



City of Ozark Missouri

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January 3, 2012 Board of Aldermen Regular Legislative Session

The Ozark Board of Aldermen met in Regular Session at 7:00 p.m. at the Ozark City Hall in Ozark, Missouri. Mayor Shane L. Nelson presided over the meeting: Alderman Eddie Campbell, Alderman Rick Gardner, Alderman Chris Snyder, Alderman James Haik, III, Alderman Mark Spinabella and Alderman Dennis Sparrow were present. Also attending City Administrator Steve Childers, City Attorney David Collignon and City Clerk Lana Wilson.

Pledge of Allegiance

7:00 p.m.

Roll Call:

Alderman Mark Spinabella	Here	Alderman Dennis Sparrow	Here
Alderman Eddie Campbell	Here	Alderman Rick Gardner	Here
Alderman James J. Haik, III	Here	Alderman Chris Snyder	Absent

Alderman Chris Snyder was absent during the Roll Call, He entered the Meeting at 7:20 p.m.

Approval of the Minutes of the Previous Meeting(s): Approval of the December 19, 2011 Regular Session Minutes.

Motion was made by Alderman Campbell to approve the December 19, 2011 Regular Session Minutes as amended, seconded by Alderman Spinabella with all present voting aye.

Alderman Spinabella amended the December 19, 2011 Regular Session Minutes as follows: Page 1, 1st Paragraph—Amend-Change City Clerk Lana Wilson to Deputy City Clerk Chandra Hodges.

CEREMONIAL MATTERS:

BILLS OPEN FOR PUBLIC DISCUSSION:

A. BILLS REQUIRING A PUBLIC HEARING:

B. FIRST READING BILLS:

1. Bill #2574-An Ordinance Authorizing the Mayor to Enter Into a

Settlement Agreement with Empire Bank for the Completion Bond Concerning the Detention Pond in the Rolling Prairie Subdivision.

Motion was made by Alderman Campbell to place Bill #2574 on its first reading by title and description only, seconded by Alderman Spinabella with all present voting aye.

City Attorney Collignon the City has been working towards Resolving this issue for the past two (2) years. Empire Bank took over the Letter of Credit from the Bank who had initially issued the Letter of Credit to the Developer, who has filed bankruptcy. Empire Bank desires to resolve this issue to the City's satisfaction and solicited a Contract with Hartman & Co., that's attached as Exhibit B, to complete the Rolling Prairie Subdivision Detention Pond project for a specific amount as stated in the Contract. City Attorney Collignon stated he was contacted by Hartman & Co. today; they have approved, executed and will forward the Contract back to the City.

Alderman Campbell questioned whether or not the City could enter into a Contract solicited by Empire Bank without the City directly soliciting Public Bids for the completion of the Detention Pond. And how this was a Prevailing Wage job since the Bank solicited the Bids and does not have to abide with Prevailing Wage requirement.

City Attorney Collignon stated the City is accepting the Contract with Hartman & Co. as part of the Settlement Agreement, Empire Bank is signing their rights over to the City regarding the Hartman & Co. Contract. Hartman & Co. only Bids prevailing wage on jobs which they bid. Within Five (5) to ten (10) days Empire Bank will issue the City a check for the amount stated in the Contract.

Alderman Campbell questioned that if during the project Hartman & Co. ran into additional costs, if the City would be liable for the costs, by assuming responsibility of the Contract without a provision that the Bank will retain responsibility for any additional costs endured during the project.

City Attorney Collignon stated the by executing the Agreement with Empire Bank the City does assume responsibility for any additional costs associated with the completion of the project, it is his understanding the City will work within the confines of the amount stated in the executed contract.

Bill #2574 will be held over until the January 17, 2012 Regular Legislative Session.

2. Bill #2575-An Ordinance of the Board of Aldermen of the City of Ozark, Missouri Authorizing the Issuance of a Conditional Use Permit of All/Or Part of Property in a Particular Zoning District in the City of Ozark, Missouri. Property Location 412 N. 3rd Street. Property Owners Billy and Ruth Hanks.

Motion was made by Alderman Campbell to place Bill #2575 on its first reading by title and description only, seconded by Alderman Spinabella with all present voting aye.

Mayor Shane L. Nelson stated the applicant currently auto sales from the inside of this business he is requesting to park autos "for sale" on the parking area outside of

the facility. The Planning and Zoning Commission placed conditions upon their recommendation of approval of the Use Permit-Up to only four (4) vehicles parked “for sale” in the front of their business and no autos “for sale” parked in the rear of their business; no customer parking signs placed in the front of their business and on the north side of their business along W. Farmer Street.

City Administrator Childers stated the Planning and Zoning Commission did recommend approval to issue the Use Permit during their December 27, 2011 Regular Meeting. Staff has been in contact with the applicant to resolve the parking conditions before the final reading of the Bill.

Bill #2575 will be held over until the January 17, 2012 Regular Legislative Session.

3. Bill #2576-An Ordinance Amending the Code of Ordinances of the City of Ozark by Adding a Series of Sections to Title IV, “Land Development and Regulations”; Article IX “Miscellaneous Regulations” to be Numbered 405.940, Et, Seq. Relating to Moving Vans, Storage Containers and Storage Trailers.

Motion was made by Alderman Campbell to place Bill #2576 on its first reading by title and description only, seconded by Alderman Spinabella with all present voting aye.

City Administrator Childers stated Planning and Zoning has been working towards modifying this Section of the Code for quite some time. Staff has researched how other communities regulate their Code resulting with the presented modifications for the Board of Aldermen’s consideration. Modifications to this Section of the Code was inspired by the random boxes currently being placed upon commercial properties by a company displaying a non for profit name, but in fact the company does profit from the boxes. With the boxes not owned by the placement property owner nor are the contents maintained by the property owner we have incurred problems with boxes overflowing before the company picks up the contents.

Chet Griffeth-1115 E. Wren, Ozark, Missouri.

Chet Griffeth questioned if the City’s concern with the issue was to do with Public Safety the potential use of the boxes for an act of terrorism or is it more of an interference with Commerce.

City Administrator Childers stated the initial interest was with the randomly placed boxes and the overflowing contents; but anytime there is a possibility of an opening for an act of terrorism there is a cause for concern.

Bill #2576 will be held over until the January 17, 2012 Regular Legislative Session.

4. Bill #2577-An Ordinance Amending the Code of Ordinances of the City of Ozark, Missouri, by Deleting a Subsection of Section 405.350 Relating to Sign Guidelines in C-4 Zoning Districts and Enacting, In Lieu Thereof, Two New Subsections Relating to the Same Subject Matter.

Motion was made by Alderman Gardner to place Bill #2577 on its first reading by title and description only, seconded by Alderman Spinabella with all present voting aye.

City Administrator Childers stated an appointed Citizen Committee worked with staff on the presented Sign Guideline modifications. The first of the modifications focused upon was the C-4 Central Business District the City has rules and regulations in place to protect the character and integrity of our downtown area while still maintaining the progress of our businesses in the downtown area. The modification regulates pole signs by stating if an existing pole sign is being re-faced, not enlarged, structurally sound and no mechanical or physical modifications are made, the sign can be re-faced and remain a non conforming sign. Only if the sign is not structurally sound or enlarged the sign owner will be required to comply with the new regulation by replacing the pole sign with a monument sign. Any detached on premise sign installed at a new development site will have to comply with the new Code and install a monument sign.

Alderman Sparrow asked the reasoning behind phasing out pole signs.

City Administrator Childers stated it is the Planning and Zoning's long range plan to create this aesthetic and reduce the height of signs and create a more attractive downtown Central Business District.

Alderman Haik, as a member of the Sign Committee, stated the Committee's intentions are to eliminate the random placement of unattractive signs and recreate and bring back the historical character of our downtown area.

Alderman Gardner stated our current Code has created a non business friendly atmosphere by not allowing an existing non conforming pole sign to be re-faced. Bill #2577 will be held over until the January 17, 2012 Regular Legislative Session.

C. Resolutions:

1. Resolution #1737-A Resolution of the Board of Aldermen of the City of Ozark, Missouri Waiving Various Water, Sewer connection and Building Fees for the Ozark R-V1 School District in Conjunction with the Proposed Bus Facility.

Motion was made by Alderman Spinabella to place Resolution #1737 on its first reading by title and description only, seconded by Alderman Gardner with all present voting aye.

Alderman Spinabella, as sponsor of the Resolution, began the discussion by recommending the City appoint a liaison to be present during the School Board Meetings and the School Board have a liaison present during the Board of Aldermen Meetings. The City and School District should form a better form of communication and work together as a team.

Alderman Haik questioned discussing the issue without a School District representative present to answer questions.

Alderman Campbell stated even though he realizes the importance of keeping a cordial relationship and cooperating with the School District there should have been a School District representative present; therefore he called for a vote. The call for the vote was denied due to lack of second.

Alderman Gardner stated a cordial and cooperative partnership between the City and the School District does not exist at this current time, to his satisfaction. The City has the chance before them to approve waiving the School District's fees and

then approach the School District to request forming a better communication process. Alderman Gardner suggested tabling Resolution #1737 and allow the School District to have a representative present during the next discussion. Alderman Haik stated he did not feel waiving the fees will improve the relationship between the City and School District. Alderman Haik suggested scheduling annual Meetings between the City and the School District.

Alderman Sparrow stated his concern with waiving the fees was with shifting a budgetary impact from a large tax based entity to a smaller tax based entity.

Alderman Campbell stated he would entertain a partial reimbursement to the School District.

Mike Esterl-2708 N. 25th Street, Ozark.

Mike Esterl stated the City should look at the School District as a business that's funded by a different source and requesting the City to waive their fees, which the City does not waive fees for businesses. The burden of the cost will be placed upon the Citizens of Ozark's available infrastructure funds.

Ron Kisse-3200 N. St. Highway NN.

Ron Kisse stated he has never had his fees waived when he developed. Amending the City's Budget to reimburse the School District would not be a good decision. The School District should have had a representative present to defend their position.

Motion was made by Alderman Campbell to call the question, seconded by Alderman Sparrow with all present voting aye with Alderman Snyder and Alderman Haik voting nay.

Motion was made by Alderman Spinabella to adopt Resolution #1737, seconded by Alderman Gardner with Alderman Spinabella, Alderman Gardner and Alderman Snyder voting aye and Alderman Campbell, Alderman Sparrow and Alderman Haik voting nay. Mayor Shane L. Nelson broke the tie vote by voting nay. Motion was denied.

D. Emergency Bills:

1. Bill #2578-An Emergency Ordinance Authorizing the Mayor to Enter Into a Municipal Agreement with the Missouri Highways and Transportation Commission.

Motion was made by Alderman Gardner to place Bill #2578 on its first reading by title and description only, seconded by Alderman Spinabella with all present voting aye with Alderman Sparrow abstaining.

Public Works Director Martin approached the Mayor and Board of Aldermen to explain the necessity of executing the Intergovernmental Agreement. The City has been contacted by MoDot requesting the City to execute this Intergovernmental Agreement allowing them to meet their Federal Highway Administration requirement for the Third Street Project. The City's comments have been agreed to and completed in the document by MoDot.

Motion was made by Alderman Gardner to dispense with the second reading and

place Bill #2578 on its third and final reading by title and description only, seconded by Alderman Campbell with all present voting aye with Alderman Sparrow abstaining and Alderman Spinabella absent during the vote. Motion was made by Alderman Gardner to adopt Bill #2578 as Ordinance #12-001, seconded by Alderman Campbell with all present voting by roll call vote with Alderman Sparrow abstaining:

Alderman Eddie Campbell	Aye
Alderman Chris Snyder	Aye
Alderman Mark Spinabella	Aye
Alderman Dennis Sparrow	Abstain
Alderman Rick Gardner	Aye
Alderman James Haik, III	Aye

E. Public Improvement Bills (Tax Bills):

F. Grants:

G. Amended Bills:

SECOND READING AND FINAL PASSAGE OF BILLS. NO PUBLIC DISCUSSION, BOARD DISCUSSION ONLY:

Report of Officers, Boards and Committees:

1. Administrative: City Administrator Steve Childers.

City Administrator Childers informed the Board of Aldermen the Finance Department had prepared and placed before them tonight a bound copy of the 2012 Budget. Staff is looking forward to a good year.

The Board of Aldermen Noon Work Session will be held Monday, January 9, 2012, 12:00 p.m. at the City Hall.

2. Public Safety: Police Chief Lyle Hodges.

3. Public Works: Public Works Director Larry Martin.

1. Discussion of an Access Easement on City Owned Property Located Along US Highway 65.

Public Works Director Martin stated he was approached by P & E Investments, who granted the City the property where the Duck Stadium was built. He is in the process of selling a small piece of property that has a bill board sign, prompting this request. P & E Investments is requesting the City grant a 70' access easement across our property for the new property owner to access the bill board. Public Works Director Martin stated he has no opposition with granting this access easement and requested the Board of Aldermen's consideration. The City's only purpose for this property is for storm water detention purposes. Along with resolving this issue the City is in the process of resolving drainage issues with P & E Investments. P & E Investments has agreed to bear all expenses associated with obtaining this access easement.

Alderman Campbell asked if this would be an issue if the City ever continues the outer road on the east side of St. Highway 65.

Public Works Director Martin stated it does not interfere with our Master Plan; the outer road will follow the established road's course.

Motion was made by Alderman Gardner to authorize Public Works Director Martin and Mayor Shane L. Nelson to negotiate an agreeable 70' Access Easement with P & E Investments, with P & E Investments assuming all expenses associated with obtaining the access easement, seconded by Alderman Campbell with all present voting aye.

4. Parks:

Parks Director Sam Wagner.

Park Director Wagner stated she is currently working with the Finance Department finishing the final numbers for the Park and Pool 2011 Budget.

Park Director Wagner stated she would be present during the presentation of the Special Events Permit during the Board of Aldermen January 9, 2012 Noon Work Session.

Unfinished Business:

New Business/Board of Aldermen Comments:

Alderman Spinabella publicly thanked staff for the maintenance improvements they are in the process of doing to the Southfork Subdivision Sinkhole area, the area is already more presentable to the neighborhood.

Mayor Shane L. Nelson volunteered to attend some of the School Board Meetings.

Pay Bills-

Motion was made by Alderman Sparrow to adjourn, seconded by Alderman Campbell with all present voting aye.

January 3, 2012 Regular Legislative Session.

The January 3, 2012 Regular Legislative Session adjourned at 8:15 p.m.

Minutes Written By:

Lana Wilson, City Clerk

Approval of Minutes By:
