

JOURNAL OF THE CITY COUNCIL

Regular Session - January 24, 2005

COUNCIL AND STAFF PRESENT:

Ralph Cupelli	Mayor Pro Tem
Tim Crist	Councilmember
Martha Rowe	Councilmember
Rich Scott	Councilmember
Mari E. Macomber	City Manager
Stephanie DeLaney	Deputy City Clerk
John Buckwalter	Engineer
Paul Frazier	Code Administrator
Mark Gaugh	Public Works Director
Laura Guy	Finance Director
Jim Hughes	Police Chief
Kris McKim	Assistant City Manager

ABSENT:

Debbie Masten Mayor

The City Council of the City of Kirksville, Missouri, met in a Regular Session on Monday, January 24, 2005 at 7:00 p.m. in the City Hall Council Chambers.

INVOCATION/PLEDGE

Reverend Jim Robinson, First United Methodist Church gave the invocation.

MINUTES

Mayor Pro Tem Cupelli asked for corrections or changes to the minutes of the Regular Session of December 20, 2004. Mayor Pro Tem Cupelli indicated that a change was needed in the next to last paragraph on page 4 under Hazel Creek Land Sale - change "Mayor Cupelli" to "Mayor Pro Tem Cupelli." Councilmember Rowe moved to approve the minutes, with the noted change; seconded by Councilmember Scott. The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

ORDER OF AGENDA

City Manager Macomber asked the Council to add item 9K - Motion authorizing Mari Macomber to establish a committee to oversee the Watershed Management Plans.

ACTION PRESENTATIONS

BILL NO. 2005-1

AN ORDINANCE REZONING REAL ESTATE DESCRIBED HEREIN FROM DISTRICT R-2, TWO-FAMILY RESIDENTIAL, TO DISTRICT RP-3, MULTI-FAMILY RESIDENTIAL DISTRICT PLANNED, AND CHANGING THE ZONING DISTRICT MAP ACCORDINGLY.

Councilmember Rowe moved to adopt Bill No. 2005-1 on first reading; seconded by Councilmember Crist.

Paul Frazier reported that this is a rezoning request to change property located at 1008-1104 North Franklin, from R-2 Two-Family Residential to RP-3 Multi-Family Planned. The request was unanimously supported by the Planning & Zoning Commission at their January 12, 2005 meeting.

The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

BILL NO. 2005-2

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI ACCEPTING CERTAIN STREETS, WATER LINES AND SEWER LINES, LOCATED IN SOUTHPOINTE VILLAGE SUBDIVISION, PHASE II.

Councilmember Crist moved to adopt Bill No. 2005-2 on first reading; seconded by Councilmember Scott

John Buckwalter reported that the developer of Southpointe Subdivision has completed the majority of the streets. Water main extensions and sewer extensions serving those lots accessed by the finished streets have been completed, and inspected. The developer is requesting that the City accept the completed facilities. The developer still must complete crack sealing of streets accepted by this ordinance.

The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

Municipal Judge Agreement

Councilmember Rowe moved to approve a two-year agreement with Municipal Court Judge Phoebe Powell-Herrin; seconded by Councilmember Scott.

City Manager Mari Macomber reported that this agreement had been previously presented to the council for review. A change was made to the agreement providing the city with a voluntary termination clause. Judge Herrin was agreeable to this change.

The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

Change Order for Sewer Construction

Councilmember Rowe moved to approve a change order for sewer construction work with Willis Brothers; seconded by Councilmember Crist.

Mark Gaugh reported that a change in the lift station location resulted from the construction of a drive-way since the time the plans were drawn.

The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

Agreement with Benton & Associates

Councilmember Crist moved to approve an agreement with Benton & Associates for water treatment improvements; seconded by Councilmember Scott.

Mark Gaugh reported that this agreement is for the design cost of Phase I and Phase II for the Water Treatment Plant Modifications. Benton & Associates recommends completing Phase I and Phase II together rather than separately, allowing the design cost to be reduced by 5-10%. Phase I will take place in 2006 and Phase II is estimated to take place in 2007 or 2008. Councilmember Scott inquired what is the present capacity being run by the plant? Mr. Gaugh replied 4.5 million gallons a day, which is the plant capacity in terms of filtration. Mark also stated that the goal ultimately is to get to 6 million gallons. Phase I will get the City to 6 and with authorization from DNR and the plant improvements maybe 7 can be achieved.

The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye, Councilmember Crist, aye, Councilmember Scott, aye.

Generator Bid

Councilmember Scott moved to approve the bid from TH&N for the purchase of two generators in the amount of \$61,802, seconded by Councilmember Crist.

Chief Jim Hughes reported that this purchase is being totally funded by grant monies received from Homeland Security. One generator will be housed at the Police Department and the other generator will be placed at the Burton Street Tower.

The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

Audit Services

BILL NO. 2005-3

RESOLUTION NO. R1-24-507

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH WILLIAMS-LEEPERS, LLC OF COLUMBIA, MISSOURI TO PROVIDE AUDITING SERVICES FOR FISCAL YEARS ENDING MARCH 31, 2005, DECEMBER 31, 2005 AND DECEMBER 31, 2006.

WHEREAS, the City of Kirksville is desirous of having an annual audit conducted on the City's financial records, and

WHEREAS, staff solicited proposals for the fiscal years ending March 31, 2005, December 31, 2005 and December 31, 2006, and

WHEREAS, the accounting firm of Williams-Keepers, LLC of Columbia, Missouri has been judged to be the best qualified, and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Kirksville, Missouri, authorizes the City Manager to enter into an agreement with Williams-Keepers, LLC for an annual audit at a cost of \$25,000 for the fiscal year ending March 31, 2005, \$26,000 for the fiscal year ending December 31, 2005 and \$27,000 for the fiscal year ending December 31, 2006.

Councilmember Crist moved to approve Bill No. 2005-3 on first reading, seconded by Councilmember Rowe.

Laura Guy reported that for the past three years the city has utilized the services of a Kansas City firm, but this year they solicited bids from more local firms. Eleven accounting firms were mailed requests for services, with two proposals being submitted. The maximum fee for fiscal years ending March 31, 2005, December 31, 2005 and December 31, 2006 will be \$25,000, \$26,000, and \$27,000 respectively.

The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

Missouri Department of Conservation Agreement

Councilmember Scott moved to authorize the City Manager to work with the Missouri Department of Conservation to develop a new Community Assistance Program agreement for Hazel Creek and Forest Lakes, to include Spur Pond; seconded by Councilmember Crist.

City Manager Mari Macomber reported that the City has previously worked with the Department of Conservation in promoting fishing activities at Hazel Creek and Forest Lake and would like to pursue the same with Spur Pond. The Department has expressed interest in working with the city on identifying improvements at Spur Pond. There are some property ownership issues that would be addressed in the process. The Department of Conservation has also suggested making some additional improvements to Forest Lake.

Allison Shibalt of 456 Centennial Hall questioned if this agreement would be affected by the sale of the Hazel Creek land. Mrs. Macomber stated the sale has no impact on the CAP agreement.

The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

Liquor License - LaPachanga Party

Councilmember Crist moved to approve a liquor license to LaPachanga Party, seconded by Councilmember Scott.

Laura Guy reported that there was a change in business ownership and the required inspections for business licensing purposes have been satisfied.

The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

Watershed Advisory Committee

Mari Macomber introduced the idea of developing an advisory committee whose responsibility would be to oversee the Watershed Management Plan; monitoring goals and objectives. Mrs. Macomber said that should the Council advise her to move forward with the development of such a committee, she would develop the purpose and details for the committee and then bring the information back to the council for their final approval for establishment of the committee. Mayor Pro Tem Cupelli stated that he would like to see committee members consisting of scientists from Truman, environmentalists, land owners and professionals who deal with water issues.

Councilmember Scott moved to direct the city manager to develop the purpose and details for the Watershed Management Committee, seconded by Councilmember Crist.

The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

Council Comments

Mayor Pro Tem Cupelli distributed materials highlighting Missouri Statutes 78.580. Stated that in regard to the vote to sell the Hazel Creek land, there was no motion reduced to writing, as required by this statute. Mayor Pro Tem Cupelli said that he contacted the city attorney to request that he look into the legality of the motion to sell the land and if there was a violation of the Missouri Statute. Mayor Pro tem Cupelli also addressed Missouri Statute 432.070 which deals with executions of contracts.

City Attorney Hickman responded to 432.070 stating that there are cases that have been founded that as long as there's a verbal motion authorizing a mayor or city officer the authority to enter into a contract and is included in the written minutes, that it's deemed as sufficient. Mr. Hickman visited with Richard Sheets of the Missouri Municipal League regarding the issue.

With respect to Missouri Statute 78.580, Mr. Hickman stated that he would have to conduct additional research.

Second Reading

BILL NO. 2005-1

ORDINANCE NO. 11697

AN ORDINANCE REZONING REAL ESTATE DESCRIBED HEREIN FROM DISTRICT R-2, TWO-FAMILY RESIDENTIAL, TO DISTRICT RP-3, MULTI-FAMILY RESIDENTIAL DISTRICT PLANNED, AND CHANGING THE ZONING DISTRICT MAP ACCORDINGLY.

WHEREAS, Lyndon and Tammy Graham, hereinafter referred to as the Petitioner, is the owner of the following described real estate, situated in Kirksville, Adair County, Missouri, to-wit: Part of the Northeast Fourth of the Southwest Quarter of Section 4, Township 62,

Range 15, described as follows:

Beginning at a point 13 chains 9 and 15/44 links South of the Northeast corner of said Southwest Quarter of said Section 4, and running thence North 215 feet, thence West 6 chains 77 links, thence South 35 feet, thence East 6 chains 77 links, thence North 35 feet to the place of beginning, EXCEPT 225 feet off of the East end of this tract.

Also, part of the Northeast Fourth of the Southwest Quarter of Section 4, Township 62, Range 15, described as commencing 126 feet North and 225 feet West of a point 13 chains 9 and 15/44 links South of the Northeast corner of said Northeast fourth of Southwest Quarter of Section 4, thence North 54 feet, thence West 221.82 feet, thence South 54 feet, thence East 221.82 feet to place of beginning.

Also, all that part of the Northeast Fourth of the Southwest Quarter of Section 4, Township 62, Range 15 described as commencing 732 feet 9 15/44 links South and 151 feet West of the Northeast corner of said forty acre tract, thence South 126 feet, thence West 245 feet 77 links to the East side of Franklin Street, thence North 128 feet, thence East 245 feet 77 links to the place of beginning.

Also, beginning 864 feet 16 inches South and 190 feet West of the Northeast corner of the Southwest Quarter of Section 4, Township 62, Range 15, thence West 255 feet, thence South 60 feet, thence East 255 feet, thence North 60 feet to the place of beginning.

WHEREAS, Petitioner has petitioned for the rezoning of the above described real estate from District R-2 under Article VII, Section 25-52 of the City of Kirksville, Missouri, to District RP-3 under Article I, Section 25-5 of said Code, and changing of the “zoning district map” as set forth under Article I of Section 25.6 of said Code in accordance therewith; and

WHEREAS, the Petitioner has submitted a site development plan as required under Chapter 25-71 which said plan has been approved by the City of Kirksville Planning and Zoning Commission, and shall be a part of the rezoning of said development; and

WHEREAS, the aforesaid petition, with the afore mentioned site development plan was duly referred to the Planning and Zoning Commission of the City of Kirksville, Missouri, for hearing, report and recommendation and it is the finding of this Council that a hearing was held by said Planning and Zoning Commission on January 12, 2005, and after hearing thereon it is the recommendation of said Commission to this Council that the rezoning sought in the preceding paragraph be allowed; and

WHEREAS, after due hearing herein, it is the finding of this Council that the greatest benefit can be derived for the City of Kirksville and the inhabitants thereof by granting of the above stated Petition to rezone and that the rezoning sought herein would not be detrimental or hazardous to the adjoining property owners or the inhabitants of the City of Kirksville, Missouri, as a whole but would in fact, enhance the orderly development of said property; and

WHEREAS, it is the finding of this Council that all requirements of the Code of the City of Kirksville for the rezoning of the above-described real estate from District R-2 to District RP-3 have been met by Petitioners;

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

That the real estate described herein be and the same is hereby rezoned from District R-2 under Article VII of the Code of the City of Kirksville, Missouri, to District RP-3, as set forth under Article I, Section 25-5 of said Code, and that the “zoning district map” as set forth under Article I of Chapter 25-6 of said Code be changed accordingly.

BILL NO. 2005-2 **ORDINANCE NO. 11698**
AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI ACCEPTING CERTAIN STREETS, WATER LINES AND SEWER LINES, LOCATED IN SOUTHPOINTE VILLAGE SUBDIVISION, PHASE II.

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

WHEREAS, Pat Foglesong, representing Century Developers L.L.C., has by separate "Deed of Dedication" dedicated to the City of Kirksville, the street pavement as shown on the final plat for Southpointe Village Subdivision, Phase II, and also all sewer and water lines within the easements and right-of-ways as shown, the same to be forever used and maintained by the public as such, and

WHEREAS, certain streets, water lines, and sewer lines as described below have been inspected and approved and are located on right-of-ways and easements previously dedicated to the public use under the terms of the original Owner's Statement of Southpointe Village Subdivision Phase II,

NOW, THEREFORE, the City of Kirksville, Adair County, Missouri, hereby accepts the following as shown on the "as-built" plans submitted to the City Engineer's Office.

- a. Streets designated as Marco Drive from a point 389.5 feet east of its intersection with First Street to the eastern edge of the cul de sac, Sandia Circle, from the southwest edge of its intersection with Marco Drive northwest to the northern edge of the cul de sac, and Pelican Circle, from Marco Drive southeast to the south edge of the cul de sac.
- b. Approximately 1050 lineal feet of six-inch water main which connects to existing City water mains in Southpointe Subdivision Phase I as detailed in as-built drawings on file with the City Engineer.
- c. Approximately 1879 lineal feet of eight-inch sewer mains which connect to an 8-inch public sewer main contributory to the Kirksville Municipal Wastewater Treatment Plant, as detailed in as-built drawings 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 items which have been dedicated to the public use, except that it shall remain the developers' responsibility to complete initial joint sealing on these streets.

Councilmember Rowe moved to adopt Bill No. 2005-1 and 2005-2 on second reading; seconded by Councilmember Crist. The motion carried by the following vote: Mayor Masten, absent; Mayor Pro Tem Cupelli, aye; Councilmember Rowe, aye; Councilmember Scott, aye; Councilmember Crist, aye. Nays, none.

Other Items - Potter Avenue Property Sale

Mari Macomber asked for a consensus approval of the Council to bid out the sale of the former Parks & Recreation building located on Potter Avenue. There was a consensus of the Council to proceed with bidding out for sale.

ADJOURNMENT

There being no further business to come before the Council, Mayor Pro Tem Cupelli adjourned the meeting at 8:50 p.m.

Stephanie Delaney, Deputy City Clerk