

FINAL
Regular Meeting

July 8, 2019

City Council met in Regular Session at 7:00 PM on Monday, July 8, 2019. Mayor Gary Heilbrun called the meeting to order. Melody Cundiff, City Clerk gave the invocation.

Roll Call was taken. Present were Aldermen Jane Baine, Barbara Welch, Adam Hogan, Chris Ellsworth, and Mayor Gary Heilbrun. Absent: none. Also present was City Attorney Mike Talley, David Weaver and approximately 7 guests.

Mayor Gary Heilbrun asked for a moment of silence to the Duenweg Fire Chief Allan Reding.

Agenda: Motion made by Adam Hogan, seconded by Barbara Welch, to approve the amended agenda to include Bill 19-14 to be added after Bill 19-13. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

Minutes: June 10th Regular Meeting: Motion made by Jane Baine, seconded by Barbara Welch, to approve minutes as presented. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

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

Bill Summary: Motion made by Chris Ellsworth, seconded by Adam Hogan, to pay all bills as presented. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: None. Motion carried.

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

PD Monthly Report: Chief Kitch presented. The Police Department has received a \$10,000 donation from CFI and the Chief would like to draft a letter of appreciation to them and get the Mayors signature. The department has purchased two more AEDs so that every vehicle has one. We also bought some hole punches so that they are able to break windows other than striking because this year we have had a lot of children locked in cars. We have lost a backhoe at one of the construction sites and we don't have any leads on that as of yet. We also lost Officer Blaukat who would work Tuesday and Thursdays are would work Court for us and he has taken a job back out at CFI so we are going to be a little shorthanded on the Tuesdays again.

Ocean Adventures Update: Billy Garrigan, owner of this establishment spoke to the council. He stated that 13 months ago was when he began this venture and he appreciates the City support. He stated that the sales projection will exceed their original projection. They have been open 234 days through the end of June, they have done 655

birthday parties and has had 32,000 guests since opening. They do not plan to do any price increases. They have also hosted many school groups. They have held 24 events for special needs children at no cost to the parents or the school. They are currently employing 2 full-time, 7 part-time and 1 PRN employees. They have 9,775 followers on Facebook and have received 471 recommendations and 156 reviews on Google all ranging between 4.9 and 5. One Trip Advisor we have received a 5 out of 5 rating. They are in the process of adding a new structure on the inside designed for toddlers. Beginning in July that are starting a coloring contest that will continue for August and September.

Celebration Church Fireworks Discussion: Brandon, lead pastor spoke to the Council letting them know that they will be having Camp Celebration. They would like to have permission to shoot off 15 minutes of fireworks on the last night which will be July 19th at approximately 9:00 PM. He has spoken with the Duenweg Fire Department who is willing to help out. These fireworks will be commercial grade from Central City fireworks to provide. Mike Talley looked in the code book to see if anything was mentioned about an exception and asked Chevelle Lawver if she had checked the code for any exception and she stated that there was no exception in the code book. She then went on to say the neighboring community had no exception in their code book but the Board voted to allow the exception. City Attorney Mike Talley stated that if our ordinance had a provision for an organization then it would be allowed but as a general rule he would not recommend the Board by a simple vote to allow a citizen to disregard the acts that are prohibited by our code. He went on to say that if we had a provision in our code that an organization upon application be granted but our code specifically says to do what you propose to do for the Board to vote for any organization to do this would be a disregard for what our code says is a violation. As the City's council he has a problem with that. He went on to say to the Council to do what they want to do, it is just not a course that he would recommend. City Attorney Mike Talley went on to say that we could amend the ordinance and if the Council would direct him to draft up something accordingly he would do that, it would be easier to put another paragraph in our code for such exceptions. Alderman Adam Hogan stated that he would like to see that added. Alderman Jane Baine stated that she would like to see the church have the ability. Alderman Barbara Welch stated that this is a bad message to allow this to happen. City Attorney Mike Talley stated that a provision could be worked up to allow the Board the exception for organizations upon application and approval to shoot off fireworks for a special event. Alderman Chris Ellsworth stated he would be for the permit process, Adam Hogan stated he likes that as well and Jane Baine added that adding this would be a positive thing. City Attorney Mike Talley said that it could be done by adding a new paragraph of one or two sentences that would be very broad and leave the discretion to the Board.

There was a public comment from George Reeve stating that the location of the church would affect a lot of people and he would not be for the exception.

Brandon stated that at this time he will withdraw the request. They want to be good citizens of the community. Brandon then stated to the Council that they would like to donate the Duquesne School sign to the city. Alderman Chris Ellsworth stated that if the

city does not want it that the school district might want it. Mr. Ellsworth then went on to suggest that the sign might be something that the city would want to consider putting in the park.

A motion was made by Alderman Chris Ellsworth, seconded by Adam Hogan to accept the Duquesne School sign to the city by Celebration Church. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

Brandon also wanted the City to know to let citizens know that the storm shelter to the west is open to the public and has signs stating such and the doors are always unlocked.

Preliminary Site Plan Review – Terrace Green: Richard Walters, owner of Terrace Green Apartments spoke to the Council about their plans for one additional 36 apartment building adjacent to 7th Street along Walnut Ridge, then possibly an additional 24 apartment building. Some of the Site Plan improvements include additional parking. They plan on putting in a new detention pond east of the new building.

Chevella Lawver let the Council know that we are still waiting on the \$2,000.00 engineering fees from them so we can get the plans to our city engineer for his approval. She stated that we are waiting on new water meter plans and sewer plans. We are waiting on MoDot to respond as they are wanting to open up the two driveways that were existing and put a retention wall up along 7th Street. We are also waiting on an easement for a driveway to go across the lot along the back of the property.

Alderman Chris Ellsworth stated that the P & Z was 6-0 in favor when it was presented to them at their meeting.

Richard will be back at the August meeting to get things finalized.

Final Site Plan Review/Approval – Piper Glen: Joshua with Anderson Engineering spoke to the Council about Piper Glen. Piper Glen 2 is approximately 18 acres in size has 66 residential homes that will be built on it. Alderman Chris Ellsworth stated that the P & Z approved the site plan contingent upon the punch list being completed. Alderman Jane Baine stated that Schuber Mitchell is slow at responding to requests. Mr. Ellsworth stated that at the P & Z meeting they were asked to for a formal letter be drafted by Schuber Mitchell which was provided as requested. He went on to state that all the items on the list have been addressed except for #5. Chevella stated that Michael Keaton stated that there is still some erosion issues that need to be addressed as well as getting the sidewalks up to ADA standards. We need to get documentation from Missouri American Water concerning the fire hydrants. The easements corrections we will need documentation of that as well. Mayor Gary Heilbrun asked if we can move ahead if everything is placed in writing. Mike Talley stated that not until it is in writing and the Mayor asked does that mean to hold off until next meeting. We can move forward on acceptance of putting everything in writing. Chevella Lawver stated we need a revised final plat, documentation for the fire hydrant from Missouri American Water, a Maintenance Bond stating that Schuber Mitchell will be liable and not the City in the

amount of \$584,023. We let him know that we need documentation about the fire hydrants from Missouri American Water. We will also need to update the deeds and covenant pages. Alderman Barbara Welch stated that Dan Mitchell must not think it is important since the manholes were discussed 7 months ago. She does not want to pass this until things are corrected. Joshua with Anderson Engineering stated that he does not feel the issues with Plat 1 should not affect Plat 2.

Attorney Mike Talley asked if the City will require bonding to assure things get done. City Code states they must post a bond acceptable to the City. Alderman Adam Hogan asked if we can approve this and Chevelle Lawver stated that no one at Allgeier Martin has been able to check the easements and deeds yet. Mike Talley stated that all occupancy permits are held up until this is approved. Alderman Chris Ellsworth stated that the conditions that the P&Z has put forth have been met but the new items presented at this meeting causes hesitation on moving ahead. It was brought up that nothing states the conditions in the ordinance so amending the ordinance to include the list of conditions should be included. Chevelle Lawver stated that the Maintenance Bond guarantees completion of everything the City is requiring. Barbara Welch stated a lot of stuff has been given to us late today and there are a lot of questions. Joshua with Anderson Engineering stated that the Maintenance Bond was provided at the recommendation of Planning and Zoning. Barbara Welch asked who would have the Bond and the response what that Schuber Mitchell would have to purchase the bond. Alderman Jane Baine said yes we want to request a bond. The Mayor asked the City Clerk when the Bill was written and the City Clerk responded that it was written today between 5 and 5:30 pm. Barbara Welch asked Anderson Engineering if the figures for the Maintenance Bond included labor and Joshua responded yes. Joshua went on to tell the Council that Schuber Mitchell will pay a 5% fee to get the Maintenance Bond. Chevelle Lawver stated that the conditions that needed to be listed are a corrected plat, a corrected letter on easements, a fire hydrant explanation letter from Missouri American Water, a new Covenant page and Maintenance Bond purchased. Mike Talley stated that clearly the ordinance is not prepared to be passed until we add a paragraph stating the conditions being required. Chevelle Lawver stated that the final plat will not be signed until everything is completed.

Motion was made by Chris Ellsworth, seconded by Adam Hogan to amend the agenda to change the listing to read final plat review and approval. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

Motion was made by Chris Ellsworth, seconded by Adam Hogan to accept the Maintenance Bond supplied by Anderson Engineering. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

Motion was made by Chris Ellsworth, seconded by Adam Hogan to approve the final plat subject to additional conditions added to the bill. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

Discussion-Definition for R-1 “family”: Alderman Adam Hogan stated that he likes the Carthage and Jasper options supplied to the Council. Alderman Barbara Welch stated

she was looking through the Carthage and Jasper, she feels that 4 to a house is not fair to people who bought a house and now have a rental next door to them. Alderman Adam Hogan said he would agree with 3 per household. Alderman Barbara Welch would agree to 2 individuals who are unrelated per household but not for 3. Mayor Gary Heilbrun stated that in all the searches that there was none for 2 that was for 2 unrelated family members. Barbara Welch said that she had found in her research that there were several cities that talked about 2 people per household. Barbara Welch also stated that we need to look at parking issues when considering the number of people per household. Mayor Gary Heilbrun stated that we need comments to help compose this ordinance. Alderman Chris Ellsworth stated that he is not a fan of this subject at all but he states that one unrelated person per bedroom max would work and he likes the "functional family" description is better than any other one discussed before. It needs to be approached from two different points: 1) number of unrelated occupants and 2) and how you enforce family. Mayor Gary Heilbrun stated that we will start with the information gathered tonight and asked that people send in their opinions and an ordinance will be written up that can be discussed at a later meeting. Alderman Chris Ellsworth stated that the definition of functional family needs to be broad because there are so many different situations within a family. Chevelle Lawver asked about the college students and Chris Ellsworth replied that they are unrelated and are not a functional family. Alderman Chris Ellsworth stated that 2 is too restrictive, 3 is okay and 4 you could make it work but it would be difficult if there was not sufficient parking. Chevelle Kidd stated that there are lots of area towns that have restrictions on parking. Alderman Barbara Welch stated that we need to make the code more defensible, there needs to be a purpose for the code, we could tweak the statement to defend our ordinance.

Gary Jordan spoke to the Council stating he has two properties within the City that were designed for students. He is concerned about the negative attitude towards renters in the City. The one on Flora is zoned as R-1 and was built 13/14 years ago. Alderman Barbara Welch commented that she feels that if the homes were built with students in mind that they should have been zoned as R-2 instead of R-1. If we get an ordinance that restricts the number then it will affect his income. He likes the statement that was made allowing the number of people based on the number of bedrooms which would work for him.

David Weaver then spoke to the Council. He stated he appreciated all that has been said on this subject. He is struggled a lot with this and wanted to say that whatever the Council decides he is at peace with. He too likes the number of people based on the number of bedrooms. He would echo Mr. Jordan's request to accept the items that Alderman Chris Ellsworth suggested as far as one per bedroom that would be a good plan in his opinion.

Alderman Barbara Welch stated that we might need to work up an ordinance for repeat noise violations. City Attorney Mike Talley stated that with something like that we can't go over a \$500 fine. Alderman Jane Baine stated she is concerned about the issue of the one person per bedroom. Chevelle Lawver asked the Council how the City would regulate a lot of this that is being suggested. Would we have the landlords come in to get the permits? Chris Ellsworth asked if it was possible to look up addresses on a real estate site to find out information on them? Chevelle Lawver continued with her comments

stating that all landlords would have to come in to register their house in order for the City to know how many bedrooms each house had and how many would be staying there. Chris Ellsworth added in that we could cap it, put a hard cap on it at 4 as a reasonable expectation. Chris Ellsworth went on to say that we would need some sort of Sunset provision, that most of them listed 12 months from the passage of the ordinance and we need to have something similar set in place.

New Business Licenses: Mayor Gary Heilbrun asked for a motion to approve the new Business Licenses as listed on the agenda. Motion made by Chris Ellsworth, seconded by Barbara Welch to approve the new business licenses as listed on the agenda. Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried.

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 Chris Ellsworth, to approve the Business License renewals as listed on the agenda. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

Business License Renewals with Alcohol Sales: Mayor Gary Heilbrun asked for a motion to approve the Business License renewals with alcohol sales as listed on the agenda. Alderman Chris Ellsworth brought it to the attention that Festival had filled out their application wrong and that it needed to be filled out correctly and resubmitted. Motion made by Chris Ellsworth, seconded by Jane Baine, to approve the Business License renewals with Alcohol Sales as listed on the agenda with the exception of Festival Mexican Restaurant. Ayes: Aldermen Baine, Hogan, and Ellsworth. Nays: Alderman Welch. Motion carried.

Bill 19-13: Empire Electric 10 year Municipal Electric Service Agreement: Motion made by Jane Baine, seconded by Chris Ellsworth, to read Bill 19-13 by title only.

Bill 19-13 was tabled after the first reading following discussion until the next meeting. The proposed ordinance needs to be on file with the City for 30 days. Motion made by Chris Ellsworth, seconded by Barbara Welch, to table Bill 19-13 until the August 12th meeting. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

Bill 19-14: Piper Glen 2 Subdivision: Motion made by Jane Baine, seconded by Barbara Welch, to amend Bill 19-14 to include the stated language in Section 1 to read as contingent upon the following: 1) Revised Final Plat; 2) Fire Hydrant Explanation letter; 3) Corrected letter on easements; 4) Covenant Page; 5) Maintenance Bond. Ayes: Aldermen Baine, Welch, Hogan, and Ellsworth. Nays: None. Motion carried.

Amended Bill 19-14 by first reading by title only. Motion made by Barbara Welch, seconded by Chris Ellsworth, to accept the amended Bill 19-14 and move to second and reading by title only.

Amended Bill 19-14 by second reading by title only. Motion made by Jane Baine, seconded by Chris Ellsworth, to accept the amended Bill 19-14 and move to second of the amended bill.

Amended Bill 19-14 by third and final reading by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept the second reading by title only of amended Bill 19-14 and move to the third and final reading by title only.

Amended Bill 19-14 was read third and final time by title only. Motion made by Jane Baine, seconded by Barbara Welch, to accept the third and final reading by title only of amended Bill 19-14 and assign Ordinance #403. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Old Business:

Update on CDBG Housing Project: David Weaver updated the Council that the Funderburgh 50,000 fund request has been signed and sent in. We still have \$15,000 and we are waiting on an application for that.

Update on City Matters: David Weaver stated to the Council that Missouri American Water is looking into running a water line down 20th St. and they are waiting on Frank Herron to finalize the agreement. This will be a 12" pipe running from Davis to Casey's at the corner. Mayor Gary Heilbrun reminded everyone that the Shredding event was taking place on Saturday July 13th from 9-11am. He is currently looking for someone to cook hotdogs. Allgeier Martin is supplying hotdogs and bottled water during the event.

Aldermen Interaction: Mayor Gary Heilbrun updated the Council that the Sewer issue at 20th and Duquesne has been filed with AT&T and they denied it. We then filed it with On-Site Construction who did the work and we have not heard any response.

Public Comments: None

New Business:

Update on Commissions and Committees: Alderman Barbara Welch spoke to the Park Committee concerning the Park Committee meeting. Barbara was the elected

secretary. She told the group that the committee decided the width of the trail needs to be 8'. That we need trees to plant and that Rick Gamboa was going to do some research on where we can get some trees. The committee has agreed to go forward with the grant process. They spoke about putting a clock tower near the front of the park with the time stopped at the time of the tornado. She would like to go to Hunter and Mallard to design the tower. She is asking the Council for a motion to go to them to design a clock tower that would be brick with a copper roof and the tower would allow us to have a place to put plaques. It was mentioned that if they were to plan on shrubs and flowers that they would need to plan on running water lines for watering. The committee also talked about having metal benches placed along the trail with concrete pads underneath them. Alderman Barbara Welch asked for a motion from the Council for up to \$2000 to have a sketch of a clock tower drawn up for the Park. Alderman Jane Baine stated she did not have a problem with this. Motion made by Jane Baine, seconded by Barbara Welch, to authorize up to \$2000 on an architect design for a clock tower for the Park. Ayes: Aldermen Baine, Welch, Hogan, Ellsworth. Nays: none. Motion carried.

Alderman Chris Ellsworth stated to the Council that P & Z approved the Terrace Green lot consolidation and lot line adjustment. He also made the announcement that the August meeting for P & Z will be August 1st at 7pm with Public Hearings.

Other Business Deemed Necessary: The next Council meeting will be August 12, 2019 at 7:00 PM.

As there was no further business, motion made by Barbara Welch, seconded by Jane Baine, to adjourn. Ayes: Aldermen Baine, Welch, Hogan and Ellsworth. Nays: none. Motion carried. At 9:47 PM, meeting adjourned.