

# JOURNAL OF THE CITY COUNCIL

Regular Session – March 16, 2009

## COUNCIL & STAFF PRESENT:

Martha Rowe	Mayor
Jill McCord	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
Laura Guy	Finance Director
Jim Hughes	Police Chief
Brad Selby	Code Administrator
Melanie Smith	Community Services Director

The City Council of the City of Kirksville, Missouri, met in a Regular Session on Monday, March 16, 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 City Council led the Pledge of Allegiance.

## **MINUTES**

Councilmember Rodgerson moved to approve the minutes of the regular session of March 2, 2009; 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.

## **ORDER OF AGENDA**

City Manager Macomber announced the addition of Item No. 11 for Council's consideration – To approve a contract with Adair Aerial and Cannaday Tree Service to conduct spring cleanup brush services for the City in an amount not to exceed \$12,555. Councilmember Detweiler moved to approve the Order of the Agenda, as amended; seconded by Councilmember Rodgerson. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

## **INFORMATION PRESENTATION & PUBLIC HEARING**

None.

## **CITIZEN PARTICIPATION**

Tony Fajkus, 2510 North Oak Lane, referenced that Missouri chose not to approve special marriages. HUD Housing does not provide for special treatment to special interest groups. He added that If we show preference to any special interest group, then this opens the door to other special interest groups. Mr. Fajkus asked the Council to put the question to a vote of the people.

Tom Bedford, 2309 North Street, cited the Missouri Human Rights Act where the Federal law does not cover sexual orientation. City property owners are put under a code that the State and Federal governments do not cover. A special interest group should not be given protection in ways the Federal and State governments do not protect them. Mr. Bedford asked the Council to put it to a vote of the people.

### **UNFINISHED BUSINESS**

None.

### **ACTION PRESENTATIONS**

#### **BILL NO. 2009-12**

#### **AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, AMENDING SECTION 4-4 OF THE CITY CODE REGARDING PUBLIC DRINKING, CONSUMPTION, POSSESSION, ETC. ON CITY PROPERTY.**

Councilmember Detweiler moved to approve Bill No. 2009-12 on first reading; seconded by Councilmember McCord.

City Manager Macomber reported that the Council approved two policies in January that allowed individuals and not-for-profit groups to sell, possess and consume alcohol on certain city property - the airport, Rotary Park Amphitheater and North Park. Changes to other ordinances were needed to coincide with the previously adopted ordinance.

Councilmember Rodgerson reminded the Council that many people spoke against the previously adopted ordinance.

Glen Archer, living on Randall Drive, asked the Council why they would do something like this when there is so much abuse to families as a result of alcohol.

The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – nay. 4 Ayes; 1 Nay.

#### **BILL NO. 2009-13**

#### **AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, AMENDING SECTION 19-17 OF THE CITY CODE REGARDING POSSESSION OF LIQUOR ALLOWING FOR THE POSSESSION AND CONSUMPTION OF ALCOHOL AT NORTH PARK COMPLEX AND ROTARY PARK AMPHITHEATER.**

Councilmember Kuhns moved to adopt Bill No. 2009-13 on first reading; seconded by Councilmember Detweiler.

City Manager Macomber stated the same reason for consideration of this Bill, and that the Rotary Park and Amphitheater were added to the section allowing for possession and consumption of alcohol.

The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – nay. 4 Ayes; 1 Nay.

**BILL NO. 2009-14**

**AN ORDINANCE AMENDING ORDINANCE NO. 11853, APPROPRIATING FROM THE REVENUE OF THE CITY OF KIRKSVILLE, MISSOURI, EXPENDITURES IN ACCORDANCE WITH THE 2009 BUDGET OF THE CITY OF KIRKSVILLE, MISSOURI AND PROVIDING FOR ADJUSTMENTS THERETO.**

Councilmember McCord moved to adopt Bill No. 2009-14 on first reading; seconded by Councilmember Rodgerson.

Laura Guy reported this request for additional funds came about due to the GIS Consortium's need for temporary staff. This will increase the personnel expenditures by \$8,291 for 2009.

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. 2009-15**

**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 RENOVATION OF THE HISTORIC COCHRAN BUILDING IN DOWNTOWN KIRKSVILLE, MISSOURI.**

Councilmember Rodgerson moved to adopt Bill No. 2009-15 on first reading; seconded by Councilmember McCord.

Cherie Bryant explained the City, on behalf of the building owners, applied for a CDBG in 2008, and was awarded \$250,000 for the renovation of the downtown historic Cochran building. The City will match the funds with \$2,500 for in-kind administrative activities.

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

**BILL NO. 2009-16**

**AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI VACATING A PORTION OF THE NORTH-SOUTH ALLEY ADJOINING BLOCK 1, ADDITON WEST, CITY OF KIRKSVILLE**

Councilmember Rodgerson moved to adopt Bill No. 2009-16 on first reading; seconded by Councilmember Kuhns.

John Buckwalter reported that in support of the redevelopment of Carlson Gardner, the former Travelers Hotel, the City deeded land known as a parking lot, to Carlson Gardner. This left a triangle of land that measures 110 ft long and 37 ft wide. The parcel was previously used as an alley. The developer has asked that the City vacate this former alley.

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

**Variance Request from Tub Connection**

Councilmember Rodgerson moved to approve a variance for a delay of drive and parking improvements for a new business, The Tub Connection; seconded by Councilmember Kuhns.

Brad Selby explained that Leland Allemang, owner of The Tub Connection, has an agreement with the city to acquire approximately seven acres of land in the Industrial Park area. The agreement was contingent upon Planning and Zoning approving the variance that allows for a phased-in construction of required hard surfacing of the drive and parking areas of the proposed business. Planning and Zoning recommends approval of the variance.

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

### **Bid – Truck**

Councilmember Kuhns moved to approve a bid from Lovegreen Ford for the purchase of a ¾ ton truck for the Central Garage, replacing unit 210 in the amount of \$30,818; seconded by Councilmember Rodgerson.

John Buckwalter reported that four bids were received, with Lovegreen being the lowest bidder.

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

### **Playground Structure**

Councilmember Kuhns moved to approve a proposal from NuToys Leisure Products in the amount of \$20,143 for the installation of a playground at Brashear Park; seconded by Councilmember Rodgerson.

Melanie Smith reported three vendors submitted proposals. The proposal is \$143 over budget, but reserve funds are available.

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

### **Bass Club Tournament**

Councilmember McCord moved to approve a request from the Bass Club for use of Forest Lake in 2009 for the allowance of outboard motors exceeding 90 hp idle speed during the Club's five scheduled tournaments; seconded by Councilmember Rodgerson. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – aye. 5 Ayes; 0 Nays.

### **Liquor Licenses – El Agave Azul, Inc.**

Councilmember Detweiler moved to approve liquor licenses for El Agave Azul, Inc. which will be contingent upon the city business license being obtained prior to opening; seconded by Councilmember Kuhns.

Laura Guy reported this is a new business locating in the former Country Kitchen building.

The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgerson – nay. 4 Ayes; 1 Nay.

**Spring Cleanup Brush Services**

Councilmember Rodgerson moved to approve a contract with Adair Aerial and Cannaday Tree Service to conduct spring cleanup brush services for the City in an amount not to exceed \$12,555; seconded by Councilmember McCord.

John Buckwalter reported that as spring cleanup plans were being finalized, Charles Cannaday submitted a proposal to pick up limbs, grind them curbside and transport to the brush site. A cost comparison of doing this in-house revealed an anticipated \$5,000 savings, by saving 400 man hours. The man hours will allow crews to start on street repairs, park maintenance and storm drainage work. Mr. Buckwalter explained this was not an advertised contract, but was negotiated. If it works well, then bids will be sought the next time. Mr. Cannaday's services will be used in this Spring Cleanup, beginning March 23, 2009.

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

**Second Reading**

Councilmember Rodgerson suggested that the Ordinances be separated for second reading and voting due to nay votes, and an abstention vote, that was given on the first readings.

**BILL NO.2009-12**

**ORDINANCE NO. 11864**

**AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, AMENDING SECTION 4-4 OF THE CITY CODE REGARDING PUBLIC DRINKING, CONSUMPTION, POSSESSION, ETC. ON CITY PROPERTY.**

In January 2009, the City Council approved two policies allowing for the sale, possession and consumption of alcohol within certain city owned properties – Rotary Park Amphitheater, North Park Complex and Kirksville Regional Airport. The City Code contains Section 4-4 Public Drinking, Consumption, Possession, Etc. This Ordinance provides for an amendment to the Code by adding a provision excepting the Rotary Park Amphitheater and the North Park Complex provided compliance with City Council policy.

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

Section 1. That Section 4-4, Public Drinking, Consumption, Possession, Etc. of the City Code of the City of Kirksville, Missouri, be amended to include "Rotary Park Amphitheater, North Park Complex and Kirksville Regional Airport in conformance with City Council Policies - Policy For Consumption of Alcohol (Intoxicating Liquor or Non-intoxicating Beer) for Private Special Events at Rotary Park Amphitheater and Policy For Consumption of Alcohol (Intoxicating Liquor or Non-intoxicating Beer) For Public Special Events On City Property as follows:

Section 2. Section 4-4. Public Drinking, Consumption, Possession, Etc..

(d) This section shall not apply to drinking, consuming or possessing any intoxicating liquor or nonintoxicating beer consumed and/or possessed within the confines of and during a city council approved celebration, special event or fair held on city property in the central business district, **Rotary Park Amphitheater, North Park Complex, or Kirksville Regional**

**Airport** so long as the consumption and possession of alcoholic beverages is physically restricted and controlled in accordance with the terms of a special permit issued by the city council, and so long as all consumption and possession ends no later than 1:00 a.m., so long as no glass containers are permitted on city property, and so long as all other terms and conditions established by the city for the temporary use of its property are met.

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.

**BILL NO. 2009-13**

**ORDINANCE NO. 11865**

**AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, AMENDING SECTION 19-17 OF THE CITY CODE REGARDING POSSESSION OF LIQUOR ALLOWING FOR THE POSSESSION AND CONSUMPTION OF ALCOHOL AT NORTH PARK COMPLEX AND ROTARY PARK AMPHITHEATER.**

In January 2009, the City Council approved two policies allowing for the sale, possession and consumption of alcohol within certain city owned properties – Rotary Park Amphitheater, North Park Complex and Kirksville Regional Airport. The City Code contains Section 19-17 Liquor. This Ordinance provides for an amendment to the Code by adding a provision excepting the Rotary Park Amphitheater and the North Park Complex provided compliance with City Council policy.

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

Section 1. That Section 19-17, Liquor of the City Code of the City of Kirksville, Missouri, be amended to include “exceptions for Rotary Park Amphitheater and North Park Complex in conformance with City Council Policies - Policy For Consumption of Alcohol (Intoxicating Liquor or Non-intoxicating Beer) for Private Special Events at Rotary Park Amphitheater and Policy For Consumption of Alcohol (Intoxicating Liquor or Non-intoxicating Beer) For Public Special Events On City Property as follows:

Section 2. Section 19-17. Liquor.

No person shall possess, exhibit, transport or drink any alcoholic or intoxicating beverages within any recreation facility **with the exception of the Rotary Park Amphitheater or the North Park Complex. Formal approval by the City Council in compliance with City Council Policies for Consumption of Alcohol must be obtained before any person can possess, exhibit, transport or drink alcoholic or intoxicating beverages within the Rotary Amphitheater or the North Park Complex.**

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 Nos. 2009-12 and 2009-13 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 – nay. 4 Ayes; 1 Nay.

**BILL NO. 2009-14** **ORDINANCE NO. 11866**  
**AN ORDINANCE AMENDING ORDINANCE NO. 11853, APPROPRIATING FROM THE REVENUE OF THE CITY OF KIRKSVILLE, MISSOURI, EXPENDITURES IN ACCORDANCE WITH THE 2009 BUDGET OF THE CITY OF KIRKSVILLE, MISSOURI AND PROVIDING FOR ADJUSTMENTS THERETO.**

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

**SECTION 1.** That Section 1 of Ordinance No. 11853 be amended to read: The Annual Budget of the City of Kirksville, Missouri, aggregating \$24,858,407, for the fiscal year commencing January 1, 2009 and ending December 31, 2009, as submitted by the City Manager and incorporated herein by reference as is fully set out in this ordinance, is hereby approved.

**SECTION 2.** Revision to the original budget for the funding of GIS Consortium personnel necessitates the increase in budgeted expenditures by \$8,291.

**BILL NO. 2009-16** **ORDINANCE NO. 11868**  
**AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI VACATING A PORTION OF THE NORTH-SOUTH ALLEY ADJOINING BLOCK 1, ADDITON WEST, CITY OF KIRKSVILLE**

**WHEREAS**, the adjoining property owner has requested the vacation of a portion of the following alley:

A portion of an unplatted north-south alley between lots 5 and 6 of block 1, Addition West, City of Kirksville and the former Norfolk-Southern Railroad right of way, west of Block 1, described as a triangle of land: Starting at the northwest corner of Lot 5 in Block 1 of Addition West to the Town now City of Kirksville, thence North 90 degrees 00 minutes 00 seconds West a distance of 71 feet to the point of beginning, thence South 00 degrees, 13 minutes, 52 seconds East a distance of 110.29 feet, thence South 89 degrees, 22 minutes, 08 seconds West a distance of 37.57 feet, thence North 18 degrees 32 minutes 24 seconds East a distance of 116.77 feet to the point of beginning.

**WHEREAS**, the vacation of said alley would not be detrimental to the best interests of the citizens of the City of Kirksville, Missouri.

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

Section 1. The alley described above is hereby vacated.

Section 2. The City of Kirksville, Missouri hereby retains easements over, along, across and upon said alley for maintenance, repair, improvement, construction, reconstruction, replacement or relocation of all manner of public utilities, whether by the City, its agents or

contractors, or franchisees. The easement retained herein shall be free from any and all buildings, structures or other obstructions.

Section 3. This ordinance shall be in full force and effect from and after the date of its passage.

Councilmember Rodgerson moved to adopt Bill No. 2009-14 and 2009-16 on second reading; 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.

**BILL NO. 2009-15** **ORDINANCE NO. 11867**  
**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 RENOVATION OF THE HISTORIC COCHRAN BUILDING IN DOWNTOWN KIRKSVILLE, MISSOURI.**

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

Section 1. That the Mayor is hereby authorized to execute on behalf of the City of Kirksville a contract with the MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT providing \$250,000 in Community Development Block Grant funds for the renovation of the historic Cochran Building in downtown Kirksville, Missouri.

Section 2. That all ordinances, or parts of ordinances therefore enacted which are in conflict herewith, are hereby repealed.

Section 3. This ordinance shall be in full force and effect from and after the date of its passage and approval.

Councilmember McCord moved to adopt Bill No. 2009-15 on second reading; seconded by Councilmember Detweiler. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – abstain; McCord – aye; Rodgerson – aye. 4 Ayes; 0 Nays; 1 Abstention.

**Comments**

Councilmember Rodgerson commented that at the last Council meeting's discussion on the addition of sexual orientation wording to the Fair Housing Ordinance – religion is mentioned which is a choice. It is a choice that is protected by our Constitution. Sexual orientation is a crime in America, and is not protected by the Constitution.

**Adjournment**

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

Mayor Rowe adjourned the meeting at 6:15 p.m.

Vickie Brumbaugh, CMC, MRCC  
City Clerk