

Maryville City Council
Regular Session
June 28, 2010
7:00 p.m.

The Council of the City of Maryville, Missouri, met in regular session on Monday, June 28, 2010, at City Hall, 415 North Market Street, in said City at 7:00 p.m.

PUBLIC HEARING

- Mayor Jackson opened a Public Hearing for the preliminary plat of Southdale Subdivision, Phase III. Any persons wishing to speak for or against the issue were requested to come forward and state their name and address for the record. No Persons appeared to be heard. Mayor Jackson closed the public hearing.

ROLL CALL

The meeting was called to order by Mayor Jackson and the roll was called by the City Clerk, with the following present to-wit: Mayor Chad Jackson, Council Members Glenn Jonagan, Shawn Wake, and Ronnie Moss were present. Councilwoman Cummings arrived at 7:08 p.m. Others present were City Manager Matt LeCerf; City Attorney Doug Thomson, Dir., Public Safety Keith Wood, Dir., Finance Denise Town, and City Clerk Sheila Smail.

PLEDGE TO THE FLAG

Mayor Jackson led the pledge to the flag.

INVOCATION

An invocation was given by Councilman Moss.

APPROVAL OF THE AGENDA

Mayor Jackson requested any changes needed to the agenda, be noted at this time. Mayor Jackson requested to amend the agenda by moving Renewal of Agreement with Empire Gas to Supply and Sell Gas to Maryville, Missouri (#14) to follow Street Closure Request – Chamber of Commerce, Downtown Sounds, Event #2 (#11) and Change Order No. 1 With Loch Sand and Construction, Retaining Wall Improvements (#20), be removed from the agenda. Motion was made by Councilman Wake, seconded by Councilman Moss, that the agenda be approved as amended. Upon roll being called the vote was as follows: Councilman Wake, yea; Councilman Moss, yea; Councilman Jonagan, yea; Mayor Jackson, yea. Motion carried.

CITIZENS TO BE HEARD

Mayor Jackson welcomed citizens and stated this the time for persons to address the Council on items not on the agenda. Any persons wishing to speak were requested to come forward and state their name and address for the record. No persons appeared to be heard.

SPECIAL EVENT REQUEST – THE CHURCH OF JESUS CHRIST LATTER DAY SAINTS

An application was received by the Church of Jesus Christ Latter Day Saints, of Liberty, Missouri, to hold an event at Mozingo Lake, on July 16, 2010, with a DJ for song and dance at the Host Lion's shelter for a group of 200 youths, with 30 adult chaperones. The event is scheduled to be held from 2:00 pm until 10:30 pm.

Motion was made by Councilman Moss, seconded by Councilman Wake, to approve the request made by the Church of Jesus Christ Latter Day Saints, of Liberty, Missouri. Upon roll being called, the vote was as follows: Councilman Moss, yea; Councilman Jonagan, yea; Councilwoman Cummings, yea; Councilman Wake, yea; Mayor Jackson, yea. Motion carried.

MARYVILLE OPTIMIST CLUB, KIDS FISHING TOURNAMENT

An application was received by the Maryville Optimist Club, to hold the annual Kids Fishing Contest along the shores of Mozingo Lake, near the city boat ramp, on July 3, 2010, 8:30 am until 12:00 pm. Fishing will cease at 11:00 a.m., with refreshments for all and prizes for winners of various categories. Parents and Optimist members will be available to assist the kids.

Motion was made by Councilman Jonagan, seconded by Councilman Wake, to approve the request made by the Maryville Optimist to hold their annual Kids Fishing contest. Upon roll being called, the vote was as

follows: Councilman Jonagan, yea; Councilwoman Cummings, yea; Councilman Wake, yea; Councilman Moss, yea; Mayor Jackson, yea. Motion carried.

GREATER MARYVILLE CHAMBER OF COMMERCE, NODAWAY COUNTY FAIR PARADE

An application was received by the Greater Maryville Chamber of Commerce, to hold the Nodaway County Fair Parade on Saturday, July 17, 2010, at 9:30 a.m. beginning at 4th Street from NW campus to Buchanan, turning south on Buchanan to 2nd Street, where it will disperse.

Motion was made by Councilwoman Cummings, seconded by Councilman Jonagan, to approve the request made by the Greater Maryville Chamber of Commerce to hold the annual Nodaway County Fair Parade. Upon roll being called, the vote was as follows: Councilwoman Cummings, yea; Councilman Wake, yea; Councilman Moss, yea; Councilman Jonagan, yea; Mayor Jackson, yea. Motion carried.

GREATER MARYVILLE CHAMBER OF COMMERCE, DOWNTOWN SOUNDS-EVENT #2

An application was received by the Greater Maryville Chamber of Commerce, to hold the second of three Downtown Sounds events, July 29, 2010, at 6:30 p.m. – 8:30 p.m., on Market Street, between 3rd Street and 4th Street. It was asked that the city provide barricade for blocking off the streets from 5:00 p.m. until 9:00 p.m.

Motion was made by Councilwoman Cummings, seconded by Councilman Wake, to approve the request made by the Greater Maryville Chamber of Commerce to hold the Downtown Sounds event as presented. Upon roll being called, the vote was as follows: Councilman Wake, yea; Councilman Moss, yea; Councilman Jonagan, yea; Councilwoman Cummings, yea; Mayor Jackson, yea. Motion carried.

RENEWAL OF GAS FRANCHISE AGREEMENT WITH EMPIRE DISTRICT GAS COMPANY

The City Clerk presented a bill, being Bill No. 2010'45 for an Ordinance entitled:

An Ordinance for Allowing the Supplying and Selling of Natural Gas or Manufactured Gas to Maryville, Missouri.

May 24, 2010, a Public Hearing was held to gather comments regarding the City's plan for a franchise agreement with Empire Gas. The 20 year agreement outlines terms and conditions and also includes a five percent (5%) franchise tax fee to be remitted to the City. The agreement mimics the same values and principles outlined in the previous agreement.

Upon motion duly made and seconded, said bill was read by title on the first reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Upon motion duly made and seconded, said bill was read by title on the second reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Motion was made by Councilwoman Cummings, seconded by Councilman Moss, that Council Bill No 2010'45 be approved as presented. Upon roll being called, the vote was as follows: Councilman Moss, yea; Councilman Jonagan, yea; Councilwoman Cummings, yea; Councilman Wake, yea; Mayor Jackson, yea. Motion carried.

Said bill was then numbered Ordinance No. 7220 and was duly passed, adopted and was thereupon signed by the Mayor and attested by the City Clerk.

DISCUSSION: MOZINGO PARK ADVISORY BOARD

City Council Member discussed the drafted ordinance presented to consider appointing a Mozingo Park Advisory Board to oversee and make recommendations to the City Council regarding the improvements and maintenance plan for the park. Councilman Jonagan spoke of his desire to see the Park and Recreation Board to oversee the development and maintenance of the area.

It was explained that Mozingo Lake was primarily constructed as a water source for the City and that there are many regulations and requirements by the State that the city must stay in compliance with regarding the water supply. It is the city's obligation to protect the water supply.

Mayor Jackson asked that the ordinance be presented for a vote, within the next two (2) regularly scheduled council meetings.

DISCUSSION: R-2 ZONING

City Manager LeCerf reported that the Planning and Zoning Commission met May 19 to discuss the R-2 zoning and all aspects of the occupancy limits. The commission suggested deletion of “Accessory Rental” and to define “Family” as: *One or more persons related by blood, marriage or adoption occupying a dwelling unit as an individual housekeeping organization.* He reminded the council that historically the ordinance has been interpreted to allow up to four (4) unrelated people in an R-2 zoned structure. He added that with the proposed changes by the Commission, only a family related by blood can dwell together, which means adults who are friends or college students cannot live together at the same resident. Consequently, without consideration of minimum lot size requirements and setback requirements, R-1 and R-2 zones would be the same. Mr. LeCerf suggested that if these recommendations were adopted, that the two (2) zones (R-1 and R-2), be condensed to one (1) zone.

Paula and Larry Haataja, 635 West 3rd Street; Pat Ordnung, 941 West 2nd Street; Francis and Mary Noel, 117 South Grand Avenue; Bob Keirse, 928 West 2nd Street; and Dennis Todd, 1012 West 1st Street spoke of their concerns of multi-renters in R-1 and R-2 zones and the maintaining of rental properties, in their neighborhoods.

When asked what the procedure is after receiving a report of an excessive amount of people living in a house, City Manager LeCerf stated the tenants are requested to provide a copy of the rental agreement to verify the number of occupants.

It was acknowledged that potentially not all tenants could be listed on the rental agreement and that the city cannot access the home without a search warrant, to verify the number of tenants. Requiring off-street parking for each tenant does not seem to be a solution either because a house having a double car garages with a large pad in front of it that allows parking for four (4), ultimately allows for six (6) total off-street parking spaces.

Re-evaluating some of the current zones, was suggested as an option, as well as adopting a rental code to require rental properties to be registered with the city. It was noted that the City currently has a Property Maintenance Code which includes all residences, not just rentals.

The definition of “Family” was considered to be an initial step in coming to a compromise that benefits both students and family units. At the July 12, 2010 City Council meeting, Council Members present definitions of “Family” in an effort to define “Family” in a way that will satisfy all concerns.

APPROVAL OF MOZINGO LAKE PARK 10 YEAR PLAN

The City Clerk presented a bill, being Bill No. 2010'46 for a Resolution entitled:

A Resolution to Accept the Mazingo Ten Year Plan as a Guide for Maintenance and Improvements for the Years of 2007 Through 2017, to Mazingo Lake Park and Golf Course, Maryville, Missouri

After much review and consideration the Mazingo Ten year Plan was presented to the City Council for approval.

Upon motion duly made and seconded, said bill was read by title on the first reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Motion was made by Councilman Jonagan, seconded by Councilwoman Cummings, that Council Bill No 2010'46 be approved as presented. Upon roll being called, the vote was as follows: Councilman Jonagan, yea; Councilwoman Cummings, yea; Councilman Wake, yea; Councilman Moss, yea; Mayor Jackson, yea. Motion carried.

Said bill was then numbered Resolution No. 563 and was duly passed, adopted and was thereupon signed by the Mayor and attested by the City Clerk.

AGREEMENT WITH MO DEPT., ECONOMIC DEVELOPMENT, DOWNTOWN REVITALIZATION

The City Clerk presented a bill, being Bill No. 2010'47 for an Ordinance entitled:

An Ordinance Authorizing the Mayor of the City of Maryville, Missouri, to Execute an Agreement with the Missouri Department of Economic Development, for the Purpose of Providing Community Block Grant Funds for the Downtown Revitalization Project, Phase II and III, Maryville, Missouri

An Agreement was presented to the Council for consideration and approval, between the State of Missouri, Department of Economic Development and the City of Maryville, for funds for the Downtown Revitalization, Phases II and III.

Upon motion duly made and seconded, said bill was read by title on the first reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Upon motion duly made and seconded, said bill was read by title on the second reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Thereupon, motion was made by Councilwoman Cummings, seconded by Councilman Wake, that Council Bill 2010'47 be approved as presented. Upon roll being called, the vote was as follows: Councilwoman Cummings, yea; Councilman Wake, yea; Councilman Moss, yea; Councilman Jonagan, yea; Mayor Jackson, yea. Motion carried.

Said bill was then numbered Ordinance No. 7221 and was duly passed, adopted and was thereupon signed by the Mayor and attested by the City Clerk with the contract being Contract No. 2010-19.

MO HWY AND TRANSPORTATION COMMISSION AGREEMENT, PROJECT SRTS-NI-H301(501)

The City Clerk presented a bill, being Bill No. 2010'48 for a Ordinance entitled:

An Ordinance Authorizing The Mayor of the City of Maryville, Missouri, to Execute an Agreement with the Missouri Highway and Transportation, for the Purpose of the Safe Routes to School Program, Project No SRTS-NI-H301(501)

As last year, the City has applied and have been awarded a Safe Routes to School (SRTS) non-infrastructure grant for the purpose of purchasing a radar/message sign. The application was for \$18,500 but was awarded in the amount of \$15,000 with no match money required. The price of sign is slightly higher than the amount received last year, so an out of pocket expense of may be realized at the cost of \$18,200.

Upon motion duly made and seconded, said bill was read by title on the first reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Upon motion duly made and seconded, said bill was read by title on the second reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Motion was made by Councilwoman Cummings, seconded by Councilman Wake, that Council Bill No 2010'48 be approved as presented. Upon roll being called, the vote was as follows: Councilman Wake, yea; Councilman Moss, yea; Councilman Jonagan, yea; Councilwoman Cummings, yea; Mayor Jackson, yea. Motion carried.

Said bill was then numbered Ordinance No. 7222, and was duly passed, adopted and was thereupon signed by the Mayor and attested by the City Clerk, with the contract being Contract No. 2010-20.

CHANGE ORDER NO. 1, CONTRACT WITH KELLER CONST., ASPHALT OVERLAY PROJECT

The City Clerk presented a bill, being Bill No. 2010'49 for a Ordinance entitled:

An Ordinance Approving change Order No. 1, of a Contract with Keller Construction Company, Inc., for the Purpose of Providing Asphalt Milling and Overlay Services for the 2010 Street Improvement Project, Maryville, Missouri

Initially the bid proposed overlaying North Main Street from 3rd Street to 9th Street and the installation of

curbing from 6th Street to 9th Street. After reviewing the bids and the condition of the streets, it was determined that it would be in the best interest of the City to cancel the overlay from 3rd Street to 6th Street and instead overlay North Main Street from 9th Street to approximately 12th Street. In order to complete the project properly, additional curbing is needed along North Main Street from 9th Street to 12th Street. The change order request was reported at an additional cost of \$85,125.

City Manager LeCerf asked for a limit of \$100,000, for the completion of the project, to allow \$14,875 for any possible overruns.

Upon motion duly made and seconded, said bill was read by title on the first reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Upon motion duly made and seconded, said bill was read by title on the second reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Motion was made by Councilwoman Cummings, seconded by Councilman Moss, that Council Bill No 2010'49 be approved as presented. Upon roll being called, the vote was as follows: Councilman Wake, yea; Councilman Moss, yea; Councilman Jonagan, yea; Councilwoman Cummings, yea; Mayor Jackson, yea. Motion carried.

Said bill was then numbered Ordinance No. 7223, and was duly passed, adopted and was thereupon signed by the Mayor and attested by the City Clerk, and filed in the original contract file being Contract No 2010-06.

PURCHASE OF THREE HIGH SERVICE WATER PUMPS FOR WATER TREATMENT PLANT

The City Clerk presented a bill, being Bill No. 2010'50 for a Ordinance entitled:

An Ordinance Authorizing the Mayor of the City of Maryville, Missouri, to Execute a Contract with ASC Pumping Equipment, Olathe, Kansas, for the purpose of Purchasing Three High Service Water Pumps, for Use at the Water Treatment Plant, Maryville, Missouri

The Council was provided with information to consider approval of the purchase of three (3) high service water pumps and three (3) variable frequency drives (VFD) for the high service pump project. This purchase is associated with the Energize Missouri grant, which two (2) of the high service pumps will be purchased through. The third pump and variable frequency drives will be purchased by City funds, according to the U.S. EPA, Supplemental Environmental Project rules which the City entered into in September, 2009. A total of four (4) bids were received with ASC Pumping Equipment, Olathe, Kansas, being low bidder at \$69,150.

Upon motion duly made and seconded, said bill was read by title on the first reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Upon motion duly made and seconded, said bill was read by title on the second reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Motion was made by Councilwoman Cummings, seconded by Councilman Moss, that Council Bill No 2010'50 be approved as presented. Upon roll being called, the vote was as follows: Councilman Wake, yea; Councilman Moss, yea; Councilman Jonagan, yea; Councilwoman Cummings, yea; Mayor Jackson, yea. Motion carried.

Said bill was then numbered Ordinance No. 7223, and was duly passed, adopted and was thereupon signed by the Mayor and attested by the City Clerk, and filed in the original contract file being Contract No 2010-21.

APPROVE PRELIMINARY PLAT, SOUTHDALE SUBDIVISION, PHASE II AND III

The City Clerk presented a bill, being Bill No. 2010'52 for a Ordinance entitled:

An Ordinance to Approve a Preliminary Plat of Southdale Subdivision, Phase III, of

Maryville, Nodaway County, Missouri, to Provide for Preliminary Plat Approval of Said Plat, to Authorize the City Clerk to Endorse Approval of the Council on the Plat and to Require a Report by the Public Works Director Upon Satisfactory Completion of Said Improvements

The Council was provided with a preliminary plat of the Southdale Subdivision, Phase III for consideration of approval. The Planning and Zoning Commission, after review at the June 9, 2010 meeting, recommended to the Council, to approve the preliminary plat two changes, 1) Sidewalks placed in a subdivision shall be set back 4' from the edge of the curb to allow for placement of possible mailboxes and/or snow during the winter season so as not to obstruct the sidewalk during the winter time; and 2) Change all storm water pipe size as 12" in the plan, to 15"

Upon motion duly made and seconded, said bill was read by title on the first reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Upon motion duly made and seconded, said bill was read by title on the second reading, a copy of said bill having been made available for public inspection by filing the same in the office of the City Clerk more than 24 hours prior to the meeting, and was duly passed by unanimous vote.

Motion was made by Councilwoman Cummings, seconded by Councilman Jonagan, that Council Bill No 2010'52 be approved as presented. Upon roll being called, the vote was as follows: Councilwoman Cummings, yea; Councilman Wake, yea; Councilman Moss, yea; Councilman Jonagan, yea; Mayor Jackson, yea. Motion carried.

Said bill was then numbered Ordinance No. 7225, and was duly passed, adopted and was thereupon signed by the Mayor and attested by the City Clerk.

APPROVAL OF APPLICATIONS FOR RENEWAL OF LIQUOR LICENSES

As a unified effort, the Code Enforcement Department, Public Safety Department and the City Clerk verified the necessary requirements had been met by all applicants for renewal of their perspective liquor license(s), with the exception of final inspections to be performed for Molly's, but it is scheduled for July 1, 2010 . It was reported that renewal applications were received by Napoli;s Italian Restaurant, The World Famous Outback and the Younger Auction Gallery. An application and all necessary paperwork and applicable fees were received by the Pub, on that day. Code Enforcement and Public Safety had no reason to deny those businesses that had made application to the City.

Motion was made by Councilwoman Cummings, seconded by Councilman Jonagan, that Council Bill No 2010'52 be approved as presented. Upon roll being called, the vote was as follows: Councilwoman Cummings, yea; Councilman Wake, yea; Councilman Moss, yea; Councilman Jonagan, yea; Mayor Jackson, yea. Motion carried.

REPORTS

City Manager

- Mr. LeCerf asked if any of the Council Members has received a call regarding grackle birds. They had not.
- City Manager said the County is attempting to establish an Enhancement Enterprise Zone (EEZ). Mr. LeCerf did research and spoke with Lee Langerock, Nodaway County Economic Development, to learn more about the program. He will forward the EEZ information to Council Member.
- Mr. LeCerf reported that the cause for tabling the change order for the retaining wall between the Street Barn and Murphy's Bar and Grill, was because it was discovered that the work has already been finished. Mr. LeCerf said that he and Olssen Associates are investigating how this happened without his knowledge and the approval of the Council. MIRMA has been notified of the change order since the initial project was scheduled to be paid by the insurance company.

Council Members

- Councilwoman Cummings inquired about the progress of the Memorandum of Understanding between the City and the Nodaway County Humane Society. City Manager stated that Doug Sutton has the document for review but he has not heard from him yet. Councilwoman Cummings requested that she and the City Manager meet with Mr. Sutton to discuss the issue.
- Councilman Jonagan asked for verification of plans to discuss the contents of the proposed smoking ordinance. Council Members agreed that it would be discussed at the July 12, 2010 meeting, but that only the first reading would be heard. The second reading most likely will be heard at the July 26, 2010, City Council meeting, with a vote to follow.
- Mayor Jackson reported that notice was received by KCP&L, regarding a proposed increase of fourteen percent (14%) in electrical costs. Mayor Jackson indicated that a representative of KCP &L, has offered to attend a council meeting if necessary. Council Members did not think it would be necessary. The Town and Gown Conference was attended by Mayor Chad Jackson in early June and he stated that Ames, Iowa has an ex-officio member, being a student. He suggested that the City Council explore the possibility of doing the same.
- Mayor Jackson asked for an update on the 16th Street project. Mr. LeCerf stated that he hoped to hear in the next day or so whether the funds have been allocated. The allocation of funds period had expired. When funds are allocated, the city will go out to bid, which will be a period of 30 days and another two weeks will lapse between opening bids and construction beginning. It was estimated that mid July or early August, the project would begin.

EXECUTIVE SESSIONS

Motion was made by Councilwoman Cummings, seconded by Councilman Jonagan that the Council, go into executive session. Upon roll being called, the vote was as follows: Councilman Moss, yea; Councilman Jonagan, yea; Councilwoman Cummings, yea; Councilman Wake, yea; Mayor Jackson, yea. Motion carried.

City Council met in closed session to discuss Legal Action, Causes of Action or Litigation Involving a Public Governmental Body and Any Confidential or Privileged Communications Between a Public Governmental Body or its Representatives and its Attorneys, as Authorized by Section 610.021(1) RSMo., Closed Meeting, Closed Record, Closed Vote.

Motion was made by Councilwoman Cummings, seconded by Councilman Wake that the Council comes out of executive session. Upon roll being called, the vote was as follows: Councilman Jonagan, yea; Councilwoman Cummings, yea; Councilman Wake, yea; Councilman Moss, yea; Mayor Jackson, yea. Motion carried.

ADJOURNMENT

Motion was made by Councilman Jonagan, seconded by Councilman Wake that the Council adjourned. Upon the roll being called, the vote was as follows: Councilman Jonagan, yea; Councilwoman Cummings, yea; Councilman Wake, yea; Councilman Moss, yea; Mayor Jackson, yea.

Chad Jackson, Mayor

Sheila Smail, City Clerk