

The Carl Junction City Council met in regular session on Tuesday January 19, 2010 at 7:00 PM at City Hall. Mayor Mike Moss called the meeting to order with the following present: Richard Zaccardelli, Don Marshall, Carl Skaggs, Mark Powers, Steve Daniels, Walter Hayes and Wayne Smith. Alderman Dee Lynn Davey was absent. Also present were City Administrator Steve Lawver, City Clerk Maribeth Matney and City Attorney Mike Talley.

AGENDA

Carl Skaggs motioned to approve the agenda as presented. Steve Daniels seconded. All in favor. No opposed. Carl Skaggs motioned to approve the consent agenda. Richard Zaccardelli seconded. All in favor. No opposed.

PUBLIC FORUM

Gary Stubblefield, 200 Karen Drive, introduced himself representing the Chamber of Commerce. He reported that Carl Junction would be featured in the Show Me Ozark magazine. He also stated that the Annual Summer Family Fun Day would be 6/29/10 and they will be having their first organizational meeting this Thursday 1/21/10 at the CJ Fire Station. He would like for everyone to get involved. He also mentioned the new restaurant, Bravo's, at Fir Road and Briarbrook Drive and hoped that everyone would support our new business in town.

There was no one else for public forum.

ALAN DUNAWAY

Alan Dunaway, 110 Briarbrook Drive, came to contest his water bill. He stated that the city had misread his meter for 20 months and now he owes \$305 due to the difference of what he was billed to what he should have been billed for that 20 months. He gave the history on what happened and does not believe it is fair that he has to pay for the water now that the error was been caught. There was a lot of discussion regarding this situation. Mr. Dunaway stated he has a budget and it will put a strain on it. The council stated that we will work with him and give him 20 months to repay it. That would be \$15.72/month extra on top of his regular bill. It was stated he should have noticed his bills were lower then normal. There was some more general discussion but the consensus from around the council dais was that Mr. Dunaway used the water and should pay for it.

MARY SCHILLACI

Mrs. Schillaci asked if the tax credits were being applied for and if it would be approved. Steve Lawver responded that his best educated guess is that it might not be approved. It may not be the kind of project they are looking for. It is supposed to benefit the state in order to qualify for the tax credits. We have not received the rest of the information to file the application. Steve said that there is not a statue of limitation on the applications. Mrs. Schillaci then expressed concern that the budget proposed is not accurate. Mayor Moss said that the state statutes are very narrow and that although we can weigh in on their budget they do not have to listen to us. She pointed out that there is no insurance in their 5 year plan. Mrs. Schillaci had sent a list of questions prior to the meeting that she would like to have answered. (see packet) Steve stated that the state statute covers how much they can charge on their tax levy and that yes they have the right to sell or purchase property. He is not sure if they have any insurance requirements and the Ethan's law on pools would not apply to them since they are a not-for-profit. He also stated that he is not aware of any requirement for fencing. Mrs. Schillaci also stated in her request that Mark Powers and Richard Zaccardelli should recuse themselves from voting on this issue. Mike Talley said he has looked into that since he had been requested by the Mayor to do some research on that. He is not ready to give a final opinion but the preliminary opinion is that there is no conflict of interest. They would not be gaining any more benefit then any other resident in the CID. He can't find anything that would disqualify them and in fact thinks we should be asking whether we are violating their rights in representing their ward if we don't let them vote. They are not getting any special treatment from the CID. The Missouri Statutes are very clear that if they are benefiting no more than other members of the class, there is no conflict of interest under that statute. Mike Talley stated that he was willing to listen to or look into anything that might change his mind on this issue.

P&Z CASES

Mayor Moss then opened the public hearing on Case #10-01, 114 Foursome Lane – Special Keeping Permit at 7:40 PM. Steve Lawver reported that the P&Z met on the 11th and they are recommending that the council deny the permit. Russ Neal, 114 Foursome Lane, addressed the council and pointed out that they had 2 litters of pups that are under 12 weeks of age and should not be considered when looking at this application. He then asked that he be allowed to amend the application to allow for the sale of their home and to allow them to keep the dogs until that time. Ann Parker, 114 Par Lane, stated that she had nothing against the people but does not think the council should allow that many dogs in the house. Besides all the barking it will get smelly in the summer time. The residents at 114 Foursome stated that they would just like time to sell their home. They feel this is a learning experience for their children. Mayor Moss closed the public hearing at 7:50 PM. Mark Powers suggested they go back to P&Z and amend their application. Walter Hayes stated that we need to act on it or table it to go back to P&Z. Don Marshall motioned to table it and refer it back to P&Z for the amendment to be made on it and have the P&Z reconsider it. We will need to re-notify the people. Carl Skaggs seconded. All in favor. No opposed.

REVIEW AND APPROVAL OF BIDS FOR THOM'S STATION TRAIL PHASE III

The bids were opened for the construction of Thom's Station Trail Phase III. We had 6 bidders (see attached) with Sproul's Construction as low bid for \$128,959.53. The engineer reviewed the bids and has recommended we approve Sproul's bid. Steve

Daniels asked if it came in under the allowed amount. Steve Lawver replied that we had \$150,000 for construction and it came in under. We will not be allowed to add any change orders. All the bidders bid on the same quantities of materials. We did not have any problems with change orders with the 1st two phases. Mark Powers motioned to approve the engineer's recommendation and approve Sproul's bid. Richard Zaccardelli seconded. All in favor. No opposed.

CONSIDERATION OF AUDIT PROPOSAL FROM MENSE, CHURCHWELL & MENSE

The council reviewed the proposal for \$6500.00 for our next audit. The City Clerk stated that it went up \$500 as it was \$6000 last year. Richard Zaccardelli motioned to approve the proposal. Carl Skaggs seconded. All in favor. No opposed.

ORDINANCES

The council reviewed the ordinance for change order #7 with Larry Snyder Construction. This includes the heat pump, removal of unsuitable soils and some other small items. Steve Daniels stated he did some research on the heat pumps and it is the best long term solution. The ordinance after this one on the agreement with Commerce Bank will be to fund this. Commerce Bank gave us a better rate than the State. It was also mentioned that if there is money left from our contingency fund it will be used to pay some of this back. Carl Skaggs motioned to put "AN ORDINANCE APPROVING CHANGE ORDER #7 TO AN AGREEMENT BETWEEN THE CITY OF CARL JUNCTION, MISSOURI AND LARRY SNYDER & COMPANY, TO CONSTRUCT A NEW RECREATION CENTER, CITY HALL, AND SENIOR CENTER FOR THE CITY OF CARL JUNCTION, MISSOURI, SAID CHANGE ORDER # 7 BEING TO REMOVE BURIED CONCRETE, ADD GROUND SOURCE WELL FIELD, ADD FLUID COOLER, ADD CONCRETE DRIVE APPROACHES, DEDUCT MAIN & WISE STREET INTERSECTION AND ADD UNSUITABLE SOIL REMOVAL FOR AN ADDITIONAL NET COST OF \$248,878.00 AFTER CONTRACT ALLOWANCES, AND INCREASING THE TOTAL CONTRACT COST TO \$4,261,127.99; AND AUTHORIZING THE MAYOR OR THE CITY ADMINISTRATOR TO EXECUTE SAID CHANGE ORDER FOR AND ON BEHALF OF THE CITY OF CARL JUNCTION, MISSOURI" on first reading by title only. Steve Daniels seconded. All in favor. No opposed. Carl Skaggs motioned to put it on second reading by title only with a roll call vote. Steve Daniels seconded. Zaccardelli-y, Marshall-y, Skaggs-y, Powers-y, Daniels-y, Davey-absent, Hayes-y, W Smith-y. Motion on Ordinance #10-03 was approved by roll call vote, signed by the Mayor, attested by the City Clerk and made a part of the permanent records of the City of Carl Junction.

Next the council reviewed the agreement with Commerce Bank. The Budget committee reviewed this agreement and is recommending we approve it. Carl Skaggs motioned to put "AN ORDINANCE APPROVING A LEASE PURCHASE AGREEMENT WITH COMMERCE BANK, N.A., LESSOR, FOR THE PURPOSE OF FINANCING THE PURCHASE OF HVAC EQUIPMENT FOR THE NEW COMMUNITY CENTER, FOR THE SUM \$267,752.10; PROVIDING THE TERMS AND CONDITIONS THEREOF; AUTHORIZING UP TO SEVEN (7) ANNUAL RENTAL PAYMENTS, THE FIRST OF WHICH IS \$45,238.59 ON JANUARY 15, 2011, WITH FUTURE PAYMENTS AND ADJUSTMENTS AS PROVIDED IN THE AGREEMENT; AUTHORIZING THE DOCUMENTATION FEE OF \$150.00; AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT FOR AND ON BEHALF OF THE CITY OF CARL JUNCTION, MISSOURI" on first reading by title only. Don Marshall seconded. All in favor. No opposed. Walter Hayes motioned to put it on second reading by title only with a roll call vote. Carl Skaggs seconded. Zaccardelli-y, Marshall-y, Skaggs-y, Powers-y, Daniels-y, Davey-absent, Hayes-y, W Smith-y. Motion on Ordinance #10-04 was approved by roll call vote, signed by the Mayor, attested by the City Clerk and made a part of the permanent records of the City of Carl Junction.

Next the council reviewed the agreement with Best Buy. Richard Zaccardelli motioned to put "AN ORDINANCE APPROVING A PURCHASE AGREEMENT BETWEEN THE CITY OF CARL JUNCTION, MISSOURI AND BEST BUY FOR BUSINESS TO SUPPLY AND INSTALL SPECIFIED TELEVISION SYSTEMS IN THE NEW COMMUNITY CENTER FOR THE CITY OF CARL JUNCTION, MISSOURI, IN ACCORDANCE WITH THE BID SPECIFICATIONS, FOR THE SUM OF \$13,085.73; PROVIDING THE TERMS AND CONDITIONS THEREOF; AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT FOR AND ON BEHALF OF THE CITY OF CARL JUNCTION, MISSOURI" on first reading by title only. Don Marshall seconded. All in favor. No opposed. Carl Skaggs motioned to put it on second reading by title only with a roll call vote. Richard Zaccardelli seconded. Zaccardelli-y, Marshall-y, Skaggs-y, Powers-y, Daniels-y, Davey-absent, Hayes-y, W Smith-y. Motion on Ordinance #10-05 was approved by roll call vote, signed by the Mayor, attested by the City Clerk and made a part of the permanent records of the City of Carl Junction.

REPORTS

The council reviewed the Administration report. Steve reported he will be going to the Legislative MML meeting. Richard Zaccardelli said he would go also. Carl will check and call us tomorrow.

Public Works report – there was nothing new to report.

Police Department report – there was nothing new to report.

Court Report – there was nothing to add.

COMMITTEE REPORTS

The Nuisance Committee had nothing to report.

The Long Range Planning Committee reported they will be meeting 2/8/10 at 6:30 PM before the P&Z meeting that evening.

The Budget/Finance Committee reported they had met Friday with Insurancenter. We will be calculating what we can afford this Friday and meet with the employee's. We will start meeting with the department heads in February.

The Human Resource Committee has requested a closed session later this meeting for the City Administrator's review.
The Public Facilities Committee had nothing to report.
The Code Review Committee had nothing to report.
The Citizen's for Better Life had nothing to report.

UNFINISHED BUSINESS

Wayne Smith stated at the last meeting we discussed the stamped concrete at the Community Center. He feels we gave up an appealing part of our Community Center and suggested we maybe look at going with concrete instead of asphalt. It might make it more attractive instead of using asphalt. Mike Talley stated that he could ask for reconsideration of the motion at the last meeting. After discussion on what that meant, Wayne Smith motioned to reconsider the motion that replaced the stamped concrete with asphalt. Mark Powers seconded. All in favor. No opposed. Steve will find out what the cost would be to go with regular concrete.

Mike Talley asked if the council had received his e-mail regarding Wayne's question on the CID. He also asked if it was what he was looking for. The Board does have discretion in approving the CID. Wayne said that it did answer his question. Mike Talley then brought up the code provision dealing with the public forum and the requirement that anyone to whom a question is addressed must respond in writing by the next regular board meeting. He noted that the City Code specified the City Attorney's duties, and those duties included providing legal opinions requested by the Mayor, members of the Board of Aldermen, and other City officials. However, his duties as prescribed in the City Code do not include providing legal opinions to the public at large upon being requested by a member of the public. He noted that the City must pay for all such legal opinions pursuant to his contract with the City, and that for the City Attorney to give legal opinions to the public at large without control by the Mayor and/or Board of Aldermen is inconsistent with responsible governance – and it could be very expensive. He suggested that a fair interpretation of the public comment section of the City Code was that it did not include legal opinions, but if the Board disagreed, he recommended that the City Code be changed. He asked for a consensus of the Board on this issue. Walter Hayes agreed with Mike Talley on his interpretation, and the remaining members of the Board, together with the Mayor, also indicated their agreement. Mike Talley then suggested that the City Administrator would be the proper party to respond to the questions previously presented during the public forum, but that he would assist the City Administrator in developing responses. Wayne thanked Mike Talley for his research to his question.

Mark Powers asked about our trash contract. Mike Talley responded that he is working on it. Mark did some calculations with the CPI and the increase should be 22 cents for next year. The CPI went up 2.2%.

NEW BUSINESS

There was no new business.

CLOSED SESSION PER RSMO 610.021 (3): HIRING, FIRING, DISCIPLINING OR PROMOTING OF PARTICULAR EMPLOYEES BY A PUBLIC GOVERNMENTAL BODY WHEN PERSONAL INFORMATION ABOUT THE EMPLOYEE IS DISCUSSED OR RECORDED.

Wayne smith motioned to go into closed session per RSMO 610.021 (3): HIRING, FIRING, DISCIPLINING OR PROMOTING OF PARTICULAR EMPLOYEES BY A PUBLIC GOVERNMENTAL BODY WHEN PERSONAL INFORMATION ABOUT THE EMPLOYEE IS DISCUSSED OR RECORDED. Don Marshall seconded. Zaccardelli-y, Marshall-y, Skaggs-y, Powers-y, Daniels-y, Davey-absent, Hayes-y, W Smith-y. Council went into closed session at 8:45 PM.

Council reconvened in open session at 9:07 PM. Mayor Moss stated that they met in closed session regarding personnel and no action was taken.

ADJOURNMENT

Mark Powers motioned to adjourn the meeting. Carl Skaggs seconded. All in favor. No opposed. Meeting adjourned at 9:08 PM.

CITY CLERK

MAYOR