



City of Ozark Missouri

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September 8, 2009 Council Meeting

Ozark City Council met in Regular Session at 7:00 p.m. at the City Hall in Ozark, Missouri. Mayor Bradley A. Jackson presided over the meeting with the following Aldermen present: Alderman Mike Esterl, Alderman Dennis Sparrow, Alderman Mark Spinabella, Alderman Melissa Wagner, Alderman Chris Snyder and Alderman Rick Gardner. Also present City Administrator Steve Childers, City Attorney David Collignon, Assistant City Clerk Chandra Hodges and City Clerk Lana Wilson.

7:00 p.m.

Pledge of Allegiance.

Roll Call:

Alderman Mark Spinabella	Here	Alderman Dennis Sparrow	Here
Alderman Mike Esterl	Here	Alderman Rick Gardner	Here
Alderman Melissa Wagner	Here	Alderman Chris Snyder	Here

Approval of Minutes of the Previous Meeting(s): August 17, 2009 and August 24, 2009 Motion was made by Alderman Rick Gardner, seconded by Alderman Melissa Wagner to approve the Council Minutes of August 17, 2009 and August 24, 2009 as written. Motion carried unanimously.

Ceremonial Matters:

1. Proclamation – Ozark Community Supports Literacy Week & Reading Around the Square Day, September 7-12, 2009.

Mayor Bradley Jackson read the Proclamation Support Literacy Week & Reading Around the Square Day, September 7 through September 12, 2009. Patty Quesenberry representative of the Ozark School Board, was present to accept the Proclamation.

Patty Quesenberry addressed the Council, and invited them to attend the Second Annual Reading Around the Square event that will be held Saturday, September 12, 2009. The event will begin at 8:30 a.m. with the kick off 5k run. Patty Quessenberry stated the goal this year is to collect new books or donations to purchase new books for children from preschool age to 6th grade. The School Board hopes to encourage kids to read.

Report on Questions from Previous Meeting(s): None

Bills Open for Public Discussion:

A. Bills Requiring a Public Hearing: None

B. First Reading Bills: None

C. Resolutions:

1. Resolution #1601 – A Resolution Approving an Appointment to the LCRA Board-Ken Chapman 1110 E. Georgia.

Motion was made by Alderman Rick Gardner, seconded by Alderman Mike Esterl to place Resolution 1601 on its first reading by title and description only. Motion carried unanimously. Mayor Bradley A. Jackson stated that he was excited to have a concerned citizen willing to serve on the LCRA Board.

Motion was made by Alderman Rick Gardner, seconded by Alderman Mark Spinabella to adopt Resolution #1601. *Motion carried with Alderman Dennis Sparrow voting nay.*

2. Resolution #1602 – A Resolution Approving Re-Appointments to the Board of Adjustments and Appeals-Elvin Elwood, 802 S. 6th St., Neal Grubaugh, 804 W. Dawn, Cari Sands, 5208 Turnberry Ct., Phillip Patel, 900 N. 18th St.

Motion was made by Alderman Mike Esterl, seconded by Alderman Mark Spinabella to place Resolution #1602 on its first reading by title and description only. Motion carried unanimously. Mayor Bradley A. Jackson stated all the reappointed members currently serve on the Board, they've requested to be reinstated. We have one appointment that we are seeking to be filled. Alderman Dennis Sparrow asked what the function of this Board was.

City Attorney David Collignon stated the Board of Appeals has the ability to grant variances concerning Planning and Zoning issues, which are not in compliance with our Ordinances. The Board deals mainly with set back and zoning issues.

Alderman Rick Gardner asked at what point of the process do these issues come before the Board of Aldermen..

City Attorney David Collignon stated that usually building permit, various set back issues and certain Zoning issues that come before the Board of Appeals don't require action by the Board of Aldermen.

City Administrator Steve Childers stated variances identified by staff are taken to the Board of Appeals for action..

Motion was made by Alderman Mike Esterl, seconded by Alderman Chris Snyder to adopt Resolution #1602. *Motion carried with Alderman Dennis Sparrow voting nay.*

3. Resolution #1603 – A Resolution By the Board of Aldermen of the City of Ozark, Awarding the Bid for Micro-Sealing Certain Streets in the Turnberry Subdivision to Donelson Construction Company, LLC and Authorizing the Mayor to Enter Into Discussions for an Agreement.

Motion was made by Alderman Chris Snyder, seconded by Alderman Mark Spinabella to place Resolution #1603 on its first reading by title and description only. Motion carried unanimously. Alderman Mark Spinabella asked what micro-sealing was.

Public Works Director Larry Martin stated this was the first time the City has used this process. We have researched this process and have visited several streets that have been micro-sealed,

including a strip of Republic Road and it seems to hold up quite well. When a street is overlaid the curb and guttering is torn up, when using the micro-seal process the street is sealed without disturbing the curb and guttering. We'll evaluate the micro sealing over the next year. If the micro-sealing project doesn't deplete our budgeted funds for this project, we will evaluate remaining funds to micro-seal other streets in the Turnberry Subdivision. Our Public Works Staff have finished crack sealing the streets identified in this project..

Alderman Dennis Sparrow questioned the longevity of micro-sealing.

Public Works Director Larry Martin stated staff has looked into micro-sealing for a while, including the portion of Republic Road that has been micro-sealed and it has held up great for the amount of traffic that travels the street daily.

City Administrator Steve Childers stated by using the micro-sealing process it might buy us five (5) to ten (10) years before the streets will require overlay.

Public Works Director Larry Martin stated that a quality analysis has been done on every street in Ozark and has been put into our GIS System. We don't have the funding available to upgrade the streets requiring improvements.

Motion was made by Alderman Chris Snyder, seconded by Alderman Dennis Sparrow to adopt Resolution #1603. *Motion carried with Alderman Melissa Wagner abstaining due to conflict of interest that she lives in the Turnberry Subdivision.*

4. Resolution #1604 – A Resolution by the Board of Aldermen of the City of Ozark, Missouri Awarding the Bid for the Asphalt Overlay of S. 5th Avenue to Journagan Construction Company, Inc and Authorizing the Mayor to Enter into Discussions for an Agreement.

Motion was made by Alderman Dennis Sparrow, seconded by Alderman Chris Snyder to place Resolution #1604 on its first reading by title and description only. Motion carried unanimously.

Public Works Director Larry Martin stated S. 5th Ave. is the main street concern for the Council. At this time we will overlay S. 5th Avenue without curb and guttering because we don't have the funding available to fix the storm water properly. The overlay will be an inch and a half to two inches thick.

Alderman Rick Gardner asked what part of S. 5th Avenue will be overlaid.

Public Works Director Larry Martin stated the overlay will start from where the past overlay stopped up to W. Waverly.

Motion was made by Alderman Dennis Sparrow, seconded by Alderman Chris Snyder to adopt Resolution #1604. Motion carried unanimously.

Mayor Bradley A. Jackson stated staff has requested that we postpone to a certain time the reading of Resolution #1605 until the September 21, 2009 Council Meeting.

Motion was made by Alderman Mark Spinabella, seconded by Alderman Chris Snyder to postpone to a certain time the reading of Resolution #1605 until the September 21, 2009 Council Meeting. Motion carried unanimously.

5. Resolution #1605 – A Resolution Awarding the Bid for the Purchase and Installation of Eight (8) Proximity Reader Door Locks, 100 Proximity Card Readers and One (1) Power Supply to _____ and Authorizing the Mayor to Enter into Discussions for an Agreement.

D. Emergency Bills:

1. Public Hearing – Notice of a Public Hearing, Town and Country Village Community Improvement District.

Mayor Bradley A. Jackson opened the Public Hearing for public comment.

There was no public comment.

Mayor Bradley A. Jackson closed the Public Hearing.

2. Bill # 2471-An Ordinance of the City of Ozark, Missouri Creating the Town and Country Community Improvement District Within a Certain Area of the City of Ozark in Accordance with the Petition of the Property Owners Within the Proposed District.

Motion was made by Alderman Mike Esterl, seconded by Alderman Chris Snyder to place Bill #2471 on its first reading by title and description only. Motion carried unanimously.

This Ordinance will create the Town and Country Community Improvement District. The District, which, consists of the property owners in the District, intends to impose a sales tax not to exceed 1% within the District boundary. The Ordinance provided for five (5) Board of Directors to be appointed, two (2) will serve a four (4) year term, and three (3) will serve a two (2) year term. The Board of Directors will administer the CID and this will be the last function the City will have in the administration.

Alderman Dennis Sparrow asked if the businesses will be required to post this imposed sales tax visibly in their business.

City Administrator Steve Childers stated the City will not require the posting.

Alderman Rick Gardner asked if the established businesses in the Town and Country Subdivision will be required to charge this extra sales tax.

City Administrator Steve Childers stated that the established businesses are not in the CID Boundary and will not be required to impose the sales tax.

Motion was made by Alderman Mike Esterl, seconded by Alderman Chris Snyder to dispense with the second reading and go to the third and final reading of Bill #2471 by title and description only. Motion carried unanimously.

Motion was made by Alderman Mike Esterl, seconded by Alderman Chris Snyder to adopt Bill #2471 as Ordinance #09-035. Motion carried unanimously with a roll call vote: Alderman Melissa Wagner, aye, Alderman Dennis Sparrow, aye, Alderman Chris Snyder, aye, Alderman Mark Spinabella, aye, Alderman Rick Gardner, aye and Alderman Mike Esterl, aye. Six (6) aye votes.

E. Public Improvement Bills (Tax Bills): None.

F. Grants: None.

G. Amended Bills: None

Second Reading and final Passage of Bills, No Public Discussion. Board Discussion Only:

1. Bill #2470 – An Ordinance Authorizing the Mayor of the City of Ozark, Missouri to Enter into an Amended Developer’s Agreement with Gunnett, LLC Concerning the Town and Country Village Development.

Motion was made by Alderman Mike Esterl, seconded by Alderman Rick Gardner to dispense with the second reading and go to the third and final reading of Bill #2470 by title and description only. Motion carried unanimously.

City Administrator Steve Childers asked if the Council had any questions for the staff.

Alderman Melissa Wagner stated that she has spent a lot of time reading this Ordinance and the amended Developer’s Agreement; Melissa prepared a statement stating her stance on the Agreement. Melissa stated that she could not support the Developers Agreement, as it reads; a

request for reimbursement of infrastructure that benefited the citizens of Ozark is justified. Melissa stated that she can not justify using tax dollars for private business profit. There is nothing in Agreement that holds the project accountable for the way the money is spent. If we offer this type of incentive to this Development we should offer the same incentive to all the other businesses within the City.

Motion was made by Alderman Mike Esterl, seconded by Alderman Chris Snyder to adopt Bill #2470 as Ordinance #09-036. Motion carried with a roll call vote with Alderman Melissa Wagner and Alderman Dennis Sparrow voting nay: Alderman Melissa Wagner, nay, Alderman Dennis Sparrow, nay, Alderman Chris Snyder, aye, Alderman Mark Spinabella, aye, Alderman Rick Gardner, aye and Alderman Mike Esterl, aye. Four (4) aye votes with Alderman Melissa Wagner and Alderman Dennis Sparrow voting nay.

Report of Officers, Boards and Committees:

1. Administrative Committee:

- 1. Request for Qualification Review Process-**City Administrator Steve Childers reported to the Board of Aldermen staff is preparing a Request for Qualifications review process. Staff will prepare a cover sheet to present to Council showing staff's scores of each firm interviewed. We hope to explain staff's method behind each recommendation for approval from the Council.
- 2. Tentative 2010 Budget Meeting Schedule-**Proposing some of the lunch sessions to have the short Budget session items. The first one will be held during the September 14, 2009 Luncheon Meeting. The 5:30 meetings will be scheduled before our 7:00 meetings.
- 3. Project Manager Cara Jones-** has been doing a fantastic job preparing the Employee Manual, the Internal Restructuring process and other important issues. She will bring to Council an update on these items during the next scheduled Council Meeting, September 21, 2009.
- 4. Procurement Code-**Staff is in the process of preparing modifications to the City's Procurement Code.
- 5. Public Relations Policy-**Staff is in the process of creating a Public Relations policy, as part of this process staff will prepare progressive press releases. In these press releases we will educate the public on upcoming functions in the City, any Code amendments that will directly or indirectly affect the public. And any other pertinent information or material that the Citizens should know is happening in the Community.
- 6. Website Software Package-** Staff has researched other Website software packages we have found another software package offered by Civic Plus., that we feel will meet the City's needs efficiently and cost less than the previous software package.
- 7. Park Budget Amendments-**Staff will finish and present the Park 651 Fund Budget Amendments to the Board of Aldermen along with the City's Budget Amendments during the September 21, 2009 Council Meeting.

2. Public Works: None.

3. Public Safety Committee:

- 1. Update on Federal Forfeiture Funds.**

Police Chief Lyle Hodges reported to the Board of Aldermen the Police Department has been able to purchase two (2) new unbudgeted patrol vehicles utilizing Federal Forfeiture Funds. They have been able to add three (3) new Chevy Tahoes. The Tahoe's in-town gas mileage has been comparable to our Crown Vics and the Dodge Challengers. The Tahoes are not four wheel drive vehicles but have proven to be more efficient when crossing over high structures than our Patrol cars. We are in the process of installing video cameras in the vehicles that currently do not have cameras. We are installing GPS Units in our Supervisor's vehicles. We have just ordered a new radio repeater to replace the malfunctioned radio repeater on the South side of town We have purchased a. Software package giving us the ability to analyze material in computer systems and cell phones. We will be able to issue Tazor guns to each officer. We are going to purchase laptop computers for the patrol cars to link into the Police Department Server. In the future we have plans to update our Police Impound. The DEA Officer's vehicle is starting to accumulate mileage and we would like to purchase a new vehicle and place the old vehicle into our patrol fleet.

Alderman Melissa Wagner stated that this program has proven to be beneficial to the City, it has provided us funds to purchase items for a lot of projects.

Mayor Bradley Jackson stated that the Police Department should place stickers on vehicles stating this vehicle was provided by drug money.

4. Parks:

Parks Director Dodee Matthews informed the Board of Aldermen that staff has finished the September calendar and newsletter. We have a lot of programs started that are going great. We are very pleased with the Community Center and the number of participants.

Unfinished Business: None

New Business/Council Comments:

2. Discussion on the N. 12th Street and W. Dawn Stop Sign.

Alderman Melissa Wagner stated that she has been approached concerning the stop sign on N. 12th St. and W. Dawn by bus drivers and other individuals. Melissa requested the process begin to remove the stop sign. Police Chef Lyle Hodges stated the residents requested the placement of the stop sign to control the speed limit, although that is not the purpose of stop signs. The way to control speed is by patrol. At this time we have no recommendation to leave or take down the stop sign, but what ever is done there is no way we are going to compromise with all the citizens.

Alderman Melissa Wagner questioned whether we should hold a Public Hearing to give the citizens on both sides of the issue a chance to speak.

Alderman Rick Gardner questioned if a speed impediment would accomplish speed control rather than a stop sign.

Police Chief Lyle Hodges stated that there has never been speed impediments placed in the City, those type of impediments have a tendency to damage vehicles.

Alderman Mark Spinabella suggested a speed dip.

Alderman Dennis Sparrow suggested dropping the speed limit and placing the speed trailer on the street.

Police Chief Lyle Hodges stated anywhere the speed trailer is placed skateboarders like to see how fast they can travel, with N. 12th St. going down hill, this could prove to be dangerous.

Alderman Melissa Wagner proposed calling a Public Hearing to find a compromise.

Mayor Bradley Jackson suggested scheduling a Public Hearing.

Alderman Rick Gardner suggested placing a camera on the speed trailer.

Police Chief Lyle Hodges stated he would research the legalities of installing a camera on the speed trailer.

City Attorney David Collignon stated cameras impose fines not cost points to licenses.

Police Chief Lyle Hodges this would be an option that would be worth checking into, we would have to identify the funds to purchase the camera.

Alderman Dennis Sparrow asked if a traffic analysis has been completed

on

N. 12th Ave. and W. Dawn St.

City Administrator Steve Childers stated he could find no evidence where staff recommended the placement of the stop sign for speed control. Steve stated he believes that placing street impediments could present an issue for snow plows and school buses.

Police Chief Lyle Hodges stated the school has approached the Council requesting removal of the stop sign. We could ask for school security to help patrol the intersection during times when our patrol officers couldn't patrol the intersection.

Alderman Rick Gardner stated this would benefit both the school system and the citizens to request the services of the school security to help patrolling the intersection.

Alderman Mike Esterl suggested researching the placement of the stop

sign.

City Attorney David Collignon stated the placement of the stop sign was never authorized by an Ordinance. David stated the only successful way of controlling the speeding on N. 12th St. would be by patrol enforcement.

Police Chief Lyle Hodges stated through history if we heavily patrol N. 12th St. during school hours it would be perceived by the public that we are targeting teenage drivers and that could impose another problem.

Alderman Melissa Wagner questioned whether that would be a bad thing.

Police Chief Lyle Hodges stated the Police Department does not potentially target a certain age of drivers, but if we set up heavy enforcement where teenage drivers mostly drive it will be perceived by the public that were targeting teenage drivers.

Scott Kisse stated in the State of Georgia if you got a serious traffic violation your license is automatically confiscated.

Alderman Melissa Wagner asked if we could hold a Public Hearing.

Mayor Bradley Jackson requested researching the history of the speed limit and stop sign on N. 12th St.

City Attorney David Collignon stated per Ordinance the only speed limit lower than the standard City wide speed limit 25mph, is around the square

15mph. The stop sign at the intersection of N. 12th St. and W. Dawn was never authorized by Ordinance.

Discussion on Waiving Pinecrest Sewer Connection Fees.

Alderman Rick Gardner asked if a legal opinion has been formed on the Pinecrest issue.

City Attorney David Collignon stated the only written documents that have been located are the 2005 Closed Session Minutes. There is no documentation recording the initial reasoning the sewer connection fees were waived. John Fields admitted the original Agreement was never prepared or presented to Council by his father, Tom Fields.

Alderman Melissa Wagner questioned if this Council was obligated to uphold the decision made by a previous Council.

City Attorney David Collignon stated that no Council was bound by another Council's decision; he only questioned the legal risks.

City Administrator Steve Childers questioned what precedence the City had set by honoring the Agreement.

City Attorney David Collignon stated the only precedence set was with Pinecrest.

City Administrator Steve Childers asked if the City could be sued for other damages by the developer

City Attorney David Collignon stated the City could potentially be responsible for incurred attorney fees.

Alderman Rick Gardner asked if the City could be liable for the developer's ability to sell homes in the Subdivision.

City Attorney David Collignon stated that at this time due to the economy he did not feel a jury would hold the City liable for the Developers ability to sell homes.

Alderman Rick Gardner requested City Attorney David Collignon to form a legal opinion on waiving or not waiving the sewer connection fees in the Pinecrest Subdivision.

3. Discussion Pertaining to Memberships of the OC: Alderman Melissa Wagner stated her questions concerning this topic was addressed in an E-mail, she has no further discussion on this topic.

Scheduled Visitors: None

Council Comments: None

Miscellaneous Business: None

Pay Bills-

Motion was made by Alderman Dennis Sparrow, seconded by Alderman Chris Snyder to adjourn. Motion carried unanimously.

The Meeting adjourned at 8:25 p.m.

Minutes Written By:

Lana Wilson, City Clerk

Approval of Minutes By:

09-08-09 Council Minutes