

City of Dyer Council  
Meeting minutes  
May 25, 2021

City of Dyer council meeting was called to order by Mayor Paul Brown at 6:30 pm. The pledge of allegiance was said, and roll was called by Recorder Treasurer Lynn Hubbard.

Roll Call:

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

Mayor Brown made the following statement. Public forum speakers cannot address the general public and the general public cannot speak out of turn. You may ask anything you wish in a respectful manner. Don't talk over each other, allow them to address the council and the council to talk back.

Public Forum:

Debby Ferguson stated she asked to be put on so she may answer any questions that anyone might have for her as the attorney for The Morrell's.

Mike and Brenda Morrell state the same as Mrs. Ferguson.

Rick McClellan water operator stated he was hired in December 2020 to be water operator for the City of Dyer. My duties were to do bactine samples and monthly reports and if there were dealing with other duties. He told the council if they had questions about the recent violations, he would answer those. He is water operator for the City of Kibler and the City of Denning. He states he has asked the health department to look at Almas technique and a flushing program will be number 1 and I have an audio file I sent to Lynn and the City attorney to let them know this is being taken care of, we have had a high chlorine residual from Alma. I have mentioned to Lonnie that he takes chlorine samples in various areas to test and based on the testing we have done in Kibler and here we have had good chlorine levels. The one test site is where we are in violation at, and it is on Cemetery Road. Alderman Rowell asked about flushing detail and he stated he hasn't really gone into detail with Lonnie about that because that is where his duties end here but he wants to get this cleared up because it would affect his license. I don't have a signed agreement with the City of Dyer, and I could pull my license at any time, or you could fire me at any time. I am going to have to work with Lonnie and tell him what to do so we can get this cleared up. I can get a draft agreement with you that outlines my duties and where we all stand. We have a decree that I need to sign and get to the health department, and I need to City Council to tell me to sign it and get it to the health department, so we don't have to go a hearing with ADH. Alderman Katherine Fry told Rick McClellan he had some large bottles come in and he said that is lead and copper and he would get Lonnie on that. Alderman Rhonda Rowell asked how soon you can have an agreement drafted and back to us and he stated by next City Council meeting. Alderman Donna Staton asked so Cemetery Road is your only place of violation, and he states yes. THMs go onto your previous quarters and so you were 1 point out

of compliance on your first quarter and you were good on your samples for the first quarter. Previous 3 quarters is what thru you out of compliance.

A motion was made to authorize Water Operator Rick McClellan to enter into decree agreement with the Arkansas Department of Health by Alderman Rhonda Rowell and seconded by Alderman Donna Staton.

Roll Call:

Alderman Richard Swearingen yes

Alderman Jeff Baxter yes

Alderman Katherine Fry yes

Alderman Myrna Burns yes

Alderman Donna Staton yes

Alderman Rhonda Rowell yes

Evie Goff

Evie states she has questions for council, attorney and Mayor. I would like to know how many of you councilmen knew when the planning commission was formed the petitioner was chairman of that commission. I supported him because I thought it would be good for the city because it would keep contractors from coming in here and putting in shoddy roads and doing whatever they wanted to do to property that the city could possibly annex in. I did go against him when he and neighbors objected to a disabled vet putting in a modular home that would have cost well over \$100k. The city could have been sued but he decided not to pursue it because he did not want to have neighbors like he would have up there. He wanted to provide a home for his wife, child and mother. He said he was shamed by the petitioner for wanting to put in a trailer and this happened in front of his mother and son. When you did your negotiations in the meeting that Paul was not present, did any of you think about if they clear out that land what will it do to the citizens of Dyer. If you had talked to the people in your ward, you would have known what they thought. Mrs. Goff addressed Alderman Donna Staton and Rhonda Rowell stating they needed to call the erosion control department and have them look at it. There needs to be a check on this to keep erosion from happening again when that land starts being cleared. Check with Myrna Henry about what happened when the land was cleared before. There was a group of people who wanted to put in housing edition on Georgia Ridge and they had denied them. They didn't want to put in any culverts either. Alderman Katherine Fry asked if they lived in the city limits of Dyer and was told no but they were in the planning commission area. Mrs. Goff asked City attorney if he recalled he is asking him if we should call and get advice from Municipal league and what did you tell me, he states he did not recall, Mrs. Goff stated you told me that you had called Municipal league and they didn't want any part of it. Mayor Brown stated he called Municipal league when all this started, and no one had ever contacted Municipal league. She asked City Attorney who he talked to, and he stated most likely Lanny Richmond. Does the decree allow the people to buy up there and will they hook up to the sewer system up there? Mayor Brown states when they get approval from ADH. Does he have to put sewer system in before he sells the property? I would like to recommend the council dissolve the planning commission and enforce your clean up orders. What are you going to do when someone else comes in to build another subdivision are you going to let that curb and gutter go by the wayside?

Marilyn Kiser wants to say this is not personal and she has talked to several people in Dyer and regarding the November 2020 minutes a Robert Porter presented an ordinance to repeal an

ordinance that pertained to city council members working as a city employee. Council member Katherine Fry voted on Mr. Porters ordinance. Was Katherine Fry voting on an ordinance directly related to her personal interest illegal. According to Van Holdenburg vs Hollman 201370 states an Alderman should abstain from voting where his or her public duty conflicts with his or her personal interests. It was and should not have been allowed. Is receiving pay from both positions considered double dipping? I have talked to other Citizens of Dyer, and they are not happy with it. Alderman Fry stated I do not double dip and there was an ordinance allowing me to hold position on council and be a city employee. Marilyn Kiser asked are all coming up with these ordinances and changing them to satisfy you all instead of asking Kathy to choose which position she wants. Alderman Rowell asked what the conflict of interest and Mrs. Kiser states is I don't feel like she should be working for the City of Dyer or being a council member. Alderman Rowell states the definition I have read when it comes to employees has to fiduciary responsibility, such as if she owned a company and we hired that company to come in and do a job that is conflict of interest. Another example is if we have an employee and pay him separately to do inspections, that could be a conflict of interest. Another example, perhaps, is if we have an employee that does road work and gets paid separately for that road work. That could be a conflict of interest in the definition of what I have read. Alderman Fry states she does not vote when it comes to fire employees she has to abstain. Mrs. Kiser said looking at minutes it states Robert Porter made a motion to adopt his ordinance to repeal the ordinance in 2016 you voted no on that. Are you all going to be able to watch this? Mrs. Kiser stated she spoke to City Attorney asking him about the Ordinance allowing Alderman Fry to hold a seat on council and work in office and he stated he advised the council not to do this. Alderman Fry said she feels like she separates her duties while working in office from duties as a council member. Alderman Donna Staton states the council can intact an ordinance permitting alderman, municipal employees to conduct business with city and be employed. She also states she has always known Kathy to not vote on anything that pertained to employees. Mayor Brown asked council if anyone had a problem with Kathy being on the council and working for the city and each member stated no.

Second issue is where the council was to discuss a settlement with Mike and Brenda Morrell, City Council member Rhonda Rowell was very vocal in that meeting and voted on this agreement. Isn't this a conflict of interest when her wife Delores Wheat has real estate listings on the property within the annexation? I have some pictures. I have been told it is conflict of interest. Mayor Brown talked to Rhonda Rowell and City Attorney and asked if Alderman Rowell had any interest in this and she said no. She said I do not have any ownership up there. What property were you told that I had interest in?

Approval of April 27, 2021, minutes

A motion was made to approve April 27, 2021, minutes by Alderman Jeff Baxter and seconded by Alderman Richard Swearingen.

Roll Call:

Alderman Richard Swearingen yes

Alderman Jeff Baxter yes

Alderman Katherine Fry yes

Alderman Myrna Burns yes

Alderman Donna Staton yes

Alderman Rhonda Rowell yes

**Approval of April 2021 Financials**

A motion was made by Alderman Donna Staton to approve April Financials for General, Street, Water Sewer and Sanitation and seconded by Alderman Rhonda Rowell.

**Roll Call:**

Alderman Richard Swearingen yes

Alderman Jeff Baxter yes

Alderman Katherine Fry yes

Alderman Myrna Burns yes

Alderman Donna Staton yes

Alderman Rhonda Rowell yes

**Mayor Report:**

I went to meeting at Quorum court about jail fees. If a person is jailed at 10 pm at night and released at 8 am the next day the cities are charged 2 days. They were going to try and change the time to a 24-hour period would be the \$40 and the day they got out would be free, but the Quorum court said no.

911 will come into effect and will cost \$6-8000 and will have to be budgeted for.

Water Meters are in, and we are waiting on antenna for lids.

We need an outside maintenance person.

Trash cans were called on today

Employee handbook.

Alderman Rowell said she will work on this, Mayor asked if Lynn Hubbard and Tammy Coombes would work on this.

SAMS grant is good now.

We are also going to try and get a grant to upgrade playground equipment.

**City Attorney:**

Resolution for Variance.

**A RESOLUTION RECOMMENDING A VARIANCE FOR APPROVAL BY THE DYER PLANNING COMMISSION AND FOR OTHER RELATED PURPOSES.**

**WHEREAS** the City of Dyer was involved in litigation with Mike Morrell and Brenda Morrell.

**WHEREAS**, after lengthy litigation and subsequent settlement negotiations the parties entered into a settlement agreement which was duly adopted by the Dyer City Council by Resolution No. 2021-4-20-1.

**WHEREAS** a term of that settlement required a variance for real property owned by Mike Morrell and Brenda Morrell and/or Fountain Gate Development LLC d/b/a Riverchase Development removing extra-territorial subdivision regulations.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DYER, ARKANSAS, AS FOLLOWS:**

**SECTION 1:** The Dyer Planning Commission shall hold a public hearing on June 22, 2021, at 6:30 p.m. for consideration of a variance and/or ordinance to effectuate the terms of the settlement agreement.

**SECTION 2:** The Dyer Planning Commission and City Council shall subsequently consider the variance and/or ordinance at the regular city council meeting to be held on June 22, 2021, at 6:30 p.m.

**SECTION 3:** A request for variance consistent with the settlement agreement approved by resolution and consistent with attached Exhibit A is hereby referred for approval at the public hearing and subsequent meeting identified above. If necessary, an ordinance to effectuate the settlement agreement variance shall also be considered for approval at such time.

**SECTION 4:** The Mayor or his designated representative shall ensure that the proper notice with requisite sized sign be posted on the property and the appropriate notices published in newspapers as required by Dyer city ordinance.

A motion was made by Alderman Donna Staton to adopt Resolution 2021-05-27-1 and seconded by Alderman Katherine Fry.

**Roll Call:**

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

Mayor asked if we wanted to abolish the planning commission. City Attorney stated you would have to do this by ordinance. If you pass an ordinance to abolish your planning commission, you also throw out you're zoning.

**Police Department:**

Alderman Rowell asked about a SUV that was recently purchased and the mayor explained it was purchased for \$1 and was fully outfitted and did not need any lights, sirens or radio.

**Fire Department:**

3 medical and 2 fire calls

**Old Business:**

New Business:

Municipal league having conference June 16-17

Adjournment:

A motion was made to adjourn by Alderman Katherine Fry and seconded by Alderman Myrna Burns

Roll Call:

Alderman Richard Swearingen yes

Alderman Jeff Baxter yes

Alderman Katherine Fry yes

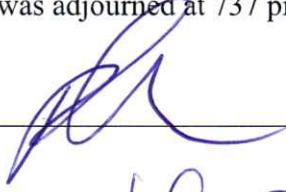
Alderman Myrna Burns yes

Alderman Donna Staton yes

Alderman Rhonda Rowell yes

Meeting was adjourned at 737 pm.

Mayor



Recorder Treasurer

