

OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE CITY OF ST. JOSEPH, MISSOURI

July 11, 2011 - 7:00 p.m.
Office of the City Clerk

CALL TO ORDER:

The Council of the City of St. Joseph, Missouri, met in regular meeting in the Council Chamber at City Hall, on Monday, July 11, 2011, at 7:00 p.m. The meeting was called to order at 7:03 p.m. by Mayor Falkner. Notice of said meeting had been established as every other Monday at 7:00 p.m. Further notice was provided by posting the regular meeting date and time in the City Clerk's office at City Hall, and by written notice (together with a tentative agenda) three days in advance in the City Clerk's office.

ROLL CALL:

Present were Councilmembers Boyer, Falkner, Jones, Kovac, LaBass, Myers, Penland, Roach, Starr--9. Total membership--9. Five members constitute a quorum.

Also present were Interim City Manager/Police Chief Chris Connally, City Attorney Lisa M. Robertson, Public Works & Transportation Director J. Bruce Woody, Financial Services Director Carolyn Harrison, Human Resources Director Diana Slater, Fire Chief Michael L. Dalsing, Health Director Debra Bradley, Planning & Community Development Director Clint Thompson, Customer Assistance Director Samuel T. Barber, Property Maintenance & Technology Services Director Steve Hofferber, Asst. Parks, Recreation & Civic Facilities Director Bill France, Associate Director of Technology Services Mark Townsend, Communications Manager Mary Robertson, Multi-media Coordinator Chris Clark, City Clerk Paula Heyde and Deputy City Clerk Rita K. Domini.

Under the Council voting rotation system, Councilmember Penland voted first.

PLEDGE OF ALLEGIANCE:

Agenda
Number

MINUTES:

37870 By general consent, the minutes of the special meetings held June 25, 2011, at 9:50 a.m., June 27, 2011, at 6:00 p.m., June 29, 2011, at 4:15 p.m., and June 29, 2011, at 5:11 p.m., and the regular meeting held June 27, 2011, at 7:00 p.m., were approved as transcribed in the office of the City Clerk.

SPECIAL RECOGNITIONS:

None.

ACCEPTANCE OF AGENDA:

37871 It was moved by Councilmember Penland and seconded by Councilmember Myers that the Agenda be accepted as published with the addition of one bill for passage (Bill #348-10) and one emergency bill for passage (Bill #530-10) being placed on the Agenda. Motion carried. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac, LaBass, Myers—9.

CONSENT AGENDA:

37872 It was moved by Councilmember Myers and seconded by Councilmember Roach that Agenda Numbers 37873 through 37885 be passed by Consent Agenda. Motion carried. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac, LaBass, Myers—9.

Agenda
Number

CONSENT AGENDA: (Cont'd)

Nominations and Appointments:

- 37873 Filed 6/27/11: The nomination by Councilmember Roach was approved, appointing John J. Reese, 4605 Brookwood Terrace, as a member of the Traffic Commission for a term expiring July 11, 2016; he is replacing Mike Huffer, whose term has expired.
- 37874 Filed 6/29/11: The nomination by Councilmember Kovac was approved, appointing Scott Hodgin, 4719 Pleasant Avenue, as a member of the Museum Oversight Board for a term expiring January 1, 2013; he is filling the vacancy created by the resignation of Jerome Goolsby.

Bills for Passage:

- 37875 (G.O. 2431) A Bill (#508-10) amending Section 28-1592 of the Code of Ordinances entitled "Parking time limits on certain streets," having been read the first time on June 27, 2011, was read the second time and passed.
- 37876 (S.O. 8244) A Bill (#502-10) authorizing and directing the Missouri-American Water Company, St. Joseph District, to furnish and install two (2) new fire hydrants on South 50th Street, having been read the first time on June 27, 2011, was read the second time and passed.
- 37877 (S.O. 8245) A Bill (#500-10) amending the Capital Projects Fund budget and accepting a donation from the George Bode, Jr. Benevolent Trust in the amount of \$200,000.00 to be used to assist with the purchase of furnishings, fixtures and equipment at the new community center, having been read the first time on June 27, 2011, was read the second time and passed.
- 37878 (S.O. 8246) A Bill (#509-10) amending the Aviation Fund budget in the amount of \$12,096.00 and entering into Construction Change Order Number One (1) with Ideker, Inc. in the amount of \$12,095.59 for the Taxiway Alpha Rehabilitation Project, having been read the first time on June 27, 2011, was read the second time and passed.
- 37879 (S.O. 8247) A Bill (#510-10) accepting a permanent utility and sidewalk easement from Randy Reed Chevrolet, LLC, 3921 Frederick Avenue, having been read the first time on June 27, 2011, was read the second time and passed.
- 37880 (S.O. 8248) A Bill (#511-10) accepting street improvements in Fountain Creek Plat 2 and sewer improvements in Sewer District 363, having been read the first time on June 27, 2011, was read the second time and passed.
- 37881 (S.O. 8249) A Bill (#516-10) approving the final plat entitled "Fountain Creek Plat 2," a major subdivision consisting of 17 lots, located along Fountain Creek Drive, as requested by SDG Developments, LLC, Scott Gann, agent, having been read the first time on June 27, 2011, was read the second time and passed.
- 37882 (S.O. 8250) A Bill (#512-10) approving an agreement with BW Law Group, LLC, in regard to providing legal services to the city as it relates to environmental issues, having been read the first time on June 27, 2011, was read the second time and passed.
- 37883 (S.O. 8251) A Bill (#504-10) authorizing an agreement for professional services with Gilmore & Bell P.C. to serve as the city's bond counsel, having been read the first time on June 27, 2011, was read the second time and passed.

Agenda
Number

CONSENT AGENDA: (Cont'd)

Resolutions for Adoption:

- 37884 (Resolution No. 37884 – 3233) A Resolution (#524-10) authorizing contracts with social service agencies in the total amount of \$357,500.00, as provided in the Second Year Annual Plan for the use of Fiscal Year 2011/2012 Community Development Block Grant funds, was read and adopted.
- 37885 (Resolution No. 37885 – 3234) A Resolution (#528-10) to authorize the renewal of a master agreement for professional engineering services with SCS Engineers for landfill engineering services, was read and adopted.

***** END OF CONSENT AGENDA *****

BILLS FOR PASSAGE:

- 37886 (S.O. 8252) A Bill (#503-10) amending the Fire Department budget in the General Fund in the amount of \$938.00 to recognize monies received in FY2010/2011 from the sale of a surplus vehicle and from fire prevention activities, having been read the first time on June 27, 2011, was read the second time and passed. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac, LaBass, Myers—9.
- 37887 (S.O. 8253) A Bill (#506-10) amending the Community Development Block Grant (CDBG) Fund budget in the amount of \$415,098.00 and the General Fund budget in the amount of \$19,004.00 to bring them into compliance with the revised revenue amounts received from the Department of Housing and Urban Development (HUD), having been read the first time on June 27, 2011, was read the second time and passed. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac, LaBass, Myers—9.
- 37888 It was moved by Councilmember Kovac and seconded by Councilmember Penland to follow state law (Senate Bill #161) and let the state handle it. Motion failed to carry. Ayes, Falkner, Kovac—2. Nays, Penland, Roach, Starr, Boyer, Jones, LaBass, Myers—7.
- 37889 It was moved by Councilmember Boyer and seconded by Councilmember Penland that Bill #348-10 be amended before consideration for passage by substituting a new ordinance and explanation letter (staff's proposal) in place of the ones originally filed and make changes to it. Motion carried. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, LaBass, Myers—8. Nay, Kovac—1.
- 37890 It was moved by Councilmember Penland and seconded by Councilmember LaBass that Bill #348-10 be amended before consideration for passage as follows: 1) In Section 1 of the body of the ordinance under Subsection 5-86(4), change the words "three intact dogs" to "four intact female dogs;" and 2) In Section 2 of the body of the ordinance under Subsection 5-92(c) after the second sentence, add the words "As an option, the city will accept the inspection of either a licensed veterinarian or inspector from the Missouri Department of Agriculture as long as it meets the city's regulations." Motion carried. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac, LaBass, Myers—9.
- 37891 (G.O. 2432) A Bill (#348-10) amending Section 5-86 "Definitions" and Section 5-92 "Kennels" of Chapter 5 "Animals", Article IV "Dogs and Cats" of the Code of Ordinances relating to kennel regulations, having been read the first time on February 7, 2011 was read the second time and passed. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac, LaBass, Myers—9.

Agenda
Number

EMERGENCY BILL FOR PASSAGE:

- 37892 (S.O. 8254) An Emergency Bill (#530-10) sponsored by Mayor Falkner and all Councilmembers repealing Special Ordinance Number 8175 and appointing J. Bruce Woody as Interim City Manager of the City of St. Joseph, Missouri, for the period commencing July 18, 2011, at 12:00 a.m. until such time as an employment contract with a new City Manager has been executed and becomes effective, was introduced, read and passed. Ayes, Penland, Roach, Starr, Boyer, Falkner, Myers—6. Nay, Jones—1. Abstention, Kovac, LaBass—2.

RESOLUTIONS FOR ADOPTION:

None.

BILLS FOR FIRST READING:

- 37893 A Bill (#519-10) redistricting 1116 Elizabeth Street from M-2 Heavy Manufacturing District to R-1B Single Family Residential District as requested by Larry Todd, was introduced and read the first time.
- 37894 A Bill (#520-10) redistricting 221 South 22nd Street from R-1B Single Family Residential District to C-3 Commercial District as requested by Dustin Stock, was introduced and read the first time.
- 37895 It was moved by Councilmember Boyer and seconded by Councilmember Starr that Bill #521-10 be amended before first reading by substituting a new ordinance in place of the one originally filed. Motion carried. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac, LaBass, Myers—9.
- 37896 A Bill (#521-10) redistricting 3731 Faraon Street From C-3 Commercial District to R-5 Mobile Home Park and Mobile Home Subdivision District as requested by the Audrey Keatley Trust, by Donna Howard, Trustee, was introduced and read the first time.
- 37897 A Bill (#522-10) granting a Conditional Use Permit for installation and operation of a two screen drive-in movie theatre at 4814 South 169 Highway as requested by Cooke Brothers Drive-In LLC, by Jay Kerner, agent, was introduced and read the first time.
- 37898 A Bill (#523-10) amending the General Fund budget for Fiscal Year 2010-2011 in the amount of \$42,255.00 to cover budget shortfalls in various salary and wages category line items, was introduced and read the first time.
- 37899 A Bill (#525-10) amending Section 27-277 of the Code of Ordinances entitled “Amount” to reflect the increase in the hotel/motel tax from three percent to six percent as approved by the voters on June 7, 2011, was introduced and read the first time.
- 37900 A Bill (#526-10) amending Section 7-406 entitled “Permit exempt work” of the Code of Ordinances, was introduced and read the first time.
- 37901 A Bill (#527-10) amending Chapter 5 “Animals” of the Code of Ordinances to add a new Section 5-105 entitled “Removal of dog waste from property,” was introduced and read the first time.

REPORTS OF BOARDS & COMMISSIONS:

Filed 6/22/11: Minutes of the Tree Board meeting held June 21, 2011, at 7:00 p.m., in the 1st Floor Conference Room at City Hall.

REPORTS OF BOARDS & COMMISSIONS: (Cont'd)

Filed 6/29/11: Minutes of the Museum Oversight Board meeting held June 15, 2011, at 12:00 p.m., at the Wyeth-Tootle Mansion, 11th & Charles Streets.

Filed 6/29/11: Minutes of the Zoning Board of Adjustment meeting held June 28, 2011, at 4:00 p.m., in the Council Chamber at City Hall.

Filed 6/30/11: Minutes of the Aviation Board meeting held June 1, 2011, at 7:00 p.m., in the conference room at Rosecrans Memorial Airport.

Filed 7/1/11: Minutes of the Landmark Commission meeting held May 3, 2011, at 7:00 p.m., in the Council Chamber at City Hall.

COUNCIL WORK SESSIONS & COMMITTEE MEETINGS – CITY CLERK’S OFFICE:

Filed 7/1/11: Minutes of the Council Work Session held June 29, 2011, at 4:46 p.m., in the 4th Floor Conference Room at City Hall.

REPORTS & RECOMMENDATIONS OF THE CITY MANAGER:

Filed 6/24/11: Mayor and City Council Update, June 24, 2011.

Filed 7/1/11: Mayor and City Council Update, July 1, 2011.

Filed 7/6/11: Memorandum in re: Acting Interim City Manager.

DELEGATIONS, PETITIONS:

None.

COMMUNICATIONS:

Filed 6/23/11: Memorandum from Mike Dalsing, Fire Chief, in re: Emergency Management Director.

Filed 6/23/11: City Weekly, June 23, 2011.

Filed 6/24/11: Letter from Kenneth W. Reeder, Public Citizens Local & Associates, in re: Questions regarding the city manager.

Filed 6/24/11: Letter from Jerome L. Goolsby, 2706 Monterey Street, in re: Resignation from the Planning Commission.

Filed 6/27/11: Letter from Norma Bagnall, 2619 State Street, in re: Resignation from the Library Board.

Filed 6/29/11: Email from Dr. James MacGregor, 502 N. 6th St., in re: Resignation from the Library Board.

Filed 6/30/11: Buchanan County’s Assessment Policy.

Filed 6/30/11: E-mail from Jackie Lewin, Director, St. Joseph Museums, Inc., in re: St. Joseph Museums Annual Report July 1, 2011.

COMMUNICATIONS: (Cont'd)

Filed 7/1/11: City Weekly, July 1, 2011.

Filed 7/5/11: Memorandum from Carolyn Harrison, Financial Services Director; Lisa Robertson, City Attorney; and Diana Slater, Human Resources Director, in re: Annual Personnel Manual revisions.

Filed 7/6/11: Municipal Division Reporting Form, June, 2011.

OTHER BUSINESS:

City Manager's Report – Interim City Manager/Police Chief Chris Connally said this is Customer Assistance Director Sam Barber's last Council meeting. He congratulated Mr. Barber on a great job in serving the citizens of St. Joseph for the last six plus years and wished him well in his new endeavor.

Mayor Falkner presented a "Key to the City" to Chief Connally in appreciation of his dual role as Police Chief and Interim City Manager during the past few months.

Mayor Falkner announced that J. Bruce Woody has been selected as the new City Manager. Mr. Woody said this community means a lot to him and he very much appreciates the support the Council is showing him by offering him this opportunity and he looks forward to pursuing the Council's goals and initiatives to put more emphasis on fairness, equity, responsiveness to the citizens and working on issues and goals that the Council has for this community.

PUBLIC COMMENT:

Nancy Kelly, 2837 Renick St., said when the proposal for the Community Improvement District (CID) for the downtown area comes before the Council, she asked that the Council think about it. She doesn't think a business district should be able to set up and ask for an extra tax in their area. Maybe it's time for the citizens to pass an extra percent and get some of the things the city needs fixed. Planning & Community Development Director Clint Thompson explained the proposed CID for the downtown area.

Steve Holdenried, 2125 S. 11th St., said he appreciates how the Council is acting, especially the Mayor. The Council is very open and encourages people to come forward to speak their mind. It's good to see the Council working as a team. Also, Animal Control & Rescue Manager Rick Smith has taken a lot of heat tonight and he did not respond when remarks were made about his conduct and when he addressed the Council, he was very professional. He thinks the City has a good man and he appreciates what he stands for. He encouraged the City Council to take a look at the garden area at Bartlett Center which was put in by the East Side Rotary. It's good to see organizations getting involved in the midtown area. As a member of the Bartlett Center Board he appreciates what the East Side Rotary did.

Kenneth Reeder, 1801 E. Randolph St., on behalf of Public Citizens Local & Associates, said he needs to be on the record that he will continue to say that it's his responsibility as a voter, taxpayer and a citizen, when proof and time will be enough to see the damage that the Council's actions have caused. We ended the last city manager under a cloud of improper conduct. Now we are starting out the same way under a cloud of improper conduct and it's the fault of some Councilmembers. He spoke about the citizens who interviewed the city manager candidates.

NOTES:

Agenda Nos. 37888-91 – Kim Gorman, 3602 W. Colony Square, Chairman of the Dog Kennel/Animal Ordinance Committee, gave an overview of the Committee's recommendation. She personally recommended that any inspections done by the Animal Control & Rescue Division be videotaped to insure that they are done in a fair, safe and sterile manner.

Barbara Hoerath, 2505 Juniper Lane, member of the Dog Kennel/Animal Ordinance Committee, said she doesn't agree with the limiting the number of consecutive breeding cycles; that is between the breeder and the veterinarian. It would not be in her best interest to allow the City's Animal Control & Rescue Manager into her facility. The Shelter has a lot of diseases and even though he comes in with clean clothes, he is still carrying those diseases. If he is allowed to inspect her facility and she is not "grandfathered in", she will probably move. They are being overburdened with laws. She does not want anything video taped. She would agree to the state inspector or her veterinarian conducting an inspection of her facility using the city's criteria. The state inspector inspects her facility once a year but at her request he has begun inspecting her facility four times a year. She pays a fee to the state at the end of the year.

Crystol Malchose, 2603 S. 14th Street, said she has been a breeder for five years. She got a state license but she wasn't aware at that time that she needed a city conditional use permit (CUP) and there is an issue that she is not really legal. The reason she has not done so is that she was informed that she would not be approved if she did fill out the application because another person had went through the process and was denied. She did everything that she was supposed to do. Had she been informed ahead of time or known that she was supposed to get the CUP, she would have done so. When Animal Control & Rescue Manager Rick Smith arrived unexpectedly at her house, he went through her kennel and pointed out things that he said he would not pass or approve of; he didn't like the arrangement that the state inspector had told her to do. Mr. Smith told her that as soon as Proposition B became law, he would come back and make sure she wasn't legal anymore and take away her dogs and license. She also does not want Animal Control on her property. She would allow the state inspector or her veterinarian do the city inspection. She doesn't think it's right that their dogs are only bred every 18 months.

Ms. Hoerath explained why she will never allow and won't agree to unfettered access for her dogs.

Donald Sherwood, 415 N. 10th St., said he thinks that the Council should amend the ordinance to require the inspector to wear sterile clothing during the inspection.

Cathy Kreipe, 30 Caribou Circle, said she is a hobby show exhibitionist. She thinks this particular ordinance is the wrong path and sends the wrong message for dog owners and dog show people. She understands local control and protecting the community. It is restrictive and over and above the Missouri law and doesn't necessarily protect the community. She doesn't breed her dogs now but she may in the future. She only has two dogs now but she may have more in the future. If she went up to four intact dogs for exhibition purposes, even though she wasn't breeding them, she would be subject to this ordinance. This ordinance starts down the road of punishing the very people who are more concerned about dogs and dog welfare which is hobby breeders and showers like herself. St. Joseph has an economically successful weekend every year and brings in between \$250,000 to \$500,000 that circulates in the community. She doesn't think the city wants to be known among the American Kennel Club or show people as a city that doesn't want dogs and that is the message this is giving. Her dogs are not going to have unfettered access. This ordinance affects her future decisions in her hobby. She doesn't understand the motivation to go above and beyond laws that are already on the books or why more burden has to be added to individuals that try to do it right.

NOTES: (Cont'd)

Dr. Ronald Palmer, member of the Dog Kennel/Animal Ordinance Committee, said he is a veterinarian at the East Hills Animal Clinic, 3819 Frederick Blvd. The Committee adopted most of Senate Bill (SB) 161. SB 161 does have qualifications in the future that states that except as prescribed by rule there will be constant and unfettered access. Those rules haven't been promulgated yet and they don't know if there will be any exceptions to that. Any emergency rules will come out initially within 90 to 180 days to take comment from the public before the actual rules will be promulgated. Just having constant and unfettered access is not reasonable for disease prevention and for other reasons. He spoke about the risks of spreading disease during inspections and the difference between the state inspections and those done by Animal Control. When asked who should be doing the inspections, he replied that it should be someone with familiarity with infection control and dealing with infectious disease. He said someone from the state is trained and their level of experience and knowledge is much higher than most people. Training is available from the Missouri Dept. of Agriculture, SEMA and FEMA and there are several programs through the Dept. of Homeland Security. These regulations do not do anything to address puppy mills or unscrupulous or unlicensed breeders.

Cathy Chase, 3380 NE River Ridge Road, spoke on behalf of the St. Joseph Kennel Club Association. She said the Kennel Club was disappointed that the citizens committee formed to examine the proposed city kennel ordinance was composed of mostly proponents of the ordinance and there were no representatives from the Kennel Club nor the Humane Society. Both organizations have vested interest in this proposal and both had members volunteer to serve on the committee, yet none were selected to serve. If St. Joseph is perceived as not being a dog friendly city, the dog show exhibitors may boycott the dog show. The Club supports responsible pet ownership and promotes the sport of pure breed dogs. She asked the City Council to vote no for lack of merit as being too stringent, unreasonable and unnecessary when considering regulations already in place at the federal and state level. If the Council is determined to revise the city code they strongly encourage the verbiage to better reflect that of Senate Bill 161, specifically increasing significantly the number of intact dogs allowed, increasing the breeding cycle to two litters allowed in 12 months if the dog is deemed healthy by a veterinarian's examination, eliminating the requirement for constant and unfettered access to the outdoors, eliminating continuous access to water but allowing for appropriate intervals and eliminating references to dogs kept for exhibition purposes.

Julie Phipps, 5504 SW Lake Front Lane, said she attended the Committee's meetings and it was obvious to her that it was lopsided and only certain kinds of people were invited to the meetings. She read some excerpts from the meeting minutes. She would like the Council to take a look at the minutes and see how the members voted. The Council needs to take into consideration what it will cost to implement this ordinance and that we already have it and are paying for it as taxpayers.

Joanne Glawson, 3402 Scott St., said this ordinance will eliminate her hobby altogether. The health and care of animals is already covered in the current ordinance. The purpose of the proposed ordinance is to get rid of people breeding dogs. If the ordinance passes the way it is written, she will have to quit showing. She can live with it being three intact female dogs. She would support the state inspector coming to her house. It is unfair of the Council to try to eliminate her hobby. This will hurt the show and this town.

Agenda
Number

ADJOURNMENT:

37902 By general consent, the Council adjourned.

The meeting adjourned at 10:00 p.m.

Paula Heyde, CMC, City Clerk