

CITY COUNCIL STUDY SESSION

TO: Mayor and City Council
FROM: Mari E. Macomber, City Manager
SESSION DATE: April 21, 2014
TIME: 4:30 pm
PLACE: Second Floor Conference Room

AGENDA:

- **BEAR CREEK PRESENTATION**
- **BRIEF PRESENTATION FROM MAYOR MORITZ**
- **COMPREHENSIVE PLAN**
- **REPORT OF SERVICES FROM PUBLIC WORKS**
- **EASEMENT USE AND CATERING TRUCK**
- **REVIEW CITY COUNCIL AGENDA**
- **REVIEW CITY COUNCIL NEWSLETTER – April 18, 2014**

BEAR CREEK PRESENTATION

Clayton Dillavou, Chairman of the City's Watershed Commission requested the opportunity to attend Monday's Study Session to introduce two Truman State University students, August Kersten and Michele Woolbright, who are working to clean up that portion of Bear Creek that runs through Truman's campus.

The students will be in attendance to share their project with the City Council. Bear Creek is not included in the Watershed Commission's area of focus, since this Creek is not part of our drinking water watershed. However, further downstream from Truman's campus, the City's wastewater treatment plant discharges effluent into Bear Creek.

BRIEF PRESENTATION FROM MAYOR MORITZ

Mayor Moritz would like to take a few minutes on Monday to discuss some ideas that he has including the participation of the City Council in a retreat.

COMPREHENSIVE PLAN

The City Council agenda includes the adoption of the Comprehensive Plan. This is one more opportunity to make changes or comments before its final adoption.

REPORT OF SERVICES FROM PUBLIC WORKS

During the next couple of Study Sessions different departments have been scheduled to attend and have been asked to invite and include their supervisors. On Monday, the Public Works Director and his division managers will be in attendance. Each has been asked to provide a brief report to the City Council about the areas of responsibility and current work projects. This is also an opportunity for City Council members to meet these individuals.

EASEMENT USE AND CATERING TRUCK

Recently we learned that a local business was operating a catering business from a city owned parking lot within an easement granted to that business for other purposes. The business, Wooden Nickel was granted an easement in 2001 to allow for the construction of stairway access to a rooftop restaurant and lounge area. The business owner has expanded the use of the easement by parking a business delivery truck within the easement. The attached staff report states that the easement allowed for the parking of the vehicle, but based upon the documents (Council Report and Easement) presented to the Council in 2001 there was no mention of any other use of the easement other than for the construction of a stairway.

The downtown is a unique area of the City and as a result over the years the City has developed special rules and regulations in an effort to address the special needs of the downtown business owners. Section 15.346 of the City Ordinances specifically prohibits parking within the City parking lots during certain times (to allow for cleaning). Section 21.9 of the City Ordinances specifically prohibits the sale or display of products on streets, alleys and sidewalks, but it does not prohibit the sales in parking lots. However Section 21.9 (d) of this same Ordinance specifically addresses food vendors who sell prepackaged foods **only** from mobile units or pushcarts. This section of the City Code would allow the City Council to approve a license that specifically spells out the location of the street vendor's operation.

There are other requirements that the vendor must meet before it can be considered, but this is an option for the Council to consider.

The owner of Wooden Nickel would like the City council to amend the easement, the easement was clearly for the purpose of the stairway and since there is an existing ordinance that already provides the requirements for this type of business the City Council needs to determine if they would be willing to allow the issuance of a license to the vendor to sell in the described location that he is currently using.

The owner, Mr. Vogt, may be in attendance on Monday.

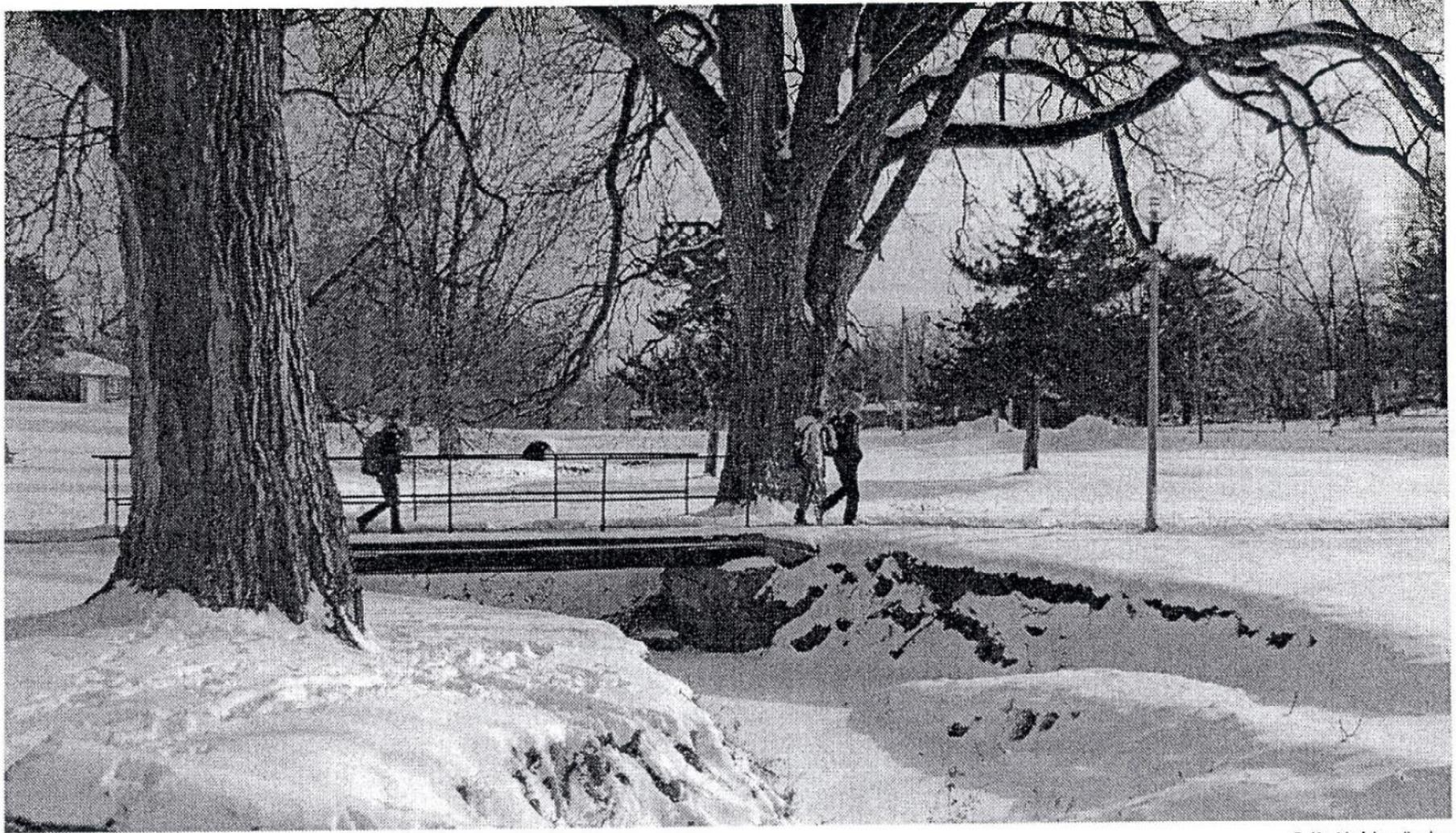
REVIEW COUNCIL AGENDA

REVIEW COUNCIL NEWSLETTER – April 18, 2014

Attachments

- Article from Truman Index on Bear Creek Project
- Report of Services Staff Report – staff report
- Easement Use and Catering Report – staff report
- Council Report from 2001 Recommending Approval for the Easement
Easement Granted to Wooden Nickel

Students plan to restore Bear Creek



Calie Holden/Index

Students walk across Bear Creek Monday, Feb. 3 near Barnett Hall. Two Truman students are planning to clean and plant trees next to the creek.

BY PAIGE YUNGERMANN
Staff Reporter

Two Truman State students are attempting to start cleaning up Bear Creek on campus before the end of the academic year.

Bear Creek has a number of problems, including erosion, dangerous levels of *E. coli* and low fish diversity, said junior August Kersten, one of the students spearheading the project. To solve these problems, Kersten said he and junior Michele Woolbright are trying to rally student support and receive permission from the University to make Bear Creek cleaner and safer. Kersten said the goal is to implement a low-cost plan for long-term creek maintenance and to beautify the creek.

"This water is not safe to touch," Kersten said. "*E. coli* is a fecal indicator, which basically means there's a lot of poop in the water. It's not a pleasant thing to think about, but it is a real thing we need to fix."

Because the creek is on University property, Kersten and Woolbright have to get permission from the Physical

Plant before they can move forward with any creek clean up. During the past, students have attempted to get permission from Physical Plant to clean up Bear Creek, but Kersten said the University has declined because the students did not have enough manpower to be successful.

For this reason, Kersten said the first step he and Woolbright are taking is gathering support. Clayton Dilavou, Kirksville Watershed Commission Chairman, said the Commission has given their support to the plan and is considering giving Kersten and Woolbright a \$200 grant for creek restoration efforts.

Student Senate also is considering writing a resolution of approval for the initiative, Kersten said. Additionally, Kersten said they have the support of the Wildlife Society at Truman, P.L.A.N.T.S! Club and the Environmental Campus Organization.

Woolbright said they will present their proposal to the Physical Plant during February. If they receive permission, they will begin taking steps to restore the creek.

Kersten said these restoration efforts will take place during the week of April 21 because April 22 is Earth Day.

Kersten said the first part of the plan is to create a rain garden. This is a sunken area where water accumulates and aquatic plants grow. The rain garden will be located at the corner of Franklin and Patterson Streets.

The second aspect of the plan is to create "no-mow" zones along the sides of the creek, which will help return the creek to its natural state, Woolbright said.

The third step of the plan is to plant trees native to Missouri along the side of the creek, Woolbright said.

This plan will help restore the creek to its natural state, Woolbright said. During the future, Woolbright said they want to continue to plant native trees and shrubs near the creek and maintain the rain garden.

"We don't want to stop here," Woolbright said. "We're wanting to go forward in the future and completely remake Bear Creek."

These restoration efforts will cost \$600 to \$750, Kersten said. This money

already has been raised through grants and donations, Kersten said.

Restoring the creek potentially could save the University thousands of dollars, Kersten said. Erosion is occurring at a rate of 5 inches per year along some areas of the creek and could cause damage to bridges and sidewalks, Kersten said.

Woolbright said she is a chemistry major, looking at the water quality of Bear Creek, and Kersten said he is a biology major concerned that the creek was missing vital organisms. The two met last year during a class and decided to work together to clean up the creek, Kersten said.

"We both have the same goal," Kersten said. "We're coming at it from different directions, which makes this project stronger."

Woolbright said anyone who wants to help efforts to restore Bear Creek should contact her or Kersten.

"We want everybody's voice to be represented because more minds, better ideas," Woolbright said. "It's not just our project. It's everybody that wants to be involved."

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Report of Services from Public Works

STUDY SESSION MEETING DATE: April 21, 2014

CITY DEPARTMENT: Public Works

PREPARED BY: Alan Griffiths

The Public Works Department consists of six divisions with fifty-four employees. The purpose of this report is to provide the Council with an overview of the Public Works Department and to allow the Council to meet the 'front-line' Supervisors who oversee the daily operations of each division. Each Supervisor will give the Council a brief update on their respective division.

The divisions are:

Engineering Division – *Assistant Public Works Director – 4 employees*

This division is responsible for review of all design development work and inspection of all development construction work within public rights-of-way, working with consultant engineers for the design and construction of capital improvement projects, design of capital improvement projects, inspection and construction management of capital improvement and development projects, maintaining the City's geographical information system (GIS) which maps all City assets, performing computer drafting (AutoCAD) work, preparation of project specifications and other engineering reports required.

Street Maintenance Division – *Ray Sandstrom, Supervisor – 15 employees*

This division is responsible for all maintenance and operation functions for streets, storm sewers, sidewalks, signage, striping and markings, traffic signals and stop lights, city street lighting systems, snow removal, and some parks maintenance functions. This division was recently reorganized with the hiring of the new Assistant City Manager taking over the Parks Maintenance staff and responsibilities as part of the Parks and Recreation Division responsibilities under his management.

Utility Maintenance Division – *Dennis Snyder, Supervisor – 15 employees*

This division is responsible for all maintenance and operation functions for the water transmission and distribution system and the wastewater collection and transmission system. It includes maintenance of water services to the customer 'stop box,' fire hydrants, valves and other appurtenances required to operate the system so that the citizens receive potable water; and includes cleaning and video camera work for sanitary sewers, and all maintenance work necessary to carry wastewater to the Wastewater Treatment Plant.

Fleet Maintenance Division – *Al Dyer, Supervisor – 4 employees*

This division is responsible for maintaining all vehicles and equipment in the City's fleet. This includes cars, trucks, construction equipment, lawn mowers, weed eaters, etc. They perform some body work functions including specialty manufacturing and painting rather than having outside sources manufacture specialty items. They operate the

fueling system for all vehicles and equipment through a contract with MFA. They perform all regular maintenance work which includes preventive maintenance work so that vehicles and equipment are ready for use when needed to serve the citizens.

Water Treatment Plant – *Brian Carter, Supervisor – 8 employees*

This division is responsible for operating both City lakes for the supply of drinking water and the operation and maintenance of the Water Treatment Plant to produce potable water for the citizens, all in compliance with state of Missouri Department of Natural Resources and federal Environmental Protection Agency requirements.

Wastewater Treatment Plant – *Brad Eitel, Supervisor – 6 employees*

This division is responsible for the operation and maintenance of the Wastewater Treatment Plant to clean the sewage water before discharge into Bear Creek, all in compliance with state of Missouri Department of Natural Resources and federal Environmental Protection Agency requirements.

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Wooden Nickel Licensing Staff Report

STUDY SESSION MEETING DATE: April 21, 2014

CITY DEPARTMENT: Codes & Planning Department

PREPARED BY: Brad Selby

Dan Vogt, owner of the Wooden Nickel Restaurant, since 2001, has had an easement and agreement with the City of Kirksville to construct a stairway and for parking his catering van or catering trailer on a spot in the City of Kirksville parking lot next to his restaurant. In the past few months, the Wooden Nickel has been selling previously prepared food (sandwiches, etc.) out of the catering trailer after the restaurant has closed for the evening.

The Codes & Police Department has received a complaint from another business owner wanting to know why this is allowed to happen on a city parking lot.

Upon investigation of the existing agreement and discussion with the city attorney Howard Hickman, we have determined that:

1. The intent of the agreement was for the construction of a stairway and allowing business vehicle parking, but did not address the sale of food items on the parking lot.
2. Even though Mr. Vogt has a restaurant business license and a catering license, if he had permission from the city to sell food from this location, he would also need a branch establishment or concession stand business license.

This information has been conveyed to Mr. Vogt and he would like the City Council to consider amending his agreement to allow for the sale of these food items from his catering trailer. In return, he would agree to obtain the proper business license for that.

If the City Council would vote in the future to allow this business to be conducted in this location, of course it could allow others to apply for a license to do the same.

The Police Department and Codes Department are not aware of any problems this late-night selling of food has caused in the past few months.

KIRKSVILLE

M I S S O U R I

CITY COUNCIL REPORT

AGENDA ITEM: 10E

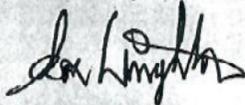
RECOMMENDATION: It is recommended that the City Council approve an easement for the Wooden Nickel, Inc. on the north side of the parking lot owned by the city south of the Wooden Nickel. The Wooden Nickel plans to build, completely at its own expense over this easement, a stairway servicing a roof-top restaurant and lounge area.

BACKGROUND: The Wooden Nickel has been a successful downtown business for several years. In order to keep businesses downtown and keep them vibrant, the city has assisted with the development of a new theater, helped provide parking in support of the renovation of the Baxter-Miller Building, improved off-street parking, planted new trees and is planning on new street lighting. Some of the city's planned changes in the central business district(CBD) are more innovative than others, but they are all intended to maintain the district's economic vitality. Since the CBD is laid out on a 19th Century plat, it sometimes requires innovative measures to insure that it meets 21st Century needs. This is one of those situations. The Wooden Nickel, Inc. has no additional land adjoining their business on which to expand, and the city does not want to lose one of its two parking lots adjoining the business. The recommended solution allows the business to expand vertically.

The proposed easement will result in the loss of three(3) parking spaces on the north side of the city's parking lot, next to the existing Wooden Nickel building. The easement allows the owner of the business to use the city property so long as the roof-top restaurant is maintained. The easement expires and the land is returned to the full control of the city in the event the Wooden Nickel's roof-top use is discontinued.

FISCAL IMPACT: The city will receive no annual easement fee. The Wooden Nickel will pay all costs associated with the construction of the stairway and its subsequent maintenance. The city will benefit indirectly if this improvement results in additional business activity in the central business district.

Respectfully Submitted,



Scot Wrighton
City Manager

RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT:

The city of Kirksville, a Missouri municipal corporation, hereinafter referred to as the GRANTOR, for one dollar and other valuable consideration, does grant to the Wooden Nickel, Inc, hereinafter referred to as the GRANTEE, a conditional and temporary easement over, under, in and across certain real estate located in Adair County, Missouri, and more particularly described as:

The east 25 feet of the west 45 feet of the north 10 feet of the following tract owned by the Grantor: Lot 3 and the south 14.25 feet of Lot 4 in Block 1 of the Original Town of Kirksville, Adair County, Missouri.

To be used for the construction of a stairway leading to the roof of the adjoining structure to the north owned by the Grantee. This easement is granted conditioned upon the following requirements:

1. Grantor shall maintain the roof of the adjoining structure and other improvements thereto in full compliance with applicable city building codes.
2. Grantor shall maintain the stairway and appurtenances at his sole expense.
3. Should the roof-top business use be discontinued, either by virtue of the election of the Grantee, by action of the Grantor due to lack of code compliance, or other reason, this easement shall become void, and the unrestricted use of the property shall be immediately returned to the city. Upon the reversion of this easement to the city the Grantee shall, within 90 days thereof, remove the stairway at his expense.

Grantor covenants that the Grantor is lawfully seized and possessed of the land described above, that the Grantor does not relinquish underlying title to the land herein described, and that the Grantor has the right to dedicate and grant this conditional and temporary easement which shall run with the property until terminated as provided herein.

IN WITNESS WHEREOF, THE GRANTOR has hereto executed these presents this 19th day of February, 2001.

GRANTOR:

William R. Murray
 Mayor, City of Kirksville, Missouri
 William R. Murray

ATTEST:

Vickie Brumbaugh
 City Clerk Vickie Brumbaugh



APPLICABLE ORDINANCES

Sec. 15-346. Same—4:00 a.m. to 6:00 a.m. or 12:00 a.m. to 4:00 a.m. or 11:00 p.m. to 6:00 a.m.

(a) Except as otherwise provided in this chapter, it shall be unlawful for any vehicle(s) to be parked in any signed area in the downtown district that prohibits parking as delineated on posted signs. Any vehicle(s) in violation shall be subject to towing and fine, or a combination of both.

(c) **It shall be unlawful for any vehicle(s) to be parked in a city parking lot in the downtown district, on selected days, as delineated on posted signs, where parking is prohibited between [4:00] a.m. and 6:00 a.m.** Any vehicle in violation shall be subject to towing and fine or a combination of both.

(d) The following parking lots are hereby established as the designated "No Parking" lots referred to in subsection (c):

- (1) Bounded by McPherson on the south, and Marion on the west.
- (2) Bounded by Missouri on the north, Main on the east, and Harrison on the south.
- (3) Bounded by Harrison on the north, Main on the west, and Washington on the south.
- (4) Bounded by Main on the west, McPherson on the south, and Elson on the east.
- (5) Bounded by Pierce on the south, and Marion on the east.
- (6) Bounded by Harrison on the north, and the Adair County Courthouse on the south.

Sec. 21-9. Sale or display of goods, etc.

(a) It shall be unlawful for any person to place either for sale or display any goods, wares, merchandise or other items on the public streets, sidewalks or alleys within the corporate limits of the city.

(b) This section shall not apply to community-wide group-sponsored activities if such sponsoring group applies for and receives council authorization to conduct the requested activity; or to licensed merchants of shops, located immediately around the courthouse square and one (1) block either side of the street from each corner of the square with the following exceptions.

- (1) Licensed merchants will be allowed to use no more than that portion of sidewalk immediately adjacent to their building for the display of goods sold at that location and provided there is at least four (4) feet of sidewalk remaining for pedestrian use.
- (2) The display of goods including display appurtenances will be allowed only during regular business hours.
- (3) Licensed merchants will be prohibited from displaying any goods, wares, merchandise on the public streets, sidewalks or alleys

during community-wide sponsored activities without the written consent of the sponsoring group.

(c) The application for council authorization referred to in paragraph (b) of this section must occur no later than the regularly scheduled council meeting immediately prior to the schedule community-wide activity.

(d) This section shall not apply to restricted **street food vendors**, which is that type of operation which involves the transportation and sale of prepackaged foods only from mobile units or pushcarts, and which **meets the following requirements:**

- (1) Have a current semiannual inspection permit signed by the county health officer which indicates that the facility and the foods served therein are in compliance with all state and local laws.
- (2) Pay an annual license fee of twenty-five dollars (\$25.00).
- (3) Have a current personal liability insurance policy insuring the owner thereof in the amount of fifty thousand dollars (\$50,000.00) per person or occurrence.
- (4) **Receive the license and approval of the city council.**
Such **license** shall specifically **designate the location** of the street vendor's operation and shall in no way authorize or empower the holder thereof to block or impede the flow of vehicular or pedestrian traffic upon the public ways of the city. It shall be unlawful for the street food vendor to operate without the location designated in his license.