

JOURNAL OF THE CITY COUNCIL

Regular Session – January 17, 2007

COUNCIL & STAFF PRESENT:

Martha Rowe	Mayor
Dale Blesz	Councilmember
Jill McCord	Councilmember
Jeff Newton	Councilmember
Howard Hickman	City Attorney
Mari E. Macomber	City Manager
Vickie Brumbaugh	City Clerk
John Buckwalter	Public Works Director
Paul Frazier	Code Administrator
Jim Hughes	Police Chief

ABSENT: Tim Crist Councilmember

The City Council of the City of Kirksville, Missouri, met in a Regular Session on Wednesday, January 17, 2007, at 5:30 p.m. in the City Hall Council Chambers.

INVOCATION/PLEDGE

Major William Hogg, of the Salvation Army Church, gave the Invocation. Boy Scout Troop 26, and Leader Burt Beard, led the Pledge of Allegiance.

MINUTES

Councilmember Blesz moved to approve the minutes of the regular session of December 20, B2006; seconded by Councilmember McCord. The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

ORDER OF AGENDA

Councilmember Blesz moved to approve the agenda, as distributed; seconded by Councilmember Newton. The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

INFORMATION PRESENTATION

Mayor Rowe read and presented a Proclamation of recognition to members of the Kirksville R-III Tigers Soccer Team.

PROCLAMATION

WHEREAS, the Kirksville R-III Soccer Team finished the season with a 15-5-1 record including a 7-1-1 record in conference resulting in the program's first ever North Central Missouri Conference title; and

WHEREAS, the Kirksville R-III Soccer Team also won the Moberly Spartan Invitational, being the first in-season tournament win in the program's history; and

WHEREAS, the Kirksville R-III Soccer Team displayed team spirit and energy on the playing field, while keeping their heads in the game; and

NOW, THEREFORE, I, Martha Rowe, Mayor of the City of Kirksville, Missouri do hereby proclaim an opportunity for all Kirksville citizens to recognize and express their pride and appreciation for the hard work, dedication and supreme achievements to the Kirksville R-III Tigers Soccer Team:

Marshall Allen	Freshman	Chris Brizendine	Head Coach
Jotham Arber	Senior	John Wagner	Assistant Coach
Jovanny Barraza	Junior		
Josh Bowers	Junior	Danielle Cowart	Student Manager
Kris Collins	Senior	Shelby Moore	Student Manager
Dakota Davis	Freshman		
Martin DiStefano	Senior		
Chris Eitel	Senior		
Luke Freeland	Senior		
Tony Gibson	Freshman		
Tim Howd	Junior		
Michael Klem	Sophomore		
Travis King	Freshman		
Marko Matovina	Junior		
Matthew Mayer	Junior		
Weston Newell	Junior		
Thomas Redmon	Senior		
Jacob Tucker	Junior		
Kevyn Wiskirchen	Junior		

CITIZEN PARTICIPATION

None.

ACTION PRESENTATIONS

BILL NO. 2007-01

RESOLUTION NO. R1-17-543

A RESOLUTION APPROVING THE PLACEMENT OF CONSIDERATION OF A SMOKING BAN ORDINANCE ON A KIRKSVILLE CITY COUNCIL AGENDA, CONTINGENT UPON THE PASSAGE OF THE APRIL 3, 2007 BALLOT QUESTION REGARDING A SMOKING BAN ORDINANCE.

WHEREAS, the City Council approved, by Ordinance No. 11777, the placement of a question on the April 3, 2007, election ballot as follows:

Shall the City of Kirksville, Missouri cause to be enacted an ordinance prohibiting smoking in certain public places, including bars, restaurants, city operated facilities, recreation facilities, amusement places and banquet facilities, when employees are present and working at the banquet facilities, within the city limits of Kirksville, excluding, however, all such facilities, owned or operated by a membership association that is recognized as a not-for-profit entity by the State of Missouri; with such ordinance to be effective one hundred twenty (12) days from and after the date of approval by a majority of the voters of the city?

NOW, THEREFORE, BE IT RESOLVED that if a majority of the voters of Kirksville, Missouri, vote in favor of the question at the April 3 election on prohibiting smoking, the City Council shall consider an ordinance, placed on the City Council agenda of the April 4, 2007 regular meeting, that would ban smoking in certain public places, as described in the ballot language; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that if a majority of the voters vote against the question on prohibiting smoking at the April 3 election, this Resolution shall be considered null and void.

Councilmember Blesz moved to approve Bill No. 2007-01; seconded by Councilmember Newton.

City Manager Macomber pointed out changes to the Ordinance that the Council will consider if the voters approve the smoking ban question at the April election. The Council chose, in a Study Session, to add Section 18-89b – prohibiting smoking within a distance of 10 feet; adding Bed and Breakfasts; and changing the effective date of the ordinance to July 1, 2007. It was also agreed that this Ordinance will be considered by the current Council prior to the re-organization of the Council in April.

The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

City Manager Macomber explained that the Ordinance will be on the city's web site, and copies will be available at City Hall for the public.

BILL NO. 2007-02 **RESOLUTION NO. R1-17-544**
A RESOLUTION APPOINTING A CITY REPRESENTATIVE TO THE MISSOURI
SOLID WASTE MANAGEMENT COUNCIL.

WHEREAS, on July 9, 1990, Missouri Governor John Ashcroft signed Senate Bill 530, now known as Missouri's solid waste management law, which is designed to foster local government cooperation to reduce the volume of landfill solid waste in Missouri by 40 percent by 1998; and

WHEREAS, the City of Kirksville has joined its neighbor counties in establishing the Northeast Missouri Solid Waste Management District; and

WHEREAS, the governing body of each City, over 500 population, within the district shall appoint one member of the City governing body to the Solid Waste Management Council and one member of the City body as an alternate.

NOW, THEREFORE, BE IT RESOLVED THAT THE City of Kirksville hereby requests that Martha Rowe, an elected official, shall represent the City of Kirksville on the Northeast Missouri Solid Waste Management Council; and Kris McKim, will represent the City as an alternate member.

Councilmember McCord moved to approve Bill No. 2007-02; seconded by Councilmember Newton. The motion carried by the following vote: Mayor Rowe - aye;

Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

BILL NO. 2007-03

AN ORDINANCE AMENDING THE DEFINITION AND REFERENCES TO “DIRECTOR AND DIRECTOR OF PARKS AND RECREATION” IN CHAPTER 19 – PARKS AND RECREATION - OF THE KIRKSVILLE CITY CODE.

Councilmember McCord moved to adopt Bill No. 2007-03 on first reading; seconded by Councilmember Newton.

City Manager Macomber explained this is a housekeeping item. The job title of the Parks and Recreation Director position changed to Director of Community Services, and therefore this Ordinance notes that change in the City Code.

The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

BILL NO. 2007-04

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI ACCEPTING THAT PORTION OF EMMETT STREET FROM HIGHWAY 63 (BALTIMORE AVE.) TO NOVINGER STREET.

Councilmember Blesz moved to adopt Bill No. 2007-04; seconded by Councilmember McCord.

City Engineer Buckwalter explained that the City and Tally Lopez, owner of El Vaquero restaurant, enter an agreement to construct a portion of Emmett Street to facilitate access to his new restaurant. The City had planned to construct Emmett, and therefore agreed to reimburse Mr. Lopez. The street work is completed, and it meets the City's standards and MoDOT's requirements, and is acceptable to add to the City's inventory of streets.

The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

BILL NO. 2007-05

AN ORDINANCE AMENDING CHAPTER 6, ARTICLES VI, IX, X, OF THE CITY CODE REGARDING CARBON MONOXIDE ALARMS.

Councilmember McCord moved to adopt Bill No. 2007-05 on first reading; seconded by Councilmember Newton.

Code Administrator Paul Frazier reported this Ordinance requires that carbon monoxide alarms be installed in all residences that has a heat source that produces carbon monoxide, and residential units that have attached garages. This subject has been discussed two other times by past City Council's, but was never approved. Due to increased incidents of carbon monoxide, it has become necessary to adopt this requirement. Landlords and property owners will be given time to work the cost of alarms into their budget, effective September 1, 2007. The landlords are responsible for

the purchase and placement of detectors in rental units. Once the detector is in place, then the renter is responsible for keeping it working by placement of batteries as needed. Enforcement will be similar to smoke detector requirements. Carbon monoxide detectors will be mandatory on the checklist now where they had not been.

City Manager Macomber clarified that this is the first time a “carbon monoxide detectors ordinance” has been brought to the Council for consideration, although it has been discussed in Study Sessions. A “Rental Housing Ordinance” was approved by a City Council and repealed a couple of years ago.

The motion to adopt Bill No. 2007-05 on first reading carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

Municipal Court Judge Contract Renewal

Councilmember Blesz moved to approve an agreement with Phoebe Powell-Herrin for Municipal Court Judge services; seconded by Councilmember Newton. The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

Olmecca – Emmett Street Construction Reimbursement

Councilmember Newton moved to approve reimbursement of street construction costs to Olmecca, Inc. (Tali Lopez); seconded by Councilmember McCord.

City Manager Macomber reported that the street construction of Emmett Street is complete, and according to the agreement, the City is to reimburse Mr. Lopez for the contract costs of \$98,871.41 based on the contractor’s estimate. There were a few changes to the project, resulting in an additional \$5,631.50 for material and labor. The Missouri Department of Labor decided that the project required prevailing wage scale which increased the payroll, resulting in a total project cost of \$121,052,.73.

The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

Change Order – Willis Bros – Route P Sewer Improvements

Councilmember Newton moved to adopt a change order in the amount of \$47,698; seconded by Councilmember Blesz.

City Engineer John Buckwalter reported that the original intent for the north annexation along Highway 63 included sewer to businesses along Hwy 63. There was difficulty obtaining easements from property owners who did not want sewer. That portion of the sewer was not completed, and the matter was closed. The Route P sewer contract is open. The City did plan to serve the one property owner on north Highway 63 with sewer. Sewer can be provided to that property and adjoining property owners in the future by placing a gravity line.

The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

Change Orders - PAR Contractors – Water Plant Improvements

Councilmember Newton moved to approve two change orders with PAR Contractors for improvements to the Water Treatment Plant; seconded by Councilmember McCord.

John Buckwalter reported that the Environmental Protection Agency found deficiencies in the chlorination system control room and the chlorine storage room of the water plant. To correct those deficiencies, two change orders with PAR Contractors, as part of the Phase I improvements to the Water Plant, are necessary to address correcting these deficiencies. EPA would penalize the City with a fine up to \$32,500 per day for non compliance.

The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

Water Treatment Chemical Bids

Councilmember McCord moved to approve bids to low bidders for water treatment chemicals; seconded by Councilmember Newton.

John Buckwalter recommended the low bidders of Harcros Chemicals, GS Robins, General Chemical, Univar and Brenntag Chemical. None of the bidders met the specs on two chemicals. Sodium chloride bids are being evaluated as to meeting specs.

The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

Water Line Bores Bid

Councilmember McCord moved to approve a bid from Great Plains to perform pipeline bores; seconded by Councilmember Blesz.

John Buckwalter reported that only bid was received.

The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

Crushed Rock Bid

Councilmember McCord moved to approve a bid from Rogers Trucking for crushed rock; seconded by Councilmember Newton

John Buckwalter reported that three bids were received.

The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

Safe Routes Grant Application

Councilmember Blesz moved to authorize the submittal of a Safe Routes grant application to the Missouri Department of Transportation; seconded by Councilmember Newton.

City Manager Macomber reported there are four projects that will be submitted for the grant – Sidewalk on Cottage Grove between Harrison and McPherson; Sidewalk on Cottage Grove Place between LaHarpe and Hamilton; a missing section of sidewalk on

Patterson; and sidewalk on Normal Street between Baltimore and Ray Miller Elementary.

The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

Second Reading

BILL NO. 2007-03

ORDINANCE NO. 11783

AN ORDINANCE AMENDING THE DEFINITION AND REFERENCES TO "DIRECTOR AND DIRECTOR OF PARKS AND RECREATION" IN CHAPTER 19 – PARKS AND RECREATION - OF THE KIRKSVILLE CITY CODE.

BE IT ORDAINED by the City Council of the City of Kirksville, Missouri, as follows:

Section 1. That Chapter 19 – Parks and Recreation - of the City Code of the City of Kirksville, Missouri, be amended.

Article I. IN GENERAL

Section 19-1 Definitions.

Director. The director of ~~parks and recreation~~ **community services** of the city.

Section 19-68 Tournaments and special events.

- (a) Any person who manages, sponsors, conducts or otherwise directs any bass tournament, fishing tournament or special event upon the waters of Forest Lake shall, one (1) month prior to the beginning of the tournament or contest, apply for and secure from the city director of ~~parks and recreation~~ **community services**, or his designee, a fishing contest permit. The application for the permit shall include the following information....
- (b) After the completion of the tournament or contest, the person or persons who managed, sponsored, conducted, or otherwise directed the contest or tournament, shall report to the city director of ~~parks and recreation~~ **community services**, or his designee, the information specified on the bass tournament or contest report form prepared by the Missouri Department of Conservation.

Section 19-104. Tournaments and special events.

- (a) Any person who manages, sponsors, conducts or otherwise directs any bass tournament, fishing tournament or special event upon the waters of Hazel Creek Lake shall, one (1) month prior to the beginning of the tournament or contest, apply for and secure from the city director of ~~parks and recreation~~ **community services** or his designee, a fishing contest permit. The application for the permit shall include the following information....
- (b) After the completion of the tournament or contest, the person or persons who managed, sponsored, conducted or otherwise directed the contest or tournament, shall report to the city director of ~~parks and recreation~~

community services or his designee, the information specified on the bass tournament or contest report form prepared by the Missouri Department of Conservation.

Section 2. That any other Articles, Chapters, Sections of the City Code referencing “Director of Parks and Recreation” be amended to read “Director of Community Services”.

Section 3. This ordinance is effective from the date of its passage.

BILL NO. 2007-04 **ORDINANCE NO. 11784**
AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI ACCEPTING THAT
PORTION OF EMMETT STREET FROM HIGHWAY 63 (BALTIMORE AVE.) TO
NOVINGER STREET.

BE IT ORDAINED by the City Council of the City of Kirksville, as follows:

WHEREAS; Neftali Lopez, developer of El Vaquero restaurant has successfully constructed and guaranteed Emmett Street as built from Highway 63 (Baltimore Ave.) to Novinger Street within the City’s permanent right-of-way, the same to be forever used and maintained by the public as such, and

WHEREAS; Emmett Street from Highway 63 (Baltimore Ave.) to Novinger Street has been inspected and approved and is located in the City right-of-way.

NOW, THEREFORE, the City of Kirksville, Adair County, Missouri, hereby accepts Emmett Street from Highway 63 (Baltimore Ave.) to Novinger Street, as shown on the “as-built” plans on file with the City Engineer.

FURTHER, the City of Kirksville, Adair County, Missouri, in accepting the foregoing, agrees to be responsible for and maintain the foregoing street which has been dedicated to the public use.

BILL NO. 2007-05 **ORDINANCE NO. 11785**
AN ORDINANCE AMENDING CHAPTER 6, ARTICLES VI, IX, X, OF THE CITY CODE
REGARDING CARBON MONOXIDE ALARMS.

WHEREAS, the City Council has adopted the provisions of Chapter 6 of the City Code, regarding the International Property Maintenance Code, The International Residential Code, and the International Fire Code, regarding Minimum standards and requirements in those Articles and Sections of that Chapter; and

WHEREAS, carbon monoxide poisoning constitutes a serious hazard in the City of Kirksville; and

WHEREAS, during the past years, several people have become seriously ill or have died from carbon monoxide poisoning within the City of Kirksville; and

WHEREAS, one of the most effective safeguards against carbon monoxide poisoning is installing a carbon monoxide alarm in residential housing; and

WHEREAS, the City Council deems it necessary and proper to amend Chapter 6, Articles VI, IX, and X by adding the requirements contained in this ordinance to the pertinent articles and sections of Chapter 6 of the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRKSVILLE, MISSOURI, AS FOLLOWS:

Section 1. Chapter 6 of the City Code is hereby amended by adding to Article VI, IX and X, therefore, new subparagraphs 6-87-(F), 6-147-(G) and 6-162-(J) to read as follows:

Carbon Monoxide alarm devices; requirements.

- (1) All residential dwellings and every building which contains a residential unit(s) shall be equipped with approved carbon monoxide alarm(s) if within that building there exists any heat source that burns fossil fuels that produces carbon monoxide.
- (2) Any residence or any building which contains a residential unit and has an attached motor vehicle garage shall install carbon monoxide alarms in accordance with this chapter.
- (3) Location. Not less than one approved carbon monoxide alarm shall be installed in each residential unit. At least one such alarm shall be installed within 40 feet of each room used for sleeping purposes. The carbon monoxide alarm should be placed so it will be easily audible in all sleeping rooms. The carbon monoxide alarm shall be installed according to the manufacturer's instructions.
- (4) Standards. Every approved carbon monoxide alarm shall comply with all applicable federal and state regulations, and shall bear the label of a nationally recognized standard testing laboratory, and shall meet the standards of UL 2034 or its equivalent. The Code Administrator may issue rules and regulations not inconsistent with the provisions of this chapter, for the implementation and administration of the provisions of this chapter relating to carbon monoxide alarms.
- (5) Battery removal violations—Penalty. It shall be unlawful for any person to remove batteries from a carbon monoxide alarm required under this chapter, or in any way to make inoperable a carbon monoxide alarm required under this chapter, except that this provision shall not apply to any building owner or manager or his agent in the normal procedures of replacing batteries. Any person who violates this section shall be punished by a fine of not less than \$500.00 per violation.
- (6) Owner's/tenant's responsibilities. The owner of a structure shall install the carbon monoxide alarm(s) and supply required carbon monoxide testing

and maintenance information to at least one adult tenant in each dwelling unit. The tenant shall conduct periodic tests, provide general maintenance, and replace required batteries for carbon monoxide alarms located in the tenant's dwelling unit.

- (7) The owner or owner's agent of any building which contains a residential unit or the owner or the owner's agent of any residential building that has more than one unit and is heated by a central heating source which uses fossil fuel for its heating shall install one approved carbon monoxide alarm on the floor containing the central heating unit. The owner shall test, provide general maintenance, and replace the required batteries for carbon monoxide alarms located in this area. The carbon monoxide alarm shall be installed according to the manufacturer's instructions.
- (8) In cases where dwellings are owned by the resident(s) and reside therein, the owners of the residence shall be responsible for the installation and maintenance of the required carbon monoxide detector according to the manufacturer's specifications and the terms of the ordinance.
- (9) Fossil fuel defined. Whenever used in this chapter, the term "fossil fuel" shall include, but not be limited to, coal, natural gas, kerosene, oil, propane and wood.
- (10) Penalties. Any person(s) who shall violate a provision of this Ordinance, or shall fail to comply with any of the requirements thereof, shall be guilty of a misdemeanor, punishable as provided in Chapter 1, Section 1-7 of the City Code.

Section 2. This ordinance shall become effective following passage by the City Council and signing by the Mayor.

Councilmember McCord moved to adopt Bill No. 2007-03, 2007-04 and 2007-05 on second reading; seconded by Councilmember Newton. The motion carried by the following vote: Mayor Rowe - aye; Councilmembers: Newton - aye; Crist - absent; McCord - aye; Blesz - aye. Nays - none.

Council Comments

City Manager Macomber announced the State of the City Address is this Friday at the Annex building at 8:00 a.m. The Kirksville Daily Express will be printing items of interest regarding 150 years of Kirksville. We will have a Proclamation ready to be presented prior to the Study Session on January 24, proclaiming 150 years in Kirksville.

Justin Puckett, 25305 Benton Way (non-resident), stood to address the Council, thanking them for their action on a smoking ban. He said it is important that Councilmembers express their intention once the ordinance is approved by the voters.

Councilmember Blesz stated his intention to vote in favor of the smoking ban ordinance.

Councilmember McCord said she will support the ordinance.

Councilmember Newton said he would support the ordinance.

Mayor Rowe said that she had asked for the Resolution that the Council approved tonight, and she would follow the will of the people.

ADJOURNMENT

There being no further business to come before the Council, Mayor Rowe adjourned the meeting at 6:30 p.m.

Vickie Brumbaugh, CMC, MRCC
City Clerk