

**MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF ALDERMEN  
CITY OF NEW MELLE, ST. CHARLES COUNTY, MISSOURI  
MONDAY, JANUARY 3, 2011**

**Call to Order:**

A Regular Meeting of the Board of Alderman of the City of New Melle was held on Monday, January 3, 2011 at 7:00 P.M. The meeting was held at the New Melle City Hall, located at 145 Almeling Street, New Melle, Missouri.

<b>Mayor:</b>	Ernest Arteaga	Present
<b>Aldermen: Ward I</b>	Donald Hendrich	Present
	Janet Jokisch-Messig	Present
<b>Ward II</b>	Doug Bice	Present
	Linda Ginther	Present

<b>Also Present:</b>	Police Chief	Aaron Burkemper
	City Clerk	DeeAnn Burwitz
	City Attorney	Stephanie Karr
	Boone Country Connection	Ida Hoffman
	Dive Stop	David Cruz

All stood and recited the Pledge of Allegiance.

**Open Forum:**

**Introduction and Installation of Officers:**

**Burkemper** stated he hired several new officers and was going to start a new trend, similar to many other cities, by having the city clerk swear in the new officers. He invited the officers to enter the Board meeting and asked the city clerk to swear them in. Police Officers Ryan Armistead, Adam Jones, Craig Lazzaro and Jared Werner took their oath of office. The officers introduced themselves to the Board and were presented with certificates.

**Burkemper** stated Ryan Armistead is the full time officer who replaced Dan Cushing while Adam, Craig and Jared are paid part time officers.

**Set Date for January Work Session:**

**Arteaga** "The next thing on the agenda... it says to 'Set Date for January Work Session' but actually at the last meeting we had, we were talking about switching work session and regular meetings because of financial reports and everything else later in the month... it's better. So I asked Stephanie what evening she would be available and she's available the third and fourth Wednesday's of the month and the fourth Thursday of the month. So I want to open it up for discussion... I don't know how everyone else is for Wednesday's for example. And then this meeting from now on... first Monday will be the work

session... is what we'd want to do and we'll have to change our code book to reflect that too."

**Ginther** "First Monday would be a work session?"

**Arteaga** "Yes. Now, does anybody have any problems with Wednesday's?"

No objections from the Aldermen.

**Arteaga** "Okay is the third Wednesday acceptable by all?"

Consensus of the Board was to approve the first Monday of each month for their work session and the third Wednesday of each month for their regular meeting. As the Board was trying to establish a starting point for this transition, Alderman Jokisch-Messig stated she would be unavailable the third week of January.

**Arteaga** "We need a work session so I guess we'll have... for this month, we'll go ahead with the Monday as our work session and starting in February is what we'll set it up for."

**Burwitz** "Monday the 17<sup>th</sup> for the work session?"

**Arteaga** "Yes."

**Jokisch-Messig** "Now that's Martin Luther King day; how does that affect..."

**Arteaga** "It doesn't affect it."

### **Approval of Minutes:**

**Arteaga** stated if there were no objections, he would entertain a motion to approve all three sets of minutes with one motion.

*On motion of Alderman Hendrich, second by Alderman Jokisch-Messig, the Aldermen voted 4 "Aye" to approve the minutes of the 11/01/10 Regular Meeting, 11/15/10 Work Session, 12/15/10 Special Meeting as submitted.*

### **Police Report:**

**Burkemper** stated the November and December reports were in the Board's packets.

**Ginther** asked about drug charges.

**Burkemper** stated they were marijuana related offenses.

### **Review and Approval of:**

#### **A. Dive Stop Site Plan:**

**Arteaga** "Next thing is the Dive Stop Site Plan. This has been going on for quite some time and in the past month, we've gotten some additional information. I wanted to ask you; do you know if the real estate taxes have been paid?"

**Cruz** "Yes, the four thousand and something dollars was paid."

**Arteaga** "For 2009 and '10?"

**Cruz** "As far as I know, both of them were paid. I don't have any receipts with me. I've been out of town; my father's been ill."

**Arteaga** "Okay. Also, do you own the property?"

**Cruz** "It's a lease purchase."

**Arteaga** "You're a lease to purchase?"

**Cruz** "Yes."

**Arteaga** "So who is the owner on the title now?"

**Cruz** "Whose holding the title now is Dr. Stan Hanks."

**Arteaga** "Is there a way to get a hold of him?"

**Cruz** "Sure, but I'm the one in charge of the Dive Stop."

**Arteaga** "Yeah; I know. It's just that we should know who owns that property. That's all."

**Cruz** "It's a lease purchase. I'm paying monthly payments to own that property."

**Hendrich** "Then how come the taxes weren't paid for last year? You've been there a couple years now."

**Cruz** "I don't know sir; I pay him a monthly amount and those taxes come out of that monthly amount and I haven't gotten an answer out of him."

**Jokisch-Messig** "Does he give you a receipt for anything? Or will he give you a receipt for the paid taxes?"

**Cruz** "I'm sure he would. I'll be in Texas again tomorrow and I'll contact him then."

**Jokisch-Messig** "Does he live here in the St. Louis area?"

**Cruz** "No, he lives in Dallas; actually Denton, TX."

**Arteaga** "Well, correct me if I'm wrong Stephanie, but we can't approve anything unless we have a paid..."

**Karr** "Well, as of today, the County records show that 2010 have not been paid. That he only paid the 2009 real estate taxes. So you guys still have delinquent real estate taxes and we do have an Ordinance that absolutely no governmental approval, permit or any license can be issued as long as there are outstanding taxes owed to the City. So anyone on here that's associated with that property is considered delinquent and this... the county's information arrived today and it's still showing 2010 taxes as delinquent. So really no approval can be made based on the fact that there's a delinquent applicant situation and the Ordinance prohibits any permits or licenses from being granted."

**Arteaga** "It's unfortunate that it's just delaying it some more. We must, as a Board, follow our code. So I guess what we'll require you to do is bring in receipts for 2010."

**Cruz** "No problem. May I ask a question? If I do bring that in, will you approve the site plan?"

**Arteaga** "It has to be voted by the Board and we can't vote on it until we're legally able to."

**Cruz** "My question to you is if I go ahead and pay the taxes and you guys still deny it, I'm out of business."

**Hendrich** "That's a possibility. It's a possibility just like you said about two or three months ago you were going to move that plane and you haven't done it as of yet."

**Cruz** "Yes sir but my father's been ill and I've been in Texas."

**Hendrich** "That's fine but your man was sitting there and said that it's almost stripped and it's ready to be done."

**Cruz** "It's completely stripped right now and ready to go."

**Hendrich** "Well I can't guarantee you that I'm voting for you. Okay?"

**Cruz** "That's fine; I understand."

**Hendrich** "That has nothing to do with paying your taxes."

**Cruz** "We'll pay our taxes and then come back to the Board and talk."

**Arteaga** "That's the process."

*No action taken by the Board at this time.*

**B. Escrow Agreement Guaranteeing Subdivision Improvements – New Melle Lakes Development Company, LLC:**

**Burwitz** noted that \$2,667.70 was received by the City to hold as 5% escrow and the a copy of this receipt and of a check for \$5,000 to Public Water Supply District #2 have been attached to the back of the escrow agreement.

**Arteaga** “What are they asking for here?”

**Karr** stated this is a standard agreement. They are seeking permits to install certain subdivision improvements. Escrow is held to insure all improvements are done and done properly.

**Arteaga** “I have a letter here from Barb Apted that says they’re being asked to escrow a private street number one and also they have their own water district or their own sewer system. It has nothing to do with PWSD#2.”

**Karr** stated we can’t control what Public Water Supply District #2 does. The escrow agreement is for any improvements being done for the residents and public such as streets, sidewalks, cul-de-sacs, street light improvements, etc. It doesn’t matter that the sewer system is private; it’s done for the use of the residents and if it’s not done properly, then the residents are the ones to be hurt.

**Arteaga** “But isn’t that a separate thing... through the state?”

**Karr** “No. They may be permitted and I can’t speak to what Water District #2... what kind of regulations they have but apparently they do have regulations regarding that. We’re not getting involved in storm sewer or sanitary sewer. We’re getting involved with the street which is probably why it’s so low... just \$2,667.”

**Arteaga** “She’s asking here... I just wanted to read you... it says they’re asking for escrow... she’s asking through this letter... on a private street, that’s already built and sewer that’s also privately owned for the full amount of the construction costs and both are already finished? So why’s there an escrow? All it has to be is inspected. Doesn’t it?”

**Karr** “Not necessarily; that would be a question for engineering. Evidently there’s something else that needs to be done and there needs to be some other improvements made. Either that or they just never did it in the first place and they need to do this in order to get their permits.”

*On motion of Alderman Hendrich, second by Alderman Jokisch-Messig, the Aldermen voted 4 “Aye” to approve the Escrow Agreement Guaranteeing Subdivision Improvements by New Melle Lakes Development Company, LLC.*

**C. Finance Director:**

**Arteaga** “I have something here to read to you. The subject of Financial Director has been discussed long enough. Back during the meeting of October 18<sup>th</sup>, 2010, both Aldermen Bice and Hendrich suggested this position be added to the City Clerk’s responsibilities. Her reply was quoted in her minutes. Burwitz stated that although she was grateful to Alderman Hendrich and Bice to attempt to increase her hours and modify her duties, she’s actively seeking a better employment opportunity. As long as Ernie is in office and/or actively sitting on the Board, she’s not content working here. Therefore, she’s not inclined to take on any additional

duties at this time. To continue quote, Burwitz apologized to the Board but stated she would decline the additional duties and responsibilities the Board was seeking for her to do as she is making sub-unemployment wages with no benefits in this position. In all fairness to the constituents of New Melle, I cannot appoint someone who does not want to continue employment here. Consequently, I, with the approval of the Board, appoint JoAnn Dickherber as Finance Director with qualifications acceptable by me with the financial scope of work... and that scope of work is a term recommended by Stephanie Karr, as prepared by Linda Ginther as a guide. Compensation and contract shall be fixed by Ordinance and language of contract with JoAnn Dickherber will be composed by our City Attorney. I now call for a vote of my appointment by roll call."

**Karr** "It wouldn't technically be an appointment; it would be approval of a contract."

**Arteaga** "And I would now call for a vote for my appointment... by our code book 115.020, I have the power to appoint."

**Hendrich** "Did we approve this at all?"

**Arteaga** "Approve what?"

**Hendrich** "This... what is written."

**Arteaga** "It's the scope of... it's not something to be passed or anything. It's a scope of what... I talked to Stephanie about it. It's a scope of duties."

**Karr** "Actually, the scope of duties would be inserted into the contract and that's what the Board would have to approve."

**Arteaga** "Yes. So I'm making an appointment now. We're going to make a roll call to approve or disapprove... vote how you feel and then we will make a contract and then we vote on it then."

**Karr** "I guess I'm confused, are you appointing her as an employee?"

**Arteaga** "JoAnn Dickherber... Yes."

**Karr** "Or as an independent contractor?"

**Arteaga** "As an independent contractor as you suggested."

**Hendrich** "Well, you know something, the way I read this... first off, I don't think JoAnn will accept that and secondly, I think that's for an employee. Stop and read that carefully. You're laying out job duties as an employee, not as a subcontractor."

**Karr** "Well, we would just take a scope of work and insert that into a contract. The problem is that you guys don't have a contract in front of you. And if there's any contract... that's state statute... any contract has to be approved by the governing body; and the problem is that this hasn't been inserted into a contract yet. And the Board must approve a contract in order for it to be done."

**Arteaga** "Right. So the Ordinance, when we write it up, with the cooperation between you and JoAnn Dickherber and everything and with all the proper description will be in an ordinance form. All I'm doing is asking for approval of my appointment. That's all."

**Hendrich** "Not based on this you won't."

**Karr** "Wait. If you're just talking about proper procedures, then there would be no appointment. Because you either appoint them as an employee or the Board approves a contract for that person and pursuant to that authority the City executes the contract and the independent contractor executes the contract. So you can't do it both ways."

**Arteaga** "Well, what I'm trying to do is make it so that we know we're going to have JoAnn Dickherber because I'm appointing... I have the power to appoint an officer for the City... with the approval of the Board. Isn't that correct?"

**Bice** "What she's saying is that only an employee."

**Karr** "No. If you appoint an officer, let's say like your court clerk, an employee, then it just takes the Board and of course the Board has to approve everything that goes along with the budget. But if you want to enter into an agreement with somebody as an independent contractor, then the Board has to approve that contract... and that's the action that's done. So it's not an appointment; it's an approval of a contract for services with somebody."

**Bice** "Just like we would do for lawn service and other things we typically do. It's the same principle that applies."

**Karr** "Exactly. If you had jurisdiction over your roads and you wanted to enter into a contract with a company or an individual to salt those roads and to plow those roads for snow, then you approve the contract with that person for those particular services. So you would take this, if these are the services she would perform for the City as an independent contractor, you would take that list of services and put them into an agreement. Then the Board would approve the agreement saying that this is our arrangement for these financial services."

**Arteaga** "Okay, like for example with you, what do we have?"

**Karr** "You have a contract with me."

**Arteaga** "Okay... so can't we have a contract with a financial director then?"

**Karr** "Absolutely, and that's what I'm saying; if you want a contract with an independent contractor, you do need to have a contract. You would take that scope of those services outlined in that... so it would no longer be like a job description. You would just take the services from that and do some cut and paste and you would put that into a contract... and that's what the Board would approve."

**Arteaga** "All right. But I can still appoint her."

**Karr** "The contract would also outline the compensation. Now what you would do is just bring the contract to the Board and ask the Board to approve it."

**Arteaga** "With her... yes. But that is like appointing with that contract."

**Karr** "If you appoint her and even if the Board approves it, there's nothing saying that this is what she's going to be paid, that this is..."

**Arteaga** "Right, we still have to have a contract first... sure."

**Karr** "So it seems to me that you're jumping way ahead and doing an extra step that really is meaningless. You really have to have a contract and the Board has to approve that contract."

**Arteaga** "Well, I didn't want to go through the trouble of writing up a contract if the Board is... I don't know how positive or negative they are on this... on my appointment."

**Karr** "Well, they can certainly take a vote to give me direction on whether to negotiate a contract with her and to draft a contract and then present it to the Board on their next agenda."

**Arteaga** "Okay. Can I do that then?"

**Karr** "Yeah, they can do that."

**Bice** “So let me ask this question; if we’re going to do this on a contract, should we in the same vein that when we do any other contract work, we typically put it out for bids? We send it out for a competitive opportunity.”

**Karr** “An RFP... request for proposal.”

**Bice** “Right. Should we not do the same thing here?”

**Arteaga** “I’m only going by the code book Doug... and the code book says the Mayor can appoint a Financial Director.”

**Bice** “I understand Ernie. I’m just saying there are other options. There are other ways to do this.”

**Karr** “There’s no legal requirement that you send out an RFP and for these kinds of services, I would recommend an RFP instead of some kind of request for bid. It’s not like a construction project where you’re going to get an actual bid with a bottom line. You’re going to get requests for proposals saying, okay, these are my qualifications, these are all my degrees, this is how long I’ve been in finance, this is how many financial audits I’ve done and that kind of thing. So that would be an RFP ‘Request For Proposal.’ You’re going to get proposals back and then you can weigh their qualifications. There’s no legal requirement that you do that... a lot of cities, for financial services, do that because they believe that to be the more prudent approach. That’s completely up to the majority of the Board.”

**Bice** “Then what I would suggest to the group here, slow down first of all; secondly, read this and make sure this is what you want. As I read it, that’s not what I was understanding us to be doing here. So, I think we have more here... more here that I think Don was alluding to and I think JoAnn told us when she was here that she’s not going to want to do this based on this description. Great effort; great start but I don’t think we’ve refined this down to what we’re looking for now. When we had talked about this, prior administrations as well as this current one, financial director is great ten years down the road if New Melle’s really doing well and growing. Finance director at this stage is not real for us folks. It’s just not real. So we’re not here yet... with this job description. So my point is, when we put all this together, let’s come up with a job description that we all agree upon. That’s where I think the first step here is... this isn’t matching with what JoAnn is expecting either. If you’re trying to make an appointment, this is going to be a surprise to her Ernie.”

**Ginther** “I would urge us rather than trying to meet JoAnn’s expectations regarding a job description, rather than detailing it to the individual, to make sure it meets what we need.”

**Bice** “I said that first. Secondly I said you’re going to throw a curve ball to her. But that’s the first thing I said... this is not what we discussed in prior administrations or now.”

**Ginther** “To be honest, I’ve heard no discussion. I’ve been sitting here for weeks and we’ve tossed around the fact that we need a finance person, and I did not hear one single description of what that finance person was going to do.”

**Hendrich** “Well, we basically need a clerk to input into that computer over there certain journal entries and to balance the bank statements, which I had done up to a certain point, that we’re paying Botz and Deal for... period.

**Bice** “And that’s not this position.”

**Hendrich** "I mean, we're not looking for a supervisor. We don't need a supervisor. The four of us supervise."

**Arteaga** "I think what Linda was writing down was for the future if the City ever grows any. It's just like our code book, yet also of that scale. It's like as if the City was huge and it isn't... and it's just far and beyond in our code book. I think you were just sort of generally saying this is what we should have for the future."

**Ginther** "I don't have ownership of this. This is just a work product that I'm not emotionally attached to but when I wrote it, I wrote it to the best of my ability of what I believed a finance director would do. Because I had no picture of what this individual was going to do... what services they were going to be performing. And if all we need are journal entries and to balance the checkbook, I would say we don't even need a (*inaudible*) to do it. We could take somebody off the street and teach them how to do that for less than \$30 an hour."

**Bice** "And that's in a nutshell what Michele Graham (Botz, Deal & Company) told us way back when. We asked her for her recommendation on what to do and she made, basically, the same comment. We don't have to go to that extent. We're not there. And again, if we're looking for a contractor especially, we clearly don't want this, as this to me is a job description."

**Hendrich** "We already have one for an Administrator... somewhere down the road. You did a good job. But right now, we don't need that."

**Bice** "As an employee of the City, this would make more sense. But even then, we're still not ready for that position."

**Hendrich** "No."

**Bice** "What I was alluding to is getting this defined and I said that in the last meeting... what is it that we really want?"

**Ginther** "And you didn't get an answer."

**Bice** "I know, and I didn't expect on. To be honest with you, I didn't expect one; but you made a good first start."

**Jokisch-Messig** "Well, let me back this up; I also did somewhat of a finance director when this first came up... last summer and it was kind of tossed off to the side and no more was ever made of it. I was surprised to see all the other... but this is much more detailed than what I did... no reflection Linda..."

**Bice** "No, that's not even the discussion here. What we haven't been able to do, with two efforts, is to figure out specifically what it is that we want to do with this person. We've been given a recommendation by Botz and Deal, who clearly said 'look you don't need us to do that.' It is a clerical type position. That's been established by them and their recommendation was that we can do it for much cheaper than for what Botz and Deal is doing it."

**Jokisch-Messig** "I guess a question I have out of all that paperwork that DeeAnn put together is... like tonight, she's here for a couple hours; does she get compensated for that? Is that extra hours? And then also, who has asked her to do minutes for and attend the P&Z meetings?"

**Hendrich** "She hasn't been doing that."

**Jokisch-Messig** "I know she hasn't, but who has asked her to do that?"

**Hendrich** “The P&Z minutes, up until they started using the audio recorder, had been kind of sketchy. If Maggie was here, there were better minutes than if Barry was taking them... okay?”

**Jokisch-Messig** “Oh, okay.”

**Hendrich** “And it was just one of these things that you’re operating that should probably have some good minutes regarding what actually goes on. So I was going to propose that, but we never got to that point yet.”

**Jokisch-Messig** “I have another question for DeeAnn then; did you talk to JoAnn Dickherber personally?”

**Burwitz** “No... well, I was trained by her for this position.”

**Jokisch-Messig** “Okay. Well I guess I kind of, after reading all that paper work, I was kind of wondering if that was her current feelings or...”

**Burwitz** “Those were coming from her statements at the December 20<sup>th</sup> meeting.”

**Arteaga** “What I’m saying is I think JoAnn Dickherber is capable of doing any financial work for us, but you’re saying we need a clear and concise of what is her job. What is she going to be doing and in conjunction with DeeAnn? And I guess we have to write that out... with that as a basis.”

**Hendrich** “Well, if you didn’t hear her correctly, when she started here, she had the understanding that she wasn’t going to do any court work. And it mustered up and finally she was doing that and when she left here, she said ‘I don’t want to do that and I don’t want to do that; I was a city clerk’ and so if we don’t lay it out... what she’s going to do, we’ll have a problem down the road.”

**Bice** “Subcontractor or not.”

**Hendrich** “Yeah. If we just spell it out, this is what your duties are, and it takes you two or three hours... or whatever it is, that’s it. But I do know that was an infringement on her for that six months that she was here. She said ‘I did not accept this job doing court work and I’m doing court work’ just like DeeAnn does a certain amount... although it’s tapered off a little bit now.”

**Burwitz** “I’m doing more court work now than JoAnn was doing.”

**Hendrich** “I know. I do remember that very well. We have to be careful.”

**Arteaga** “Linda, because you have been working on that, can you kind of reformulate it?”

**Ginther** “No.”

**Bice** “No, she’s not responsible to do that. We’re responsible for defining this job description however we think it needs to work and we’ll marry all of our ideas together. I don’t think...”

**Arteaga** “Well, we’ll use that as a start.”

**Bice** “It’s a template, it’s a good starting place, but we’re all responsible for this job description.”

**Arteaga** “Okay. Well, the work session coming up... let’s try to do that.”

**Bice** “Good idea.”

*No action taken.*

**D. Government Finance Officers Association (GFOA) 2011 dues and/or Winter Seminar:**

**Arteaga** “Okay... well, that makes the next item on the agenda kind of moot until we get somebody in that position. Then I think we should address this finance officer’s association thing. Any objection to that?”

Aldermen gave no objection.

*No action taken.*

**E. Bill #315 – Ord. Calling for Municipal Election on April 5, 2011:**

*On motion of Alderman Bice, second by Alderman Hendrich, to have the first reading, short form. On a call by the Mayor for the Ayes and Nays, the Aldermen voted 4 “Aye” to hear the first reading, short form.*

*After the first reading, Alderman Bice made a motion, second by Alderman Jokisch-Messig, to approve the first reading. On a call by the Mayor for the Ayes and Nays, the Aldermen voted 4 “Aye” to approve the first reading, short form.*

*On motion of Alderman Bice, second by Alderman Hendrich, to have the second reading, short form. On a call by the Mayor for the Ayes and Nays, the Aldermen voted 4 “Aye” to hear the second reading, short form.*

*After the second reading, Alderman Bice made a motion, second by Alderman Hendrich, to approve the second reading. On a call by the Mayor for the Ayes and Nays, the Aldermen voted 4 “Aye” to approve the second reading, short form.*

*Alderman Bice made a motion, second by Alderman Hendrich, to approve Bill No. 315 as an Ordinance. On a roll call vote, the motion passed as follows:*

ALDERMAN DOUG BICE –	AYE
ALDERMAN DON HENDRICH –	AYE
ALDERMAN JANET JOKISCH-MESSIG –	AYE
ALDERMAN CAROL GINTHER –	AYE

**BILL NO. 315 IS NOW ORDINANCE NO. 305.**

**F. Bill #316 – Ord. for Amendment to Zoning Codes**

**Arteaga** stated this item is still waiting for P&Z approval and requires a public hearing before the Board can act upon Bill No. 316.

Discussion had regarding proposed changes.

**Arteaga** asked why Historical District doesn’t have the same language referring to Appendix A for permitted and conditional uses in the code book as other districts do.

**Karr** stated she knew P&Z spent much time deliberating and putting together the language making up these codes but didn’t know their reasoning as to why the Historical District was set up the way it is. Any proposed changes to the wording within the Historical District code would have to go through Planning and Zoning also.

*No action taken.*

**REVIEW AND APPROVAL OF BILLS**

**Arteaga** stated he didn't see any payment to Botz, Deal & Company.

**Burwitz** stated she hadn't received an invoice from them recently.

*On motion of Alderman Jokisch-Messig, second by Alderman Hendrich, the Aldermen voted 4 "Aye" to approve bills as paid.*

**Adjournment:** *On motion of Alderman Bice, second by Alderman Hendrich, the Aldermen voted 4 "Aye" to adjourn the Regular Meeting at 7:56p.m.*

Respectfully Submitted,

Accepted,

DeeAnn Burwitz, City Clerk

Ernest Arteaga, Mayor