to repeal an Ordinance annexation Ordinance 2019-11-26-1 by Alderman Donna Staton and seconded by Alderman Katherine Fry.

Roll Call:

Alderman Myrna Burns-yes
Alderman Donna Staton-yes
Alderman Katherine Fry-yes

Alderman Richard Swearingen-yes

Alderman Rhonda Rowell-yes

Alderman Jeff Baxter-yes

City Attorney obtaining copy of Ordinance to repeal an Ordinance to bring to council.

Alderman Jeff Baxter made a motion to suspend the reading rule and read in its entirety one time and Alderman Richard Swearingen seconded.

Roll Call:

Alderman Myrna Burns-yes

Alderman Donna Staton-yes

Alderman Katherine Fry-yes

Alderman Richard Swearingen-yes

Alderman Rhonda Rowell-yes

Alderman Jeff Baxter-yes

A motion to adopt Ordinance 2021-04-13-2 an ORDINANCE REPEALING ORDINANCE 2019-11-26-1. DECLARING AN EMERGENCY, AND FOR OTHER RELATED PURPOSES made by Alderman Donna Staton and seconded by Alderman Jeff Baxter

Ordinance 2021-04-13-2 an ORDINANCE REPEALING ORDINANCE 2019-11-26-1. DECLARING AN EMERGENCY, AND FOR OTHER RELATED PURPOSES

WHEREAS, THE City of Dyer, Arkansas, passed an ordinance calling for a special election on the question of annexation.

WHEREAS, the City of Dyer has been named in litigation from landowners located within the proposed annexation area.

WHEREAS, the City of dyer sought to complete the annexation prior to the deadline for the 2020 census.

WHEREAS, with pending litigation, even if the City of Dyer should prevail in the litigation, it would prevent the annexation from being counted in the 2020 census, and

WHEREAS, with the litigation and the census deadlines passing, it does not make fiscal sense to proceed with the expense of litigation.

NOW, THEREFORE, BE IT ORDAINED BY THE BY THE CITY COUNCIL OF DYER, ARKANSAS, AS FOLLOWS:

SECTION 1: Ordinance No. 2019-11-26-1 is hereby repealed.

SECTION 2: All ordinances or parts of ordinances in conflict with this ordinance are hereby amended to reflect the new rates and charges set out above.

SECTION 3: Emergency Clause. This ordinance is deemed important for the immediate protection and preservation of the public peace, health, safety, and welfare of the citizens of Dyer, Arkansas, because the existing ordinance will create a significant financial burden upon the city without the expected gains from increased census count such that the financial condition of the City would be negatively impacted reducing the ability of the City to provide essential services to the citizens of Dyer such that an emergency is hereby declared to exist and

this ordinance shall be effective and in full force and effect from and after its passage and approval.

Read in its entirety by City Attorney Sean Brister.

Roll Call:

Alderman Myrna Burns-yes

Alderman Donna Staton-yes

Alderman Katherine Fry-yes

Alderman Richard Swearingen-yes

Alderman Rhonda Rowell-yes

Alderman Jeff Baxter-yes

A motion was made to declare an emergency for Ordinance 2021-04-13-2 to go into effect immediately was made by Alderman Donna Staton and seconded by Alderman Katherine Fry.

Roll Call:

Alderman Myrna Burns-yes

Alderman Donna Staton-yes

Alderman Katherine Fry-yes

Alderman Richard Swearingen-yes

Alderman Rhonda Rowell-yes

Alderman Jeff Baxter-yes

A motion was made to set all 6-council committee to negotiate the Morrell's final settlement for water rates by Alderman Katherine Fry and seconded by Alderman Rhonda Rowell.

Roll Call:

Alderman Myrna Burns-yes

Alderman Donna Staton-yes

Alderman Katherine Fry-yes

Alderman Richard Swearingen-yes

Alderman Rhonda Rowell-yes

Alderman Jeff Baxter-yes

Meeting set for April 20 at 6pm at City Hall. Public hearing, mayor does not have to be there, city attorney states he should be present.

Mayor told everyone if you don't have

A motion was made to adjourn by Alderman Donna Staton and seconded by Alderman Katherine Fry .

Roll Call:

Alderman Myrna Burns-yes

Alderman Donna Staton-yes

Alderman Katherine Fry-yes

Alderman Richard Swearingen-yes

Alderman Rhonda Rowell-yes

Alderman Jeff Baxter-yes

Meeting Adjourned at 735pm.

Mayor 

Recorder treasurer 