

FINAL  
Regular Meeting

February 11, 2019

City Council met in Regular Session at 7:00 PM on Monday, February 11, 2019. Mayor Gary Heilbrun called meeting to order. David Weaver gave invocation.

Roll call was taken. Present were Aldermen Jane Baine, Barbara Welch, Adam Hogan (arrived at 7:05pm), Chris Ellsworth, and Mayor Gary Heilbrun. Absent: none. Also present were City Attorney Mike Talley, David Weaver and approximately 4 guests.

**Agenda:** Motion made by Barbara Welch, seconded by Jane Baine, to approve the agenda as presented. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: None. Motion carried.

**Public Hearing:** Rezoning Application – A tract of property located at 2701 S. Kenser Rd. from C-1 to M-1.

Opened at 7:02pm

Public Comments: John Allan, 1101 North Main, Diamond, Missouri addressed the council on behalf of Mr. Jimmy Houk about rezoning the property at 2701 Kenser Road from C-1 to M-1. Mr. Allan stated that they have been in the process for some time and he keeps finding out that they gave the easement to get to the sewer line is what he was told when he was at City Hall last, that it was put in as an easement and somebody said we could not do an easement for a utility. Well he said that in the state statute that is the main reason for easements. He said they have come up with an alternative which is to run the sewer down the middle of the building through the overhead door and then run it down to connect. Mr. Allen stated that he was told that there would need to be 8 parking spots for that building, he stated that they could get 3 places on the North side, 1 on the South side, and 5 to 6 on the slab. Mr. Allan stated that this should cover the issues. Mr. Allan went on to state that he spent a lot of time over the weekend looking as state statues and he could not find any that states that a utility cannot use an easement to get to another property to get into a public utility. The Mayor said that the issue is crossing the property lines. Mr. Allen stated that Jimmie would like to get this done so he can get the building rented. The Mayor stated that the City Engineers would need to approve the plans for the sewer. Mayor Gary Heilbrun stated that we would have to wait until the parking plan was brought in so that we can make sure that everything is approved and up to code. The Mayor went on to say that at some point the city needs to stop and wait for the plans to come in and not put too much time into the project. The Mayor stated that the request for rezoning to M-1 could be approved but that does not take care of your parking problem. Mr. Allan stated that there is enough room for the parking and the Mayor responded by saying that if we would have had a drawing in ahead of time that it could have possibly

been approved. The mayor stated that all that can be approved is the rezoning, that the sewer will need to be looked at and sent to the city engineers to be approved because we as a city must follow our code. The Mayor stated that the approval of the rezoning doesn't mean a business license and building permit will be approved. Mr. Allen will draw up a plan for the parking and bring it in to the city for approval.

Public Hearing closed at 7:15pm

**Minutes:** January 14th Regular Meeting: Motion made by Barbara Welch, seconded by Jane Baine, to approve minutes as presented. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: None. Motion carried.

**Financial Report and Budget Summary:** Approved and filed for audit.

**Bill Summary:** Alderman Chris Ellsworth asked about the bill for the Tahoe. The Mayor stated that there was a censor issue for the tires and that they stated it was a wiring issue to get the issue resolved. Alderman Ellsworth also asked about the FCC bill as he had not seen that before, Chief Kitch stated that is for the City and runs every two years. Motion made by Chris Ellsworth, seconded by Barbara Welch, to pay bills as presented with the exception of the \$2,060 on the Allgeier Martin invoice until we receive more information on who requested the work for Jasper Products first submission. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: None. Motion carried.

**Court:** January Court Report was presented. Board approved report and filed for audit.

**PD Monthly Report:** Chief Kitch presented. Chief let the Council know that we had one internal incident where we had an officer go home due to a sickness that we are not sure what caused it. It was thought that it might have been Carbon Monoxide poisoning and spoke with insurance and the chief had the fire department check the carbon monoxide sensor as watching the video from the car and him driving the car and they came to the conclusion that they were not going to figure out what caused the issue. Chief stated that we were approved for around \$14,000 from the LEST Grant to go towards a new police car and the Chief requested from the Council \$20,000 for the purchase of a new police car. Alderman Chris Ellsworth stated he wanted to get the new vehicle order and he fills comfortable authorizing the Chief to look for prices on new vehicles because he definitely does not want to give the grant money back and we wants to get the Dodge out of service. Once a new vehicle was purchased the Dodge which has all-wheel drive would be put up for sale. Alderman Barbara Welch verified that it was car 813 that was purchased with the last LEST grant. Alderman Chris Ellsworth authorized the Chief to bring the Council prices for a new vehicle to the March meeting. Chief Kitch then informed the Council that the new policy manual update was complete and was going to the printer. It was requested that we started watching west bound 20<sup>th</sup> a little more starting at 7:30 as there is a lot of traffic congestion. Mayor requested a motion to approve \$500 to the Missouri Department of Public Safety for ODET. Alderman Chris Ellsworth made a motion for

Chief Kitch to sign the agreement with Missouri Department of Public Safety for ODET, seconded by Adam Hogan. Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried.

### **Preliminary/Final Site Plan Review – Ozark Crane**

Mayor Gary Heilbrun asked for a motion to accept the Preliminary and Final Site Plan Review. Alderman Jane Baine made the motion to accept the preliminary and final site plan review for Ozark Crane, it was seconded by Barbara Welch. Ayes: Alderman Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried.

### **Land Use Permit – Ozark Crane**

Mayor Gary Heilbrun asked Chris Ellsworth to update the Council on what P & Z did for this permit at their meeting. They have brought rock into the lot and the EPA has signed off on. This is basically being used to park their equipment.

**Business License Renewals:** Mayor Gary Heilbrun asked for a motion to approve the Business License renewals as listed on the agenda. Motion made by Barbara Welch, seconded by Jane Baine, to approve the thirty-two Business License renewals as listed on the agenda. Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried.

**Bill 19-01:** Ordinance repealing Ordinance No. 198 and replacing with new regulations governing new construction on Duquesne Road and 20<sup>th</sup> Street. – Motion made by Jane Baine, seconded by Barbara Welch, to read Bill 19-01 by title only.

This change get us to the place where it balances out the landowners use of their property with the city's need to regulate structures going up on that property. Alderman Barbara Welch asked if it would be better just the rescend the ordinance all together. Alderman Chris Ellsworth added that if you resend it all together without replacing it with something you could end up with something permanent on that property. City Attorney Mike Talley stated that the proper way to acquire the right a way is to pay for the right a way. He went on to say that the Ordinance in front of them right now is a way to recognize that fact and is a way to ask landowners to cooperate by putting temporary structures on their property. He stated that the harder we hard line that request the greater risk the City takes that someone will challenge it. The Mayor stated that the bill in front of you not only repeals Ordinance 198 but it replaces it.

Bill 19-01 was read by title only. Motion made by Jane Baine, seconded by Chris Ellsworth, to accept first reading of Bill 19-01 and move to second and final reading by title only.

Bill 19-01 was read second and final time by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept second and final reading by title only of Bill 19-01

and assign Ordinance #391. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

### **Old Business:**

**Update on CDBG Housing Project:** We have been given \$74,949 and are in the process of approving \$50,000 to begin the next CDBG home project. This will leave approximately \$14,900 and will not slow down the close out of Round 2. We will also need the amendment to the environmental study. David Weaver stated that he did not think an environmental study would need to be done if we were doing a Buyers Down Payment Assistant as it was never asked where the fill dirt came from on the last CDBG project. Alderman Jane Baine asked if they each used different contractor's. David Weaver responded that the builder gets to choose the contractors and that the Buyers Assistance is the way to go. Mayor Gary Heilbrun asked for a motion to accept the money for the CDBG project. A motion was made by Adam Hogan to accept the money in the amount of \$70,949 for the CDBG project, seconded by Jane Baine. Ayes: Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried. The allocation of the money by ordinance will be presented at the March meeting.

**Walking Trail:** Alderman Welch spoke to the Council saying that she and the Mayor spoke with Chris Erisman and Michael Keaton about the walking trail possibilities. Barbara said that they told her it would be a cost of \$50-75,000 for a 5 foot depending on the bids. An 8 foot would be \$100,000. Allgeier Martin stated that they could assist in getting the information gathered for the bids because they would have access to the information that would be needed such as the elevations on the property which are good and they send it out for bids. She says she is going to get in touch with Nikki at Harry S. Truman Council to assist us with the process. Alderman Welch would like to have a committee to work on this process. Alderman Welch said it is too late to make this year's grant deadline but we can get it worked up for 2020. Alderman Welch asked to have an approval to have Allgeier Martin work up bids to send out and approval to pay Allgeier Martin to work up the information with a \$4,000 limit. When applying for the Trails grant the State would pay 80% and the City would pay 20%. She also added that she feels that since we were going to have this done, that the 8 foot walking trail would be better and she also stated that Allgeier Martin told them that we would not need an environmental study because we were not disturbing the lay of the land. Alderman Welch suggested to the Council that some of the funds in the Community Fund could be used to pay for the upcoming Allgeier Martin bill for their assistance with this project. Mayor Gary Heilbrun asked for a motion to approve paying Allgeier Martin up to \$4,000 to work up project information to place bids. A motion was made by Alderman Chris Ellsworth to approve paying Allgeier Martin up to \$4,000 for working up the bids for the Walking Trail

project, it was seconded by Adam Hogan. Ayes: Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried.

**Update on City Matters:** Mayor Gary Heilbrun announced that the city use tax brought in \$5,394.97 this month. The mayor also informed the Council that we had received a request for a digital copy of our P & Z zoning map by MoDot. The Council stated that when it is sent to them it needs to be documented that it is for a specific point in time. That the map needs to have a watermark placed on it and a footer at the bottom before sending it out.

**Aldermen Interaction:** Alderman Ellsworth made a statement that there was a place on 10<sup>th</sup> Street and at 25<sup>th</sup> and Duquesne. City Clerk, Melody Cundiff stated she would contact Reggie with Spire to get those road fixes done. Alderman Ellsworth also made a comment that he has seen equipment on the lots located at 16<sup>th</sup> Street where they have a water run off issue, he was just wondering what was going on there. David Weaver responded by telling the Council that the Chelsea Henry family is interested in splitting the lots so they have been doing a water study there.

Alderman Jane Baine asked about the Sewer bills. David Weaver told her that it was a 12% raise according to the rate study and the next rate study would take place in January 2020.

Alderman Barbara Welch added that she did some research on the city tax for the Park Tax and she found out that it is up to ½ of 1% which according to her figures was .005. She went on to say that if we would go ahead and put it on the ballot for a vote in April 2020. It was stated that we would not want to exceed 8%.

**Public Comment:** Rick Gamboa, 4005 E. 20<sup>th</sup> asked what we had found out from the Special Road District about the signs on 20<sup>th</sup>. Mr. Gamboa stated the Kenser Road is the only place trucks can turn around at. He went on to ask who controls the Travis Acres intersection and Council told him that was Prosperity. He then went on to say that is the only place that is really wide enough and that is really where trucks need to be turning around at. Mr. Gamboa also added that the traffic congestion continues to get worse every day on 20<sup>th</sup> Street.

Mr. Gamboa then went on to ask about the situation with the retention ponds and wondered if we had received copies of the drawings from County. Mayor Gary Heilbrun said that it was under his understanding that Phase 1 is fixed. Allgeier Martin is overseeing the construction with Schuber Mitchell to see about checking

**New Business:**

**Administrative List of Revisions to the Codification:** Mayor asked the Council for a motion to accept the Administrative List of Revisions to the Codification. Alderman Jane Baine made the motion to accept the Administrative List of Revisions to the Codification and submit them to General Code, it was seconded by Chris Ellsworth. Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried.

**Information on Driveways:** City Attorney Mike Talley spoke to the Council on this subject stating that the code is a little unclear on this topic. Our Standard Specifications state that our driveways must be asphalt or concrete, it states the width of the driveway but not the length of the driveway. Our subdivision regulations state concrete driveways. That leaves the rest of the city. In reference to 300.010, it misses the mark because it talks about private roads and private driveways but does not answer the question as to whether the driveway has to be asphalt or concrete. This issue came up in reference to our code 404.030(G)4 stating public parking places need to be concrete. In rereading this section, Mike Talley stated that he recognized the parking limitations are limited to parking areas with more than 4 parking spaces and the fact that they exempt preexisting parking places and also 1 and 2 family residences from those regulations suggests that not all driveways the whole length at least be paved thus being exempt from this paving requirement on public parking. In rereading the section in preparation for the meeting he was struck by the clarity of the language and he thinks that this might trump the Standard Specifications requirement for paving when it says public parking areas established prior to 2015 and driveways established or hereafter established for 1 family and 2 family residences and dwellings are exempt from paving requirements set forth in this subsection. When he originally read that he thought it was talking about parking places but in rereading it I think the reference to driveways is really what they were talking about and he thinks this exempts driveways from this if it is a 1 or 2 family residence. He went on to say that he thinks this addresses the concern about what do we do about driveways for a residential establishment, stating that if you would exempt this for the 1 and 2 family dwellings that you would not necessarily exempt it for other situations.

**City Website:** Alderman Chris Ellsworth stated to the Council that the initial website was pretty much non-existent, the police department was about the only one that used it but not frequently. He added that Vista print who we are currently using is not a very user friendly system. He suggests that the city needs to move the site to a recognized host and email can all go at the same time. With Vista prints it is costing the City \$400 per year for the website and emails. He feels we could find one that is better and cheaper as well as one that works with municipalities. Alderman Chris Ellsworth asked the Council for approval to look into other options. Alderman Barbara Welch stated that she liked the

idea and made the motion to approve Alderman Chris Ellsworth to move forward and locate other options for a new website and email locations. Chris Ellsworth did add that we would need to figure out a way to preserve our past emails. It was suggested that we set up a totally new website and email addresses which then would allow us to move the old emails over and we can then redirect the emails to the new site. Those people who use Outlook would be okay with the old emails however anyone not configured to use Outlook would need to have a way to get their emails moved off of Vista prints site.

**Changing the March Council Meeting to March 7<sup>th</sup>:** Mayor Gary Heilbrun stated to the Council that City Clerk, Melody Cundiff would be at Spring Institute and Alderman Adam Hogan would be in Jefferson City on the date of the March meeting if it were to be held on March 11<sup>th</sup>. With that being said he asked the Council about moving it to Thursday, March 7<sup>th</sup> and asked if everyone would be able to attend on that date. Alderman Hogan, Ellsworth, Welch and Baine said they would be able to make it on that date. City Attorney Mike Talley and City Clerk Melody Cundiff said that they would be able to make it on that day as well. David Weaver stated that he had another obligation for that night and would not be able to make the meeting. Mayor Gary Heilbrun asked to motion to have the March 11<sup>th</sup> meeting moved to March 7<sup>th</sup>. Alderman Barbara Welch made the motion to move the March 11<sup>th</sup> meeting to March 7<sup>th</sup>, it was seconded by Chris Ellsworth Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried.

**Update on Commissions and Committees:** Alderman Chris Ellsworth stated that everything that was covered in the P & Z meeting on February 4<sup>th</sup> was covered in tonight's meeting and he had nothing else to add.

**Other Business Deemed Necessary:** Mayor brought it to the attention of the Council that we have finished the paperwork to close out CDBG #1 with \$1,800 and asked if he needed to get approval to pay Harry S. Truman Council that amount. City Attorney Mike Talley said that the payment is pursuant to the contract that the council has already approved.

As there was no further business, motion made by Jane Baine, seconded by Adam Hogan, to adjourn. Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried. At 9:49 PM, meeting adjourned.