

JOURNAL OF THE CITY COUNCIL

Regular Session – March 5, 2012

COUNCIL & STAFF PRESENT:

Richard L. Detweiler	Mayor
Tony Fajkus	Councilmember
Roger A. Edge	Councilmember
Howard Hickman	City Attorney
Mari E. Macomber	City Manager
John Buckwalter	Public Works Director
Sarah Halstead	Community Services Director
Jim Hughes	Police Chief
Edward leans	City Engineer
Katie Myers	Finance Director
Brad Selby	Codes Administrator
Melanie Smith	Assistant City Manager
Barb Baker	Deputy City Clerk
Absent - Jerry Mills	Councilmember

The City Council of the City of Kirksville, Missouri, met in Regular Session on Monday, March 5th, 2012, at 6:00 p.m. in the City Hall Council Chambers

INVOCATION/PLEDGE

Councilmember Tony Fajkus gave the invocation. The Girls Scouts led the Pledge of Allegiance.

MINUTES

Councilmember Fajkus moved to approve the minutes of the regular session of February 6, 2012; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

ORDER OF AGENDA

Councilmember Fajkus moved to approve the Order of the Agenda; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – councilmember Mills

INFORMATION PRESENTATION

None

CITIZEN PARTICIPATION

Charles Cannaday, 415 E. Pierce – Mr. Cannaday requested that the Council review and provide clarification of a code regarding construction equipment not being allowed to be parked in driveways etc., and how that relates to his truck for the tree trimming business. Mr. Cannaday requested expedience in looking into the matter as he will be going to court on March 15th for the codes violation.

UNFINISHED BUSINESS

None

ACTION PRESENTATIONS

BILL NO. 2012-6

RESOLUTION NO. R3-5-645

A RESOLUTION AMENDING THE AGREEMENT BETWEEN THE CITY OF KIRKSVILLE, MISSOURI AND THE MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM WITH REGARD TO REALLOCATING FUNDS FROM LEGAL TO PUBLIC SERVICE.

WHEREAS, Title I of the Housing and Community Development Act of 1974 does state as its primary objective “the development of viable urban communities, by providing decent housing and suitable living environment and expanding economic opportunities, principally for persons of low and moderate income;” and

WHEREAS, The Missouri Department of Economic Development awarded a Community Development Block Grant to the City under Title I; and

WHEREAS, The City had an area of need and wants to continue to provide assistance through the Community Development Block Grant program.

NOW, THEREFORE BE IT RESOLVED by the City of Kirksville, Missouri, that it desires to continue participation with the Missouri Department of Economic Development in plans and activities for the improvement of our community under the activities authorized pursuant to the Housing and Community Development Act of 1974.

THEREFORE, BE IT FURTHER RESOLVED, that the City Manager of Kirksville, Missouri hereby is authorized to execute the grant amendment pursuant to the aforementioned act.

Councilmember Fajkus moved to approve Bill No. 2012-6; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

BILL NO. 2012-7

RESOLUTION NO. R3-5-646

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A QUIT CLAIM DEED FOR A STRIP OF LAND ADJOINING THE A.T. STILL UNIVERSITY DENTAL SCHOOL TO A.T. STILL UNIVERSITY OF HEALTH SCIENCE.

WHEREAS, A.T. Still University of Health Science has requested the City execute a Quit Claim Deed for property adjoining the east side of the property currently owned by A.T. Still University of Health Science, and located in section 9, Township 62, Range 15, Adair County, a building site located in downtown Kirksville, and

WHEREAS, the City does not have ownership of this land, and does not intend to exercise any future ownership claims to this property, and

WHEREAS, the City does reserve a non-exclusive permanent and perpetual right and easement over, across and under this property.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Kirksville, Missouri, hereby authorizes the execution of a Quit Claim Deed to A.T. Still University of Health Science, retaining a non-exclusive permanent and perpetual right and easement to the property.

Councilmember Fajkus moved to approve Bill No. 2012-7; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

BILL NO. 2012-8

AN ORDINANCE AMENDING APPENDIX A – ZONING, SEC. 25-116 CORRIDOR STREETS, OF THE CITY CODE OF THE CITY OF KIRKSVILLE, MISSOURI BY ADDING THE NEW HIGHWAY 63 AS A CORRIDOR STREET.

No motion was made by any Councilmembers.

BILL NO. 2012-9

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, APPROVING A LOT SPLIT WHICH IS PART OF A TRACT OF LAND LOCATED AT ABOUT 602 W. SHEPHERD AVENUE IN KIRKSVILLE, MISSOURI.

Councilmember Fajkus moved to approve Bill No. 2012-9 on first reading; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

BILL NO. 2012-10

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, VACATING THE ALLEY BETWEEN 407 AND 415 SOUTH FRANKLIN STREET, IN KIRKSVILLE, MISSOURI.

Councilmember Fajkus moved to approve Bill No. 2012-10 on first reading; seconded by Councilmember Edge.

Mayor Detweiler opened discussion from the audience.

Karl Hildebrandt addressed the Council that his due process rights had been violated. He noted that there had been no notice provided, nor a hearing on the matter. The vacated land should be returned or revert back to original land owners (the county) instead of the adjacent landowners. He went on to say that this vacation did not serve public interest and the loss of green space is detrimental to the aesthetics of the downtown area. Mr. Hildebrandt

suggested a potential dog walk park, etc. be used for the land instead. The size of the area in question is approximately 18x107 feet.

Betty McLain-Iles commented that Mr. Hildebrandt's suggestion does have merit which should be considered as a possible park area.

Drew Heller, 801 E. Pierce, said that giving land back to the owner doesn't serve the general public in any way, that it only benefits the adjacent landowners.

Brice Clark, 1516 Baltimore, stated the area would be much more useful as a pocket park/dog park. He referenced the downtown area where dog feces are scattered in small patches of unattended flower garden areas and on the sidewalks because of the lack of green space.

Robert Russell suggested preserving the green space, rather than pouring concrete. If keeping Kirksville beautified is important, then more trees, green space, etc. is needed.

Megan McDonald, 415 Florence, stated that she has seen a lot of green space disappearing during the time she has lived here. There is nothing to be gained by turning the area into a concrete parking lot.

City Attorney Howard Hickman addressed the due process question. He noted that according to how things have been done in the past, the property would go to abutting properties.

Marshall Banks, 612 N. Franklin, stated that his due process right had been violated since there was no notice. He also dislikes the lack of green space with no place for dogs to run.

Karl Hildebrandt stated disagreement with Mr. Hickman's assessment of the due process and referenced state statues requiring conformity where no due process has been set by the local laws. Mr. Hildebrandt also noted that if it were to be turned into a park, the responsibility of maintaining it would fall on the city. He is ready to underwrite the cost of the maintenance of the property as a park/dog park, and work towards creating a trust to help continue maintenance of the property.

Councilmember Fajkus moved to table action on Bill No. 2012-10; seconded by Councilmember Edge.

Ayes – 2: Councilmembers Fajkus and Edge

Noes – 1: Mayor Detweiler

Absent – Councilmember Mills

Due to only a majority (3) of the Council being present, the motion to table required a vote of all three Councilmembers to pass.

There being no further comments, the motion to approve Bill No. 2012-10 did not pass.

Ayes – 1: Mayor Detweiler

Noes – 2: Councilmembers Fajkus and Edge

Absent – Councilmember Mills

A vote of all three Councilmembers was required for approval due to only a majority (3) of the Council being present.

Bid – John Deere Tractor

Councilmember Fajkus moved to approve the purchase of a John Deere model 1023E utility tractor with mid-mount side discharge mower from Sydenstricker Farm and Lawn, Kirksville; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

Forest Lake Use for Fishing Tournament

Councilmember Fajkus moved to approve a request for the use of outboard motor exceeding a 90 hp to idle at a speed not to exceed 10 mph on Forest Lake for Saturday, July 21 and Sunday July 22 for the South Central Iowa fishing tournament; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

Red Barn Arts Festival Downtown Street Usage

Councilmember Fajkus moved to approve a request from the Kirksville Arts Association (KAA) for the use of downtown city streets on Saturday, September 15, 2012 (Truman's Family Day), for the Red Barn Arts and Crafts Festival; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

South 63 CID Board Re-appointments: Macomber, Smith, Buckwalter

Councilmember Fajkus moved to approve the re-appointments of Mari E. Macomber, Melanie Smith and John Buckwalter on the South 63 Corridor Community Improvement District Board; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

Hwy 63 Transportation Corporation Re-appointments: Detweiler & Macomber

Councilmember Fajkus moved to re-appoint Richard Detweiler and Mari Macomber to three-year terms on the Highway 63 Transportation Corporation; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

Planning and Zoning Commission Appointment: Kellum

Councilmember Fajkus moved to approve the appointment of Jerry Kellum to the Planning

and Zoning Commission; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

Watershed Management Commission Appointment: Eaton

Councilmember Fajkus moved to approve the appointment of Zel Eaton, in the Community Citizen position, to the Watershed Management Commission; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

E911 Appointment: Myers

Councilmember Fajkus moved to appoint Katie Myers to the E911 Joint Services Board; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge

Noes – 0

Absent – Councilmember Mills

SECOND READING OF ORDINANCES

BILL NO. 2012-9

ORDINANCE NO. 11991

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, APPROVING A LOT SPLIT WHICH IS PART OF A TRACT OF LAND LOCATED AT ABOUT 602 W. SHEPHERD AVENUE IN KIRKSVILLE, MISSOURI.

WHEREAS, a tract of land which is part of the Southwest Quarter of the Southwest Quarter of Section 16, Township 62 North, Range 15 West, City of Kirksville, Adair County, Missouri, and is incorporated herein by reference, and has been regularly certified by Matthew Gary Winkler, licensed surveyor number PLS # 2007017974; and

WHEREAS, the tract of land is being split into three lots as follows:

Description Lot 1:

A tract of land being in the Southwest quarter of the Southwest quarter of Section 16, Township 62 North, Range 15 West, City of Kirksville, Adair County, Missouri, more particularly described as follows:

Commencing at the Southeast corner of the Southwest quarter of the Southwest quarter, thence; North 00 degrees 09 minutes 00 seconds East, along the East line of said Southwest quarter of the Southwest quarter, a distance of 22.01 feet, thence; North 88 degrees 20 minutes 17 seconds West, a distance of 20.01 feet to the intersection of the right of ways of First Street & Shepherd Avenue, also being the POINT OF BEGINNING, thence; continuing North 88 degrees 20 minutes 17 seconds West, along the North right-of-way line of Shepherd Avenue, which lies 22.01 feet North and parallel to the South Section line of Section 16, a distance of 482.16 feet; thence North 01 degrees 39 minutes 43 seconds East a distance of 262.29 feet; thence North 21 degrees 41 minutes 32 seconds East a distance of 200.84 feet; thence North 18 degrees 51 minutes 46 seconds East a distance of 174.58 feet; thence North

01 degrees 37 minutes 36 seconds East a distance of 22.99 feet; thence South 88 degrees 22 minutes 24 seconds East a distance of 457.76 feet; thence South 00 degrees 09 minutes 00 seconds West a distance of 637.98 feet to the POINT OF BEGINNING, said tract contains 6.64 acres, more or less.

Description Lot 2:

A tract of land being in the Southwest quarter of the Southwest quarter of Section 16, Township 62 North, Range 15 West, City of Kirksville, Adair County, Missouri, more particularly described as follows:

Commencing at the Southeast corner of the Southwest quarter of the Southwest quarter, thence; North 00 degrees 09 minutes 00 seconds East, along the East line of said Southwest quarter of the Southwest quarter, a distance of 22.01 feet, thence; North 88 degrees 20 minutes 17 seconds West, a distance of 20.01 feet to the intersection of the right of ways of First Street & Shepherd Avenue, thence; continuing North 88 degrees 20 minutes 17 seconds West, along the North right-of-way line of Shepherd Avenue, which lies 22.01 feet North and parallel to the South Section line of Section 16, a distance of 482.16 feet to the POINT OF BEGINNING thence; North 88 degrees 20 minutes 17 seconds West a distance of 304.52 feet; thence North 00 degrees 15 minutes 26 seconds East a distance of 637.45 feet; thence South 88 degrees 22 minutes 24 seconds East a distance of 327.71 feet; thence South 01 degrees 37 minutes 36 seconds West a distance of 22.99 feet; thence South 18 degrees 51 minutes 46 seconds East a distance of 174.58 feet; thence South 21 degrees 41 minutes 32 seconds West a distance of 200.84 feet; thence South 01 degrees 39 minutes 43 seconds West a distance of 262.29 feet to the POINT OF BEGINNING, said tract contains 4.87 acres, more or less.

Description Lot 3:

A tract of land being in the Southwest quarter of the Southwest quarter of Section 16, Township 62 North, Range 15 West, City of Kirksville, Adair County, Missouri, more particularly described as follows:

Commencing at the Southeast corner of the Southwest quarter of the Southwest quarter, thence; North 00 degrees 09 minutes 00 seconds East, along the East line of said Southwest quarter of the Southwest quarter, a distance of 22.01 feet, thence; North 88 degrees 20 minutes 17 seconds West, a distance of 20.01 feet to the intersection of the right of ways of First Street & Shepherd Avenue, thence; continuing North 88 degrees 20 minutes 17 seconds West, along the North right-of-way line of Shepherd Avenue, which lies 22.01 feet North and parallel to the South Section line of Section 16, a distance of 786.68 feet to the POINT OF BEGINNING thence; continuing North 88 degrees 20 minutes 17 seconds West a distance of 503.24 feet; thence North 00 degrees 15 minutes 26 seconds East a distance of 1279.18 feet; thence North 88 degrees 19 minutes 21 seconds West a distance of 10.00 feet; thence North 00 degrees 15 minutes 26 seconds East a distance of 20.01 feet; thence South 88 degrees 19 minutes 21 seconds East a distance of 510.83 feet; thence South 00 degrees 02 minutes 51 seconds West a distance of 661.67 feet; thence South 00 degrees 15 minutes 26 seconds West a distance of 637.45 feet to the POINT OF BEGINNING, said tract contains 14.99 acres, more or less; and

WHEREAS, the "Plat" shall be recorded in the Recorder's Office of Adair County, Missouri, showing the complete plat of lands created by the Lot Split.

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

That the lot split for the tract of land located as described above, at about 602 W. Shepherd Avenue is hereby approved, and the same is made an addition to the City of Kirksville, Missouri, and the portions thereof dedicated to the public are hereby accepted.

This ordinance shall be effective from and after the date of its passage.

Councilmember Fajkus moved to approve Bill No. 2012-9 on second reading; seconded by Councilmember Edge. The motion carried by the following vote:

Ayes – 3: Mayor Detweiler, Councilmembers Fajkus and Edge
Noes – 0
Absent – Councilmember Mills

COUNCIL COMMENTS

None

ADJOURNMENT

There being no further business to come before the Council, Councilmember Fajkus moved to adjourn to an Executive Session regarding a Legal Matter, RsMO.610.021(1); seconded by Councilmember Edge. The motion carried by a roll call vote taken by the Deputy City Clerk:

Ayes – 3: Mayor Detweiler; Councilmembers, Edge and Fajkus
Noes – 0
Absent – Councilmember Mills

Mayor Detweiler declared the meeting adjourned to an Executive Session at 6:40 p.m.

Barb Baker
Deputy City Clerk