

JOURNAL OF THE CITY COUNCIL

Regular Session – January 26, 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
Pat Meredith	Human Resources Director
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, January 26, 2009, at 5:30 p.m. in the City Hall Council Chambers.

[The meeting was filmed by KTRM TV staff.]

INVOCATION/PLEDGE

Barry Poyner of the Church of Christ gave the Invocation. The Mayor and Council led the Pledge of Allegiance.

MINUTES

Councilmember Rodgerson moved to approve the minutes of the regular session of December 15, 2008; 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.

ORDER OF AGENDA

Councilmember McCord moved to approve the Order of the Agenda; 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

Mayor Rowe opened the Public Hearing at 5:35 p.m. regarding a voluntary annexation request from James and Wilma Gardner.

Brad Selby explained that James and Wilma Gardner submitted a petition for voluntary annexation of approximately 20 acres each contained in adjoining properties located on the north and west side of Kirksville. They are adjacent to the current city limits. The Gardner's have a pending sale of land to the United States Government on which the government plans to build an Army Reserve Training Center. The Planning and Zoning Commission met on January 14, and recommends that the land be annexed as M-1 Light Industrial. The M-1 zoning will allow for what the Army plans to build on this property. Joe Warren, of the U.S. Army, was present to answer questions.

There being no further comments, Mayor Rowe closed the Public Hearing at 5:41 p.m.

CITIZEN PARTICIPATION

None.

OLD BUSINESS

ACTION PRESENTATIONS

BILL NO. 2009-01

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT BETWEEN THE CITY OF KIRKSVILLE, MISSOURI AND THE MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION FOR AIR SERVICE PROMOTION AT THE KIRKSVILLE REGIONAL AIRPORT.

Councilmember Rodgerson moved to approve Bill No. 2009-01 on first reading; seconded by Councilmember Detweiler.

Cherie Bryant reported the City applied for, and received, an Aviation Trust Fund Grant in the amount of \$45,000 for air service promotion. The City will match the funds with \$5,000.

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- 02

AN ORDINANCE TO ALLOW THE CITY OF KIRKSVILLE TO PARTICIPATE IN THE ANNUAL MISSOURI “SHOW ME GREEN SALES TAX HOLIDAY”.

Councilmember Rodgerson moved to approve Bill No. 2009-02 on first reading; seconded by Councilmember Kuhns.

Laura Guy explained the State established the holiday in 2008 to encourage the purchase of energy star certified appliances by exempting sales tax. The holiday runs from April 19 through April 25 on a yearly basis. The City has the option to opt out any year.

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. 2009-03

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, APPROVING A LOT SPLIT OF LAND WHICH IS PART OF BLOCK 1 OF THE RE-DEDICATED SUNSET VILLAGE ADDITION TO THE CITY OF KIRKSVILLE, ADAIR COUNTY, STATE OF MISSOURI, WHICH IS ON OR NEAR 2910 N. BALTIMORE STREET.

Councilmember McCord moved to approve Bill No. 2009-03 on first reading; seconded by Councilmember Rodgerson.

Brad Selby reported that Taly Lopez owns land, including a building known as the El Vaquero restaurant. Mr. Lopez wishes to sell the restaurant building and retain the acreage around it.

The restaurant sets on .9 acres, with the remainder of the tract having 1.7 acres. There is plenty of room for development after the lot split.

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. 2009-04

AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI GRANTING A SPECIAL USE PERMIT TO CAPITOL TOWERS II, LTD., ON REAL ESTATE DESCRIBED HEREIN.

Councilmember Detweiler moved to adopt Bill No. 2009-04 on first reading; seconded by Councilmember Kuhns.

Brad Selby reported that AT&T Communications is requesting a special use permit for the construction of a wireless communication facility with a 250 foot self-supporting tower that will set on land owned by the James and Joyce Robertson Trust. The Planning and Zoning Commission recommends granting of the permit.

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

Agreement with Tub Connection

Councilmember McCord moved to approve an Industrial Development Incentive Agreement with the Tub Connection; seconded by Councilmember Kuhns.

Phil Tate said he was representing Leland Allemang, owner of Tub Connection, who is out of town. Mr. Allemang has agreed to provide six full time jobs at the end of two years, and 12 full-time jobs at the end of five years. He has asked for a variance on the parking requirements which will go to the P & Z Commission. Mr. Tate explained that the agreement is contingent upon P & Z approval of the variance. Mr. Tate explained further that Mr. Allemang has been operating outside of the city for eight years as Tub Connection.

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

Labor Agreement with Firefighters Local

Councilmember Rodgerson moved to approve a labor agreement governing working conditions and benefits with the International Association of Firefighters Local 2952; seconded by Councilmember Detweiler.

Pat Meredith reported that City staff and Union representatives have been meeting for several months. Several non-substantive changes are proposed covering working conditions, and the annual uniform maintenance stipend will be increased from \$50 to \$100. A wage reopener was included for one time during a two-year period.

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

Waiver of Building Permit Fee – School District

Councilmember McCord moved to approve a waiver of the building permit fees for construction of new buildings and remodeling on the Kirksville R-III School campus; seconded by Councilmember Kuhns.

Brad Selby reported the R-III School District is in the process of remodeling buildings on their campus at a total cost of \$8.2 million. They have asked for a waiver of the fees, as provided for in Council Policy #25. The normal building permit fee for this project would be \$27,815.

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

Bid - Wheel Loader

Councilmember Rodgerson moved to approve the bid of Crown Power of Columbia, for the purchase of one wheeled loader for the net cost of \$84,980; seconded by Councilmember Kuhns.

John Buckwalter reported this loader will replace a 1999 Case wheel loader. Seven bids were received. The low bid with trade-in from Crown Power was at \$84,980. The budgeted amount was \$120,000. It is anticipated this unit will be kept more than five years.

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

Change Order – Basin C & F Sewer Improvements

Councilmember Detweiler moved to approve a change order to the agreement with Stoneburner Construction Company, Inc. for Basin C and F Sanitary Sewer Improvements, Project SE-07-001 adjusting quantities to those actually installed, including adjustments to alignments on site 41 (First Street), and site 15 (4th Street), at a cost of \$20,209; seconded by Councilmember Rodgerson.

John Buckwalter explained the project was started in late spring and is substantially complete. This the final change order.

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

Hwy 63 Transportation Corp Re-appointment

Councilmember Rodgerson moved to re-appoint Mari Macomber to the Highway 63 Transportation Corporation for a three-year term; 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.

Second Reading

BILL NO. 2009-01

ORDINANCE NO. 11853

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT BETWEEN THE CITY OF KIRKSVILLE, MISSOURI AND THE MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION FOR AIR SERVICE PROMOTION AT THE KIRKSVILLE REGIONAL AIRPORT.

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 Highways and Transportation Commission providing \$45,000 in state aviation trust funds for an air service project to include regional air service promotion at the Kirksville Regional Airport.

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.

BILL NO. 2009- 02 **ORDINANCE NO. 11854**
AN ORDINANCE TO ALLOW THE CITY OF KIRKSVILLE TO PARTICIPATE IN THE ANNUAL MISSOURI “SHOW ME GREEN SALES TAX HOLIDAY”.

WHEREAS, Sec. 144.526, RSMo. Supp. 2008, establishes the Show Me Green Sales Tax Holiday to exempt retail purchases of certain qualifying appliances from State sales tax; and

WHEREAS, Sec. 144.526.4, RSMo. Supp. 2008, also provides that political subdivisions in the State may allow the Show Me Green Sales Tax Holiday to apply to local sales taxes by enacting an Ordinance to do so; and

WHEREAS, the Show Me Green Sales Tax Holiday encourages the purchase of energy efficient appliances by exempting them from sales tax, thereby effectively reducing the consumer’s cost for such appliances; and

WHEREAS, incentivizing consumer awareness of and investment in energy efficient appliances can reasonably be expected to reduce energy consumption across the State and have the added benefit of promoting retail sales activity in order to assist in overcoming the current economic crises; and

WHEREAS, the City Council finds and believes that the City’s participation in the Show Me Green Sales Tax Holiday by also exempting qualifying purchases from local sales taxes will enhance the incentive to consumers and further advance the laudable goals the Holiday is intended to accomplish as aforesaid;

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

SECTION ONE: For purposes of this Ordinance, the following terms shall mean:

(1) “*Appliance*”, clothes washers and dryers, water heaters, trash compactors, dishwashers, conventional ovens, ranges, stoves, air conditioners, furnaces, refrigerators and freezers; and

(2) “*Energy star certified*”, any appliance approved by both the United States Environmental Protection Agency and the United States Department of Energy as eligible to display the energy star label, as, amended from time to time.

SECTION TWO: By enacting this Ordinance, the City of Kirksville hereby elects to allow the Show Me Green Sales Tax Holiday established by Sec. 144.526, RSMo. Supp. 2008, to apply to its local sales taxes so that there shall be exempted from local sales taxes all retail sales of any energy star certified new appliance, up to one thousand five hundred dollars (\$1,500.00) per appliance, during a seven-day period beginning at 12:01 a.m. on April 19th and ending at midnight on April 25th, commencing in 2009 and effective for each subsequent year until revocation.

SECTION THREE: This Ordinance shall not apply to any retailer when less than two percent (2%) of the retailer’s merchandise offered for sale qualifies for the sales tax holiday. Such retailer shall offer a sales tax refund in lieu of the sales tax holiday.

SECTION FOUR: The City Clerk shall take any and all steps necessary to notify the Missouri Department of Revenue not less than forty-five (45) calendar days prior to the beginning date of the sales tax holiday of the adoption of this Ordinance allowing the Show Me Green Sales Tax Holiday to apply within the City of Kirksville.

SECTION FIVE: This Ordinance shall be in full force and effect from and after its date of passage.

READ TWO TIMES, ADOPTED AND APPROVED by the City Council of the City of Kirksville, Missouri, and signed by the Mayor this 26th day of January, 2009.

BILL NO. 2009-03 **ORDINANCE NO. 11855**
AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI, APPROVING A LOT SPLIT OF LAND WHICH IS PART OF BLOCK 1 OF THE RE-DEDICATED SUNSET VILLAGE ADDITION TO THE CITY OF KIRKSVILLE, ADAIR COUNTY, STATE OF MISSOURI, WHICH IS ON OR NEAR 2910 N. BALTIMORE STREET.

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

WHEREAS, a tract of land located on or near 2910 N. Baltimore street within the City of Kirksville, Missouri, known as all of Lots 4 and 5, and part of Lots 1 and 3, Block 1 of the Re-Dedicated Sunset Village Addition is proposed to be split, and is described herein, and is incorporated herein by reference, and has been regularly certified by Edward A. Cleaver, licensed surveyor number L.S. 1241; and

WHEREAS, the tracts of land are described as follows:

Tract 1: A tract of land situated in Block 1 of the Re-Dedication of Sunset Village Addition to the City of Kirksville, Adair County, Missouri and being more particularly described as follows: Commencing at the Northwest corner of Lot 1 of said Block 1; thence along the West line of Block 1, South 00 Degrees 35 Minutes 45 Seconds West, a distance of 143.00 feet to the POINT OF BEGINNING of the description herein, TO WIT: thence leaving said West line, North 88 Degrees 54 Minutes 51 Seconds East a distance of 450.00 feet; thence along the

East line of said Block 1, South 00 Degrees 35 Minutes 45 Seconds West a distance of 256.85 feet to the Southeast corner of Lot 5; thence South 88 Degrees 53 Minutes 45 Seconds West a distance of 188.15 feet; thence North 01 Degree 12 Minutes 54 Seconds West a distance of 156.34 feet; thence South 89 Degrees 12 Minutes 28 Seconds West a distance of 256.87 feet to a point on the Easterly Right of Way line of U.S. Route 63; thence along said line, North 00 Degrees 35 Minutes 45 Seconds East, a distance of 99.19 feet to the Point of Beginning; said described tract containing 1.7 acres, more or less. Subject to any and all easements of record.

Tract 2: A tract of land situated in Lot 1 of Block 1 of the Re-Dedication of Sunset Village Addition to the City of Kirksville, Adair County, Missouri and being more particularly described as follows: Commencing at the Northwest corner of Lot 1 of said Block 1; thence along the West line of Block 1, South 00 Degrees 35 Minutes 45 Seconds West, a distance of 242.19 feet to the POINT OF BEGINNING of the description herein, TO WIT: thence leaving said West line, North 89 Degrees 12 Minutes 28 Seconds West a distance of 256.87 feet; thence South 01 Degree 12 Minutes 54 Seconds East a distance of 156.34 feet to a point on the South line of said Block 1; thence along said South line, South 88 Degrees 53 Minutes 45 Seconds West a distance of 261.85 feet to a point on the Easterly Right of Way line of U.S. Route 63; thence along said line, North 00 Degrees 35 Minutes 45 Seconds East, a distance of 157.80 feet to the Point of Beginning; said described tract containing .9 acres, more or less. Subject to any and all easements of record.

WHEREAS, the "Plat" showing the lot splits shall be recorded in the Recorder's Office of Adair County, Missouri,

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 on or near 2910 N. Baltimore Street 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.

BILL NO. 2009-04 **ORDINANCE NO. 11856**
AN ORDINANCE OF THE CITY OF KIRKSVILLE, MISSOURI GRANTING A SPECIAL USE PERMIT TO CAPITOL TOWERS II, LTD., ON REAL ESTATE DESCRIBED HEREIN.

WHEREAS, Capitol Towers II, Ltd., agent for the property owner(s), the James M. Robertson Revocable Trust and the Joyce A. Robertson Revocable Trust, with Capitol Towers II being the lessee of the real estate, has filed a petition requesting a Special Use Permit as provided for by Article 25-99 of the Zoning Ordinance of the City of Kirksville, Missouri; and

WHEREAS, the land covered by this request is as follows, located west of North Baltimore street and south of West Brewington Avenue, at the western end of the lot addressed as 3607 N. Baltimore street, to wit:

A tract of land lying in and being a part of the Southeast Quarter of the Southwest Quarter of Section 28, Township 63, Range 15, City of Kirksville, Adair County, Missouri as described in Book 401, page 108, Deed Records of Adair County, Missouri; said tract being

more particularly described as follows: Commencing at a ¾" iron rod found for the Northeast corner of the Robertson's Addition to the City of Kirksville, Adair County, Missouri and being on the West right of way line of U.S. Highway 63; thence South 00 degrees 17 minutes 47 seconds West on the East line of said Robertson's Addition and the West right of way line of U.S. Highway 63 a distance of 346.81 feet to a point; thence North 89 degrees 42 minutes 13 seconds West perpendicular to said East line a distance of 1121.90 feet to a ½" iron rod set for the Northeast corner, said corner being the Point of Beginning; thence South 01 degrees 44 minutes 33 seconds West a distance of 75.00 feet to a 1/2 " iron rod set for the Southeast corner; thence North 88 degrees 15 minutes 27 seconds West a distance of 75.00 feet to a ½" iron rod set for the Southwest corner; thence North 09 degrees 41 minutes 10 seconds West a distance of 75.00 feet to a ½" iron rod set for the Northwest corner; thence South 89 degrees 12 minutes 20 seconds East a distance of 89.98 feet to the point of beginning. Containing 6,126.52 square feet or .141 acres more or less.

Also, a 30.00 foot wide easement for ingress, egress and utility purposes crossing a part of the Southeast Quarter of the Southwest Quarter of Section 28, Township 63, Range 15, City of Kirksville, Adair County, Missouri as described in Book 401, page 108, Deed Records of Adair County, Missouri, said 30.00 foot wide easement being 15.00 feet on each side of the following described centerline: Commencing at a ½" iron rod set for the Northwest corner of the above described .141 acre Site, thence South 89 degrees 12 minutes 20 seconds East on the North line of said .141 acre site a distance of 15.25 feet to the point of beginning; thence North 09 degrees 41 minutes 10 seconds West a distance of 379.84 feet to the point of termination on the South right of way line of Brewington Avenue.; and

WHEREAS, said petition requests the right to use this property for use and occupancy of a communications facility cell phone tower, with uses that would permit multiple wireless carriers; and

WHEREAS, that this request is for a permanent period of time with no expiration unless revoked by resolution of the City Council, as provided by Section (e), of Article 25-99 of the Zoning Ordinance of the City of Kirksville, Missouri; and

WHEREAS, that the Planning and Zoning Commission of the City of Kirksville, Missouri, held a public hearing on January 14, 2009. After the public hearing, the Commission voted to approve said request at its meeting of January 14, 2009, and agreed to recommend that the City Council approve said request.

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

That a Special Use Permit is hereby issued to Capitol Towers II, Ltd. to use the above described property for the use and occupancy of a wireless communication tower to be constructed on the property.

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

Councilmember Detweiler moved to adopt Bill Nos. 2009-01, 2009-02, 2009-03 and 2009-04 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.

Comments

City Manager Macomber reminded everyone of the Special Council meeting at 3:30 p.m. on Tuesday, January 27. Councilmember Kuhns suggested everyone look at the new City web site.

Adjournment

Councilmember Kuhns moved to adjourn; seconded by Councilmember Detweiler. Mayor Rowe adjourned the meeting at 6:16 p.m. The motion carried by the following vote: Mayor Rowe, aye; Councilmembers: Detweiler – aye; Kuhns – aye; McCord – aye; Rodgeron – aye. 5 Ayes; 0 Nays.

Vickie Brumbaugh, CMC, MRCC
City Clerk