

JOURNAL OF THE CITY COUNCIL

Regular Session – March 2, 2009

COUNCIL & STAFF PRESENT:

Martha Rowe	Mayor
Jill McCord (entered @ 5:50 pm)	Councilmember
Aaron Rodgerson	Councilmember
Todd Kuhns	Councilmember
Richard L. Detweiler	Councilmember
Howard Hickman	City Attorney
Mari E. Macomber	City Manager
Vickie Brumbaugh	City Clerk
Cherie Bryant	Assistant to the City Manager
John Buckwalter	Public Works Director
Jim Hughes	Police Chief
Melanie Smith	Community Services Director

The City Council of the City of Kirksville, Missouri, met in a Regular Session on Monday, March 2, 2009, at 5:30 p.m. in the City Hall Council Chambers.

[The meeting was filmed by KTRM TV staff.]

INVOCATION/PLEDGE

Glenn Archer, Layman from the Faith Baptist Church gave the Invocation. The Girl Scouts led the Pledge of Allegiance.

MINUTES

Councilmember McCord moved to approve the minutes of the regular session of February 23, 2009; seconded by Councilmember Kuhns. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – absent; Rodgerson – aye. 4 Ayes; 0 Nays; 1 Absent.

ORDER OF AGENDA

Councilmember Rodgerson moved to approve the Order of the Agenda; seconded by Councilmember Kuhns. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – absent; Rodgerson – aye. 4 Ayes; 0 Nays; 1 Absent.

INFORMATION PRESENTATION & PUBLIC HEARING

Mayor Rowe read a Proclamation recognizing the Kirksville Tigers Wrestling team members upon their recent State Championship award. The Mayor and Council presented each team member with a window cling strip noting 2009 State Wrestling Champions.

CITIZEN PARTICIPATION

None.

OLD BUSINESS

None.

ACTION PRESENTATIONS

BILL NO. 2009-09

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT BETWEEN THE CITY OF KIRKSVILLE, MISSOURI AND THE MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT BLOCK GRANT PROGRAM FOR THE COMPLETION OF A DOWNTOWN HISTORIC RESOURCE SURVEY PLAN.

Councilmember Rodgerson moved to adopt Bill No. 2009-09 on first reading; seconded by Councilmember Kuhns.

Cherie Bryant reported the City applied for a Community Development Block Grant in November of 2008, and was awarded \$12,000 for the completion of a downtown historic resource survey plan that will identify and outline historic contexts affecting the cultural and physical development of the downtown. The City will match with \$5,000 in-kind services.

The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – absent; Rodgerson – aye. 4 Ayes; 0 Nays; 1 Absent.

BILL NO. 2009-10

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, AMENDING SECTION 13-18 OF THE CITY CODE (Ordinance Nos. 11416 and 11565) REGARDING FAIR HOUSING, TO INCLUDE “SEXUAL ORIENTATION” WITHIN THE DISCRIMINATION STATEMENT.

Councilmember Detweiler moved to adopt Bill No. 2009-10 on first reading; seconded by Councilmember Kuhns.

City Manager Macomber reported the City Council approved Employee Handbook revisions in 2007, and one of the revisions was to add “sexual orientation” to the wording of the Equal Employment Opportunity Statement. The City Code contains a section on Fair Housing, and it is recommended that the “sexual orientation” wording be added to the discrimination statement within the Fair Housing section.

Councilmember Rodgerson asked City Attorney Hickman if this is a conflict with any federal laws.

[Councilmember Jill McCord entered the meeting at 5:50 p.m.]

Councilmember Rodgerson stated that “sexual orientation” is not found in federal or state documents. It may have been approached at those levels, and they saw some problems. In 2005, 70% of Missouri voters voted against same sex marriage. Councilmember Rodgerson voiced opposition to this language. He was not at the Study Session when this was a subject before the Council, and he was not asked for concerns on the subject.

Mayor Rowe said she disagreed.

Glen Archer, 1601 Randall Drive, said he agrees with Councilmember Rodgerson’s concerns.

Councilmember Rodgerson said the request for inclusion of this wording came from a group asking for special treatment.

The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – absent during the reading of the Bill; Rodgerson – nay. 3 Ayes; 1 - Nay; 1 Absent during the reading of the Bill.

BILL NO. 2009-11

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, AUTHORIZING THE EXECUTION OF A FUNDING AGREEMENT IN CONNECTION WITH SOUTH 63 HIGHWAY CORRIDOR IMPROVEMENT TAX INCREMENT FINANCING PLAN UNDER THE REAL PROPERTY TAX INCREMENT ALLOCATION REDEVELOPMENT ACT, AND REFERRING THE PROPOSED TAX INCREMENT FINANCING PLAN TO THE TAX INCREMENT FINANCING COMMISSION FOR A PUBLIC HEARING.

Councilmember Kuhns moved to adopt Bill No. 2009-11 on first reading; seconded by Councilmember Detweiler.

City Manager Macomber reported the City was asked to consider establishing a tax increment finance district for the Kirksville Shopping Center, consisting of JC Penney, Long John Silvers and Stage. The City held meetings with the developer, and one with the school officials. The school district board sent a letter approving the development of a TIF for this particular area. The developer and the City's legal representatives, King Hershey, could not come to an agreement, therefore the project was held for awhile. The developer has met with the TIF Commission to request the pursuit of TIF funding. City Attorney Hickman worked with the developer to establish a funding agreement that provides a reimbursement to the City of \$15,000 for expenses already incurred and assurance for reimbursement of additional costs once the TIF is approved.

The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

Watershed Management Commission Terms

Councilmember Rodgerson moved to approve revisions to the Watershed Management Commission guidelines, establishing terms of office for Council appointed members; seconded by Councilmember McCord.

City Manager Macomber explained that when the Commission was created in 2005, there was no idea as to how long they would need to serve. The Commission has asked for three-year terms for the citizen and land owner appointments, with initial terms of one, two and three years. No terms are being requested for the positions of the City Manager, Adair County Commissioner and TSU Science professional.

The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

Water Pipe and Fittings Bid

Councilmember Rodgerson moved to approve the purchase of pipe, valves and fittings for water main construction and repair from Water and Sewer Supply of Columbia for a total of \$99,582.10; seconded by Councilmember Kuhns. The motion carried by the following vote:

Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

Fire Hydrants Bid

Councilmember Detweiler moved to approve the purchase of fire hydrants, fire hydrant extensions, valves, valve boxes and traffic repair kits from HD Waterworks Supply of Columbia; seconded by Councilmember Kuhns. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

Pipeline Bores Bid

Councilmember Kuhns moved to approve a bid proposal from Lawson Construction to perform pipeline bores; seconded by Councilmember Rodgerson.

John Buckwalter stated that \$35,000 to \$50,000 is estimated for expenditure in the 2009 year. Boring work in 2008 was \$45,039.

The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

Rock Bid

Councilmember Detweiler moved to approve the purchase of rock from Fountain Trucking Company of Kirksville; seconded by Councilmember McCord. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

Red Barn Arts & Crafts Festival Street Use

Councilmember Kuhns moved to approve a request from the Kirksville Arts Association for the use of city streets (and parking lot) on September 19, 2009 for the Red Barn Arts and Crafts Festival; seconded by Councilmember McCord. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

St. Patty's Day Parade Street Use

Councilmember Detweiler moved to approve a request for the use of city streets for the St. Patty's Day Parade; seconded by Councilmember Kuhns. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

Rotary Park for Rhonda Vincent Concert

Councilmember Detweiler moved to approve a request for the use of Rotary Park for a Rhonda Vincent Concert on May 3, 2009; seconded by Councilmember Rodgerson.

Police Chief Jim Hughes asked the Council for additional authorization for the Police Department to make parking changes on New and Mill Streets, near the event. Councilmembers Detweiler and Rodgerson consented to add the authorization to their motion and second.

The motion, as amended, carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

EXECUTION OF A FUNDING AGREEMENT IN CONNECTION WITH SOUTH 63 HIGHWAY CORRIDOR IMPROVEMENT TAX INCREMENT FINANCING PLAN UNDER THE REAL PROPERTY TAX INCREMENT ALLOCATION REDEVELOPMENT ACT, AND REFERRING THE PROPOSED TAX INCREMENT FINANCING PLAN TO THE TAX INCREMENT FINANCING COMMISSION FOR A PUBLIC HEARING.

WHEREAS, the City of Kirksville ("City") has been requested by Kirksville Shopping Center, LLC or their affiliates (the "Developer") to consider a tax increment financing redevelopment plan application (the "Application") within the City, in accordance with the "Real Property Tax Increment Allocation Redevelopment Act" in Sections 99.800 to 99.865 of the Revised Statutes of Missouri (the "TIF Act"); and

WHEREAS, pursuant to Section 99.820 of the Revised Statutes of Missouri, the City is authorized to enter into all contracts necessary or incidental to the implementation and furtherance of a redevelopment plan or redevelopment project; and

WHEREAS, pursuant to Section 70.220 of the Revised Statutes of Missouri, the City is authorized to contract and cooperate with any private person for the planning, development, construction and operation of any public improvement or facility; and

WHEREAS, the City Council of the City ("City Council") desires to enter into an agreement to ensure that the City has a source of funds to finance costs incurred for additional legal, financial and other consultants or for direct out-of-pocket expenses and other costs to review, evaluate, process and consider the Application; and

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

Section 1. The Mayor of the City ("Mayor") is hereby authorized and directed to execute, on behalf of the City, the Funding Agreement for the South 63 Highway Corridor Development between the City and the Developer, and the City Clerk of the City ("City Clerk") is hereby authorized and directed to attest to the Funding Agreement and to affix the seal of the City thereto. The Funding Agreement shall be in substantially the form attached hereto as Exhibit A ("Funding Agreement"), which Funding Agreement is hereby approved by the City Council, with such changes therein as shall be approved by the officers of the City executing the same.

Section 2. The officers, agents and employees of the City are hereby authorized and directed to execute all documents and take such necessary steps as they deem necessary and advisable in order to carry out and perform the purpose of this Ordinance.

Section 3. The sections of this Ordinance shall be severable. If any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections shall remain valid, unless the court finds that the valid sections are so essential to and inseparably connected with and dependent upon the void section that it cannot be presumed that the City Council has or would have enacted the valid sections without the void ones, or unless the court finds that the valid sections, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 4. This Ordinance shall be in full force from and after the date of its passage

by the City Council and approval by the Mayor.

This Ordinance shall take effect immediately upon adoption pursuant to Section 4.

Councilmember Rodgerson moved to adopt Bill No. 2009-09 and 2009-11 on second reading; seconded by Councilmember McCord. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

BILL NO. 2009-10 **ORDINANCE NO. 11862**
AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, AMENDING SECTION 13-18 OF THE CITY CODE (Ordinance Nos. 11416 and 11565) REGARDING FAIR HOUSING, TO INCLUDE “SEXUAL ORIENTATION” WITHIN THE DISCRIMINATION STATEMENT.

In 2007, the City Council approved the addition of “sexual orientation” wording into the Equal Employment Opportunity Statement as part of the Employee Handbook revisions. The City Code contains Section 13-18 on Fair Housing. This Ordinance provides for an amendment to the Code by adding “sexual orientation” to the discrimination statement which will mirror the EEO statement.

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

Section 1. That Section 13-18, Fair Housing of the City Code of the City of Kirksville, Missouri, be amended to include “sexual orientation” within the discrimination statement as follows:

Section 2. Section 13-18. Fair Housing.

The city council hereby declares it to be the public policy of the city to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent or obtain real property without regard to race, sex, color, religion, national origin, **sexual orientation**, ancestry, family status, handicapped status or religious affiliation. This article shall be deemed an exercise of the police powers of the city for protection of the public welfare, prosperity, health and peace of the citizens of Kirksville.

(1) *Definitions. (No changes)*

Aggrieved person. (No changes)

Discriminate. Means distinctions in treatment because of race, sex, color, religion, national origin, **sexual orientation**, ancestry family status, handicapped status or religious affiliation of any person.

Person. (No changes)

(2) *Discriminatory practices..* It shall be a discriminatory practice and a violation of this article for any person to:

- a. Refuse to sell or rent after the making of the bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, sex, color, religion, national origin, **sexual orientation**, ancestry, family status or religious affiliation of any person.
- b. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, sex, color, religion, national origin, **sexual orientation**, ancestry, family status, handicapped status or religious affiliation.
- c. Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, sex, color, religion, national origin, **sexual orientation**, ancestry, family status, handicapped status or religious affiliation or an intention to make any such preference, limitation, or discrimination.
- d. Represent to any person because of race, sex, color, religion, national origin, **sexual orientation**, ancestry, family status, handicapped status or religious affiliation that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- e. For profit, to induce or attempt to induce, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, sex, color, religion, national origin, **sexual orientation**, ancestry, family status, handicapped status or religious affiliation.
- f. *(No changes)*
- g. *(No changes)*

(3) *Discrimination in the financing of a house.* It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan to a person applying therefore for the purpose of purchasing, constructing, repairing, or maintaining a dwelling, or to discriminate against a person in the fixing of the amount or conditions of such loan, because of the race, sex, color, religion, national origin, **sexual orientation**, ancestry, family status, handicapped status or religious affiliation of such person or of any person associated with such person in connection with such financing.

(No changes to the remainder of Section 13-18.)

Section 3. That this ordinance shall be in full force and effect from and after its passage.

Section 4. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Kirksville, Missouri, as an amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Councilmember Kuhns moved to adopt Bill No. 2009-10 on second reading; seconded by Councilmember Detweiler. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – nay. 4 Ayes; 1 Nay.

Comments

None.

Adjournment

Councilmember Rodgerson moved to adjourn to Executive Session regarding a Personnel Matter 610.021(3); seconded by Councilmember Kuhns. The City Clerk gave a Roll Call vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

Mayor Rowe adjourned the meeting at 6:25 p.m.

Vickie Brumbaugh, CMC, MRCC
City Clerk