

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

November 1, 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 Tuesday, November 1, 2011, at 7:00 p.m. The meeting was called to order at 7:00 p.m. by Mayor Falkner. Notice of said meeting had been established as every other Monday at 7:00 p.m., unless otherwise ordered by resolution at any regular meeting of the Council. On October 3, 2011, notice of said meeting had been established by Resolution No. 38097. 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, LaBass, Myers, Penland, Roach, Starr--8. Absent, Kovac—1. Total membership--9. Five members constitute a quorum.

Also present were City Manager J. Bruce Woody, City Attorney Lisa M. Robertson, Police Chief Chris Connally, Human Resources Director Diana Slater, Fire Chief Michael L. Dalsing, Health Director Debra Bradley, Planning & Community Development/Interim Customer Assistance Director Clint Thompson, Property Maintenance & Technology Services Director Steve Hofferber, Interim Public Works & Transportation Director Andrew Clements, Asst. Parks, Recreation & Civic Facilities Director Bill France, Accounting Manager Tom Mahoney, Animal Control & Rescue Manager Rick Smith, Airport Manager Mike Hurst, 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:

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MINUTES:

38149 By general consent, the minutes of the regular meeting held October 17, 2011, at 7:00 p.m., were approved as transcribed in the office of the City Clerk.

SPECIAL RECOGNITIONS:

38150 Boy Scout Troop #47 sponsored by Cathedral School

ACCEPTANCE OF AGENDA:

38151 It was moved by Councilmember Jones and seconded by Councilmember Boyer that the Agenda be accepted as published. Motion carried. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, LaBass, Myers—8. Absent, Kovac—1.

PUBLIC HEARING ON ORDINANCES FOR REZONING & CONDITIONAL USE PERMITS:

38152 It was moved by Councilmember Myers and seconded by Councilmember Starr that Bill (#628-10) redistricting a portion of the property at 4410 South 22nd Street from R-1A Single-Family Residential District to C-1 Neighborhood Shopping District as requested by Dollar General Stores by Steven Camp, agent, be postponed and the public hearing continued for two weeks to the November 14, 2011, Council

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PUBLIC HEARING ON ORDINANCES FOR REZONING & CONDITIONAL USE PERMITS: (Cont'd)

meeting and that we give the entities who have responsibility to deal with the issues the opportunity to get together and come to the Council with a substitute ordinance that would address some of the specific things that are obstacles and some things that are positive. Motion carried. Ayes, Penland, Roach, Starr, Boyer, LaBass, Myers—6. Nays, Falkner, Jones—2. Absent, Kovac—1.

38153 (G.O. 2447) A Bill (#629-10) redistricting a 3926 Pickett Road from R-1A Single Family Residential District to R-5 Mobile Home Park and Mobile Home Subdivision District as requested by William Manson, having been read the first time on October 17, 2011, was read the second time and passed. Ayes, Penland, Roach, Starr, Boyer, Falkner, Myers—6. Nays, Jones, LaBass—2. Absent, Kovac—1.

CONSENT AGENDA:

38154 It was moved by Councilmember Myers and seconded by Councilmember LaBass that Agenda Numbers 38155 through 38160 be passed by Consent Agenda. Motion carried. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, LaBass, Myers—8. Absent, Kovac—1.

Bills for Passage:

38155 (G.O. 2448) A Bill (#634-10) amending Section 24-16 of the Code of Ordinances entitled “Same--penalty for nonpayment of charges” relating to the penalty on unpaid bills for landfill services, having been read the first time on October 17, 2011, was read the second time and passed.

38156 (S.O. 8310) A Bill (#624-10) amending the Police Department budget in the General Fund to recognize monies received from a vehicle auction in the amount of \$17,170.00 to be used for the maintenance and repair of motor vehicles, having been read the first time on October 17, 2011, was read the second time and passed.

38157 (S.O. 8311) A Bill (#627-10) amending the Capital Projects Fund budget and accepting a donation from the Friends of the Park both in the amount of \$150,000.00 to be used to assist with the cost of installing the elevated track at the new community center, having been read the first time on October 17, 2011, was read the second time and passed.

38158 (S.O. 8312) A Bill (#633-10) amending the Fire Department budget in the General Fund to roll over unspent Homeland Security Response Team Grant funds in the amount of \$18,160.00, having been read the first time on October 17, 2011, was read the second time and passed.

38159 (S.O. 8313) A Bill (#635-10) to amend the Capital Projects Fund budget in the amount of \$30,511.00 and to enter into a Reimbursement and Release of Liability Agreement with Cristen M. and Kimra D. Ray in an amount not to exceed \$30,511.00 to restore a slope adjacent to the street at 7205 King Hill Avenue, having been read the first time on October 17, 2011, was read the second time and passed.

Resolution for Adoption:

38160 (Resolution No. 38160 - 3273) A Resolution (#642-10) authorizing the purchase of 4,545 stop signs for the Public Works & Transportation Department Street Improvement Maintenance & Repair (SIMR) Division from Osburn Associates, Inc. for the amount of \$99,990.00, was read and adopted.

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

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BILLS FOR PASSAGE:

- 38161 (S.O. 8314) A Bill (#625-10) amending the Capital Projects Fund budget in the amount of \$289,964.00 and authorizing a unit price contract with Mega Industries Corporation in an amount not to exceed \$289,964.00 for the Uptown St. Joseph Transportation District Demonstration Block, having been read the first time on October 17, 2011, was read the second time and passed. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, Myers—7. Nay, LaBass—1. Absent, Kovac—1.
- 38162 (S.O. 8315) A Bill (#636-10) to recognize the receipt of \$11,861.00 from the Missouri Department of Public Safety and to amend the Police Department budget in the General Fund for a decrease in the amount of \$1,139.00 to reflect the actual revenues received, having been read the first time on October 17, 2011, was read the second time and passed. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, LaBass, Myers—8. Absent, Kovac—1.
- 38163 (S.O. 8316) A Bill (#639-10) authorizing the submittal of an application for the Clean Water State Revolving Loan Program through the Missouri Department of Natural Resources to provide a subsidized low interest rate loan for the Whitehead Stormwater Bypass Project and authorizing execution of the loan agreements, having been read the first time on October 17, 2011, was read the second time and passed. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, LaBass, Myers—8. Absent, Kovac—1.
- 38164 It was moved by Councilmember Boyer and seconded by Councilmember Myers that Bill #630-10 be amended before consideration for passage by attaching the “Report of the Planning Commission to the City Council” to the ordinance. Motion carried. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, LaBass, Myers—8. Absent, Kovac—1.
- 38165 (S.O. 8317) A Bill (#630-10) approving the preliminary plat entitled “Applewood Estates Plat 1”, a major subdivision consisting of 12 lots located at 3240 Pear Street, as requested by Tim Minson, having been read the first time on October 17, 2011, was read the second time and passed. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, LaBass, Myers—8. Absent, Kovac—1.

EMERGENCY BILL FOR PASSAGE:

- 38166 (S.O. 8318) An Emergency Bill (#644-10) amending the Health Department budget in the General Fund in the amount of \$23,179.00 to provide funds to replace one and repair a second Animal Control and Rescue vehicle and authorizing the purchase of a vehicle from Shawnee Mission Ford for the amount of \$20,585.00, was introduced, read and passed. Ayes, Penland, Starr, Boyer, Falkner, Jones, LaBass, Myers—7. Nay, Roach—1. Absent, Kovac—1.

RESOLUTIONS FOR ADOPTION:

- 38167 (Resolution No. 38167 - 3274) A Resolution (#643-10) authorizing the submittal of an application for the Clean Water State Revolving Loan Program through the Missouri Department of Natural Resources to provide a subsidized low interest rate loan for the Eastside Waste Water Improvement Project, was read and adopted. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, LaBass, Myers—8. Absent, Kovac—1.
- 38168 It was moved by Councilmember Penland and seconded by Councilmember Jones that Bill #649-10 be amended before consideration for adoption by attaching Exhibit “A” to the resolution. Motion carried. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, LaBass, Myers—8. Absent, Kovac—1.

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RESOLUTIONS FOR ADOPTION: (Cont'd)

- 38169 (Resolution No. 38169 - 3275) A Resolution (#649-10) appointing a Property Maintenance Code Review Committee to provide input regarding enforcement of property maintenance codes, was read and adopted. Ayes, Penland, Roach, Starr, Boyer, Falkner, Jones, LaBass, Myers—8. Absent, Kovac—1.

BILLS FOR FIRST READING:

- 38170 A Bill (#640-10) accepting a Bulletproof Vest Partnership Grant in the amount of \$4,030.00 from the Bureau of Justice and decreasing the Police Department's budget in the General Fund in the amount of \$21,795.00, was introduced and read the first time.
- 38171 A Bill (#641-10) amending the Gaming Initiatives Fund budget to provide funding in the amount of \$15,000.00 to the St. JDC Charitable Fund and authorizing the Airport Manager to execute and sign contractual obligations for the 2012 Sound of Speed Airshow to be held at Rosecrans Memorial Airport, was introduced and read the first time.
- 38172 A Bill (#645-10) amending the Museum Fund budget in the amount of \$156,829.00 and the Capital Projects Fund budget in the amount of \$256,829.00 and authorizing a contract with Restoration and Waterproofing Contractors, Inc. in the amount of \$256,829.00 for the Wyeth-Tootle Mansion Exterior Improvements Phase 1-West Facade Masonry Restoration Project, was introduced and read the first time.
- 38173 A Bill (#646-10) amending the Police Department budget in the General Fund to roll over unspent COPS Technology Grant funds received in 2009 in the amount of \$220,365.00, was introduced and read the first time.
- 38174 A Bill (#647-10) amending Chapter 30, Article II of the Code of Ordinances entitled "Taxicabs," was introduced and read the first time.
- 38175 A Bill (#648-10) to enter into an agreement with Universal Guardian Acceptance, LLC, for employee parking in the parking structures at 6th and Jules, 8th and Felix, and 5th and Felix, was introduced and read the first time.

REPORTS OF BOARDS & COMMISSIONS:

Filed 10/17/11: Minutes of the Community Police Advisory Committee meeting held October 4, 2011, at 7:00 p.m., at the Rolling Hills Public Library, 1904 N. Belt.

Filed 10/17/11: Minutes of the Tree Board meeting held October 11, 2011, at 6:00 p.m., in the 1<sup>st</sup> Floor Conference Room at City Hall.

Filed 10/21/11: Minutes of the Aviation Board meeting held October 5, 2011, at 6:57 p.m., in the Conference Room at Rosecrans Memorial Airport.

Filed 10/24/11: Minutes of the Parks & Recreation Board meeting held October 20, 2011, at 4:00 p.m., at 1920 Grand Avenue.

Filed 10/24/11: Minutes of the Housing Authority meeting held September 15, 2011, at 4:00 p.m., at 2902 South 36<sup>th</sup> Street.

REPORTS OF BOARDS & COMMISSIONS: (Cont'd)

Filed 10/26/11: Minutes of the St. Joseph Public Library Board of Trustees meeting held at 5:00 p.m., at the East Hills Library, 502 N. Woodbine Road.

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

Filed 10/17/11: Minutes of the Work Session held September 28, 2011, at 4:15 p.m., in the 4<sup>th</sup> Floor Conference Room at City Hall.

REPORTS & RECOMMENDATIONS OF THE CITY MANAGER:

Filed 10/14/11: Mayor and City Council Update, October 14, 2011.

Filed 10/18/11: Letters to Senator Roy Blunt, Senator Claire McCaskill and Congressman Sam Graves in re: Airport Joint Use Agreement/Rosecrans Memorial Airport.

Filed 10/21/11: Mayor and City Council Update, October 21, 2011.

DELEGATIONS, PETITIONS:

None.

COMMUNICATIONS:

Filed 10/13/11: Letter from Roger Stottlemire, Executive Director, Missouri Gaming Commission, in re: State/Local Allocation of Gaming Revenues for the period 9/1/11 thru 9/30/11.

Filed 10/13/11: City Weekly, October 13, 2011.

Filed 10/13/11: Memorandum from Mayor Falkner in re: Absent from the city (October 14-16, 2011).

Filed 10/14/11: Letter from Clint Thompson, Planning & Community Development Director, to the St. Joseph Missouri Development Community in re: Asking for input concerning the plan review, building permit, and building inspection process.

Filed 10/17/11: Minutes of the St. Joseph Museums, Inc. Collections Committee meeting held August 9, 2011, at 8:00 a.m., at 3406 Frederick Blvd.

Filed 10/17/11: Memorandum from Andy Clements, Interim Public Works & Transportation Director, in re: Missouri State Rail Plan.

Filed 10/19/11: 2011 Student in Government Day evaluations.

Filed 10/20/11: Minutes of the Police Pension Board meeting held September 21, 2011, at 4:00 p.m., in the 1<sup>st</sup> Floor Conference Room at City Hall.

Filed 10/21/11: City Weekly, October 21, 2011.

Filed 10/21/11: Memorandum from Carolyn Harrison, Financial Services Director, in re: Sewer bond issuance and bond refinancing.

COMMUNICATIONS: (Cont'd)

Filed 10/21/11: Letter from Jon J. Lehr, President, Lehr Construction Company, in re: Change in the operations of the Building Development Division.

Filed 10/21/11: Letter from E. "Speedy" Stewart, Chief of Police, Troy, Kansas, in re: K-9 teams assistance at Troy High School.

Filed 10/21/11: E-mail from Councilmember LaBass in re: Officer Chris Davis.

Filed 10/24/11: Memorandum from Clint Thompson, Planning and C.D. Director, in re: Ordinance to update Chapter 30, Vehicles for Hire, Article II.

Filed 10/25/11: Article from the Kansas City Star entitled "*Council lines drawn, and residents bristle*" by Lynn Horsley.

Filed 10/25/11: Memorandum from Mayor Falkner in re: Absent from the City (October 28-30, 2011).

OTHER BUSINESS:

City Manager's Report – City Manager J. Bruce Woody named the Public Works & Transportation Director candidates--Denis Atwood, David Botts and Jody Carlson. He reminded the Council of the retreat on November 4 and 5 and to please fill out the SDI instruments.

Councilmember Jones thanked the Friends of the Park for the donation of \$150,000 for the new community center.

PUBLIC COMMENT:

Ellis Cross, 503 N. 5th St., spoke about the tax monies that are available for repairs to the Wyeth Tootle Mansion.

Kenneth Reeder, 1801 E. Randolph St., on behalf of Public Citizens Local and Associates, asked some housekeeping questions. He asked why so much time was spent on Bill #628-10 if the Planning Commission recommended denial and why did the Council go against the recommendation. If maps and other information relating to some of the bills that are being discussed are available, he asked if they could be shown on the overhead monitors so the rest of the public could see them also. He asked when the new Council district map will be on display in the Council Chamber and if it could be bigger. In regard to Bill #625-10, he wondered if there is an Uptown Transportation District Board. He asked some questions about the difference between the CIP Sales Tax and the Capital Projects Fund. He asked if it could be clarified on which ordinances CIP sales tax funds are being used. In reference to Bill #642-10, he asked what happens to the old stop signs that are being replaced.

Judge Myer, 4505 Hunters Glen Drive, spoke about the freedom of assembly. He asked the Council to waive the permit fees and requirements so the assembly can begin immediately. Mayor Falkner asked Mr. Myer to put his request in writing and submit it to his office and they will take a look at it.

NOTES:

Agenda No. 38152 – Julie Hertel, 4611 Libby Lane, spoke against the rezoning due to her concerns about increased traffic on Libby Lane, the grade of 11th Street Road during winter months and reduction in property values. She asked the City Council not to approve the request.

NOTES: (Cont'd)

Mike Hinde, 4201 S. 11th Street Rd., said he owns the property that adjoins the property to be rezoned to the west. He prefers to keep his property secluded as it currently is and would prefer that this property not be rezoned commercial.

Steve Lewis, Rt. 1, Cosby, Missouri, owner of the property, provided a drawing of the property showing the location of the Dollar General store and explained his plans to put in senior housing (55 and older) on the remainder of the property. He said he has not talked to the neighbors but he has signatures from 14 people who live in Kerns Krest who supported a Dollar General in that area.

John Perry, 9041 Post Oak Lane, Memphis, Tennessee, agent for Dollar General, said the architecture of a Dollar General store depends on what the city requires. Typically, the structure is a split face block wall on the front with aluminum siding on the other three sides. Anything above the city's standards would have to be approved by Dollar General.

Reba Hebert, Planning Commission member, 4207 St. Joseph Avenue, said at the Planning Commission meeting when this issue was addressed, the Commission members' major concern was the 11th Street drive not being conducive to the neighbors. The owner was not at the meeting to speak on the issue so they could not negotiate it. At last week's Commission meeting, it was the Commission's recommendation to revisit the Land Use Plan based on the conditions of today's economy. The conditions will be negotiated when the Commission does the plat development and they will do that with city staff which is aware of the concerns of the neighbors and the City Council.

Justin McCarthy, 4502 Libby Lane, said his biggest concern with this rezoning request is safety; he is opposed to the rezoning.

Rebecca Steele, 4605 Libby Lane, said the 11th Street Road access is a key concern. She is also very concerned about rezoning. She wondered why the city has a Land Use Plan if it's going to be changed without a very compelling reason. Why are we struggling to figure out a way to make this development work when there is commercial property available, suited for this purpose, less than one half mile away at Pear and 22nd Street. She believes in economic development and that people have rights to develop a business but she doesn't believe that it should be at the expense of residential neighborhoods. She asked the City Council to please deny this rezoning.

Roxanne Kerns, 4601 Iris Avenue, wondered what kind of lighting will be coming from this development into their home. The increased traffic on 11th Street Road is where she sees a huge change in their neighborhood. It was mentioned that there was no opposition filed and she did not know about this development until recently.

Steve Sewell, 4513 Iris Avenue, suggested that a meeting be held to listen to what people have to say. His wife and he are not totally against the idea—the convenience factor is great but he is not in favor of them on their street for all the reasons that have been listed. No one has mentioned the security issue. He thinks there is going to be some mischief. He would like the City Council to consider all those things and ask the question, is a neighborhood the best place to put a Dollar General. He doesn't think it is.

Richard Deka, 1929 Park Ridge Drive, said he is not against building houses there because it would appreciate the value of his property and all his neighbors. He urged the City Council to take a look at the fact that this is a residential area and there is commercial zoning within the confines that they seek right under their nose. He asked the Council to please deny the request.

NOTES: (Cont'd)

Pat Spencer, 2704 Excello Drive, said the Dollar General is very important to this neighborhood and they don't want to lose it. A lot of what she sees as being the problem is that Dollar General is being forced to move. If Dollar General moved to the proposed location some of the concerns could be taken care of aesthetically by planting trees or putting up a fence. She doesn't think there will be any problem with people causing mischief, that the lighting will be that bright or that there will much more traffic in Kerns Krest.

Dr. Edward Kammerer, 3604 Chris Hessler Drive, said his interest in this issue comes from the secondary development. He sees issues with elderly housing and they are looking for market value senior housing. If they are looking at building 23 housing units in this area, they don't want Dollar General to build something there that they don't want to look at either. Development of this land will increase taxes. He thinks this development can be done as aesthetically and as appropriately as possible for all parties involved.

Mr. Perry asked that they press on for a vote; they'd like to know where they stand.

Bob Kerns, 4601 Iris Avenue, said Dollar General is needed here but the Green Hills store has been vacant for years. He doesn't understand why Dollar General now wants to build a building at this location when there are vacant buildings available. He is opposed to it.

Agenda No. 38153 – Peggy Cunningham, 3402 S. 40th Terr., said she owns the property directly across from Mr. Manson. Mr. Manson has done an excellent job of keeping his property maintained and she has no complaint with him as a neighbor and urged the City Council to vote in favor of this rezoning so that he can continue making improvements to his property.

Agenda No. 38161 – Kenneth Reeder, 1801 E. Randolph St., on behalf of Public Citizens Local & Associates, asked what we are getting for \$300,000.00. Interim Public Works & Transportation Director Andrew Clements said it includes neighborhood markers/signs, reconstructing sidewalks, curb and gutter, cutting down street trees and planting new ones and monument signs.

Ellis Cross, 503 N. 5th St., asked if any of the improvements will be historically correct. Mr. Clements said yes, any brick sidewalks and streets will be retained. There is no policy that retains stone curbs so new curbs will be replaced with concrete. Mr. Cross asked if the City could hang on to the stone curbs for use in restoring historic districts.

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ADJOURNMENT:

38176 By general consent, the Council adjourned.

The meeting adjourned at 9:50 p.m.

Paula Heyde, CMC, City Clerk