

The Carl Junction City Council met in regular session on Tuesday July 17, 2007 at 7:00 PM at City Hall. Mayor Mike Moss called the meeting to order with the following present: Richard Zaccardelli, Barbara Evans, Carl Skaggs, Mark Powers, Pat Smith, Dee Lynn Davey, Walter Hayes and Wayne Smith. Also present were City Clerk Maribeth Matney and City Attorney Mike Talley.

**AGENDA**

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

**PUBLIC FORUM**

There was no one for public forum.

**P&Z CASES**

Case #07-06 – annexation of 502 W Wells – Tom & Ruth Elliston. Mayor Moss opened the public hearing at 7:03 PM. Ruth Elliston stated that they have requested annexation of their rental property. They want the police protection and in town water & sewer rates. Barbara Evans reported that the P&Z held their public hearing. It was short and they recommended approval of the annexation. There was no one against the annexation. Mayor Moss read the results of the P&Z meeting. The other 2 residents did not want to petition the city for annexation. Mayor Moss pointed out that this would make an island in the city limits. The public hearing closed at 7:05 PM. Mike Talley stated that there is a 14-day waiting period before the council can take action. That will be the 8/7/07 meeting. Richard Zaccardelli motioned to proceed with Case #07-06 with the record of determination becoming part of the records and to draft an ordinance for the next regular council meeting. Barbara Evans seconded. All in favor. No opposed.

**LIQUOR LICENSE – EQUITY ENDEAVORS, BRIARBROOK COUNTRY CLUB**

The City Clerk reported that they were applying for a resort license with the State and have applied for a liquor by the drink license with the City. Mike Talley stated that our liquor by the drink license would be sufficient for the resort license. They have met all of our conditions. A couple of council stated that they were members of the club and asked if they could vote. Mike Talley stated that as long as they are only members and would not be benefiting from the license they could vote or abstain and state their reason. Pat Smith motioned to approve their license application. Carl Skaggs seconded. 6 in (Evans, Skaggs, P Smith, Davey, Hayes, W Smith) in favor. 2 (Zaccardelli, Powers) abstained due to being members.

**LIQUOR LICENSE – RCT INV GROUP LLC**

Tre Hall, 115 Van Dusen, addressed the council and stated that they have applied for a package liquor license from the City. The will be located where Closetworks used to be located West of Deem’s Grocery Store. They have 1450 square feet in their facility. It will be owned and operated by Carl Junction residents. They anticipate \$360,000 sales the first year. They will open in 6 weeks. They will be open Monday through Sunday from 10AM to 9 PM. Pat Smith motioned to approve their license application. Carl Skaggs seconded. All in favor. No opposed.

**ORDINANCES**

The council then reviewed the contract with PILR for our new website design. Mike Talley stated that this approves the proposals and the 2 agreements. Pat Smith motioned to put “AN ORDINANCE APPROVING PROPOSALS BY PILR, LLC., TO DESIGN, DEVELOP, SETUP AND HOST A WEBSITE FOR THE CITY OF CARL JUNCTION, MISSOURI, FOR THE SUM OF THREE THOUSAND FIVE HUNDRED THIRTY-EIGHT AND 70/100<sup>TH</sup> DOLLARS (\$3,538.70), IN ADDITION TO THE HOSTING FEE OF FIFTY-FIVE AND 99/100<sup>TH</sup> DOLLARS (\$55.99) PER MONTH FOR TWELVE (12) MONTHS, IN ACCORDANCE WITH DEVELOPMENT AND HOSTING PROPOSALS REVISED JULY 5, 2007; AND AUTHORIZING THE MAYOR TO EXECUTE A HOSTING AGREEMENT AND A MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT BETWEEN THE PARTIES FOR AND ON BEHALF OF THE CITY OF CARL JUNCTION, MISSOURI” on 1<sup>st</sup> reading by title only. Carl Skaggs seconded. All in favor. No opposed. Pat Smith motioned to put it on second reading by title only with a rollcall vote. Carl Skaggs seconded. Zaccardelli-y, Evans-y, Skaggs-y, Powers-y, P Smith-y, Davey-y, Hayes-y, W Smith-y. Motion on Ordinance #07-24 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 ordinance approving an agreement with Official Payments.com for debit and credit card transactions. This approves Visa, Mastercard, American Express and Discover cards being used. The only cost to the City is the \$100 machine that we need to swipe the cards. Mike Talley spoke to the reference given. They are a county but there is no problem with the City trying to use it also. Carl Skaggs motioned to put “AN ORDINANCE APPROVING AN ELECTRONIC TRANSACTION PROCESSING AGREEMENT BETWEEN THE CITY OF CARL JUNCTION, MISSOURI AND OFFICIAL PAYMENTS CORPORATION, A DELAWARE CORPORATION, TO PROVIDE CITIZENS THE OPPORTUNITY TO MAKE PAYMENTS BY CREDIT CARD AND “PIN-LESS” DEBIT CARD THROUGH BOTH AN INTERACTIVE TELEPHONE VOICE RESPONSE SYSTEM AND INTERNET INTERFACE FOR THE CITY OF CARL JUNCTION, MISSOURI, FOR CONVENIENCE FEES TO BE CHARGED TO CITIZENS WHO UTILIZE THE SERVICE, IN ACCORDANCE WITH THE AGREEMENT; 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 1<sup>st</sup> reading by title only. Pat Smith seconded. All in

favor. No opposed. Carl Skaggs motioned to put it on second reading by title only with a rollcall vote. Richard Zaccardelli seconded. Zaccardelli-y, Evans-y, Skaggs-y, Powers-y, P Smith-y, Davey-y, Hayes-y, W Smith-y. Motion on Ordinance #07-25 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.

The Council then reviewed the ordinance establishing a \$5.00 flat fee for I&I abatement. Mike Talley stated that he spent the weekend talking to other attorneys and the opinions were divided. There is a 5-step test to determine if it violates the Hancock amendment. He reread the recent case that was decided last month in Kansas City. He heard stories about how citizens are using the Hancock law to nail some cities. It is a hard test to meet and very expensive to defend. Mike Talley is recommending that we go with a usage-based fee. A flat fee would be harder to defend but he feels that if it is usage based we have a better case. There was a lot of discussion of the Hancock amendment and potential challenges. There is no need to go to the vote of the people if we do a usage-based fee. Pat Smith motioned to table this ordinance. Carl Skaggs seconded. All in favor. No opposed.

The council discussed the ordinance approving MRWA smoke testing for the City. Jim Whisenant asked that we table this since it is I&I related. Carl Skaggs motioned to table this ordinance. Richard Zaccardelli seconded. All in favor. No opposed.

Next the council reviewed the ordinance vacating Willow from Roney Street west to the alley. Steve Lawver stated that this would make 2 vacant lots in the older part of town buildable. The contractor wants to build 2 new 1250 square foot homes. It is ½ block long and there are no utilities in this road right of way. Mike Talley stated that we kept a utility easement that is divided between the 2 lots bordering the street. He did state that the law had changed last year regarding utility easements. There is question what constitutes a valid easement. It is hard to define and is hand and glove with the eminent domain issues. Carl Skaggs motioned to put “AN ORDINANCE VACATING WILLOW STREET IN LANE’S ADDITION IN THE CITY OF CARL JUNCTION, JASPER COUNTY, MISSOURI, BUT RESERVING A TWENTY FOOT (20’) UTILITY EASEMENT IN THE MIDDLE OF VACATED WILLOW STREET, AND ALSO RESERVING EXISTING UTILITY EASEMENTS AND OTHER EASEMENTS OF PUBLIC UTILITY COMPANIES IN THAT PORTION OF THE ROAD RIGHT-OF-WAY BEING VACATED” on 1<sup>st</sup> reading by title only. Pat Smith seconded. All in favor. No opposed. Carl Skaggs motioned to put it on second reading by title only with a rollcall vote. Richard Zaccardelli seconded. Zaccardelli-y, Evans-y, Skaggs-y, Powers-y, P Smith-y, Davey-y, Hayes-y, W Smith-y. Motion on Ordinance #07-26 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.

Chief Haase reported that the next ordinance is an agreement with Midwest Telephone Inc which is part of the COPS Technology Grant. This is some new technology that has just come out and will link Webb City, Joplin, and Jasper County with broad band. This will include all of our vehicles. They are confident it will work. Richard asked if this could be used with the Fire Department. Chief is not sure they will get involved with it. Pat Smith motioned to put “AN ORDINANCE APPROVING A PURCHASE AGREEMENT BETWEEN THE CITY OF CARL JUNCTION, MISSOURI AND MIDWESTERN TELEPHONE, INC., TO PURCHASE AND INSTALL A WORKING COMMUNICATION SYSTEM FOR THE CITY OF CARL JUNCTION POLICE DEPARTMENT, IN ACCORDANCE WITH THE AGREEMENT, FOR THE SUM OF FIFTEEN THOUSAND EIGHT HUNDRED ELEVEN AND 21/100<sup>TH</sup> DOLLARS (\$15,811.21) IN ACCORDANCE WITH THE PURCHASE AGREEMENT; PROVIDING THE TERMS AND CONDITIONS THEREOF; AND AUTHORIZING THE CHIEF OF POLICE TO EXECUTE SAID AGREEMENT FOR AND ON BEHALF OF THE CITY OF CARL JUNCTION, MISSOURI” on 1<sup>st</sup> reading by title only. Carl Skaggs seconded. All in favor. No opposed. Pat Smith motioned to put it on second reading by title only with a rollcall vote. Richard Zaccardelli seconded. Zaccardelli-y, Evans-y, Skaggs-y, Powers-y, P Smith-y, Davey-y, Hayes-y, W Smith-y. Motion on Ordinance #07-27 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**

Jim Whisenant went over his report. On page 1 item #1 – the date for an appeal has passed except for an appeal on the attorney fees. #4 – Mike Talley reported that the Rails to Trails lawsuit is dead. On page 2 #5 – Carl Junction residential – Jim is still working with the City attorney to come up with an arrangement for a sidewalk. On page 4 #10 – we have contacted the railroad company about purchasing land to run a water line for the City. It is 3 acres and in a swampy area. We tried to get an easement but it was expensive so we are seeing what it would cost to buy instead. We could use it for a trailhead someday. Jim then stated that we are looking at an I&I rate structure. There was some discussion about what direction the City should take. Mark Powers stated he wanted to go to the vote of the people. Dee Lynn Davey stated that we did not have time to wait to go to a vote. We had to give DNR an answer right away to avoid a fine. Mark Powers stated that we could implement a fee as a stopgap until we can go to a vote. Mark felt strongly that it should be up to the people if we assess a fee or we just pay the fines. There was discussion about bonds, educating the people of our problems with I&I, that there were no phone calls about the fee proposed after the last meeting and about holding public meetings for the residents. They also discussed smoke testing and what was all involved with that process. Mike Talley said that the most sure thing would be to go to the vote of the people. There was a lot of discussion about fees for I&I abatement. They also discussed down spouts and sump pumps being hooked into our sewer system. DNR is being pressured by EPA and are starting cracking down on I&I. Steve Lawver talked to MRWA and they might not be able to assist us until next year sometime. They also will not amend the contract to eliminate the language MIRMA wanted to eliminate. They consider this training. Also their people have several years experience. Kurt Higgins said it could take \$210,000 to smoke test our whole town. Steve said that the equipment would be \$2500-\$3000 and we could do the smoke testing ourselves. MRWA have forms and documentation forms that we can use. There was discussion about the smoke being toxic. It was stated that it is not. Jimmy has suggested they devote 1 day a week to test. It all depends on the manpower. Dee Lynn stated that if people found out it was illegal some of them would probably fix it before we

started the testing. Jimmy did state that Carthage was disappointed in the smoke testing they did. There was discussion about this being part of the final inspection phase of a house being built.

Steve Lawver had given the council information about a special session for the Representatives and Senators.

**COMMITTEE REPORTS**

The Nuisance Committee had nothing to report.

The Public Facilities Committee had nothing to report.

The Park/Pool Committee reported that they are getting ready to order T-shirts.

The Code Review Committee had nothing to report.

The Budget/Finance Committee had nothing to report.

Human Resource Committee had nothing to report.

The Citizen's for Better Life Committee stated they had a new contract to review with the Board for the Seniors.

**UNFINISHED BUSINESS**

Richard Zaccardelli asked if we are still following up on contractors walking away from houses. He had a complaint about Budd & Budd and a vacant lot they owned having high weeds.

Jimmy Chaligoj reported he had the grader and has used it on a couple of jobs already.

Chief Haase reported that Mr. Williams would be working on his lot along Pennell. He has health issues with his daughter but the dozer should be here Saturday to clean it up. Chief told Mr. Williams he needed to make an effort to get it cleaned up. He has been calling the Chief keeping him apprised of the situation. Richard asked about our bag lady. Chief reported that she is still in town and has not been causing any problems. She has chosen the life she leads and just wants to be left alone. She stated that she feels safe in Carl Junction.

**NEW BUSINESS**

The City Clerk then stated that landlord Troy Blair asked that they waive the requirement for deposits for all his rentals. He feels that he is a good landlord and should not be required to put a deposit on each unit. It was stated that the code requires it and we can't waive what the code requires.

Barbara stated that she had a complaint on Miller Street. The 1<sup>st</sup> house has a ditch and the yard flooded because the ditch is plugged. Jimmy said that we have no easement to go on her property. He can clean the ditch along the road but not between the houses.

Mike Talley reported that Duquesne is planning to make an application for grant money for sewer improvements. They stated that there is money out there and no one is applying for it. It was represented during their meeting that the State needs to get rid of the grant money.

Mayor Moss then thanked LaDonna Allen for her work on the Vintage Classic Baseball celebration.

Jim Whisenant then mentioned that there might a need for a building permit for the renovations for one of the liquor license applications approved tonight. He also reported that the building at 1200 Briarbrook Drive has sold and they are trying to resolve some issues so that they can get it up and running.

There was some discussion about Village Landing in Village of Airport Drive.

**ADJOURNMENT**

Pat Smith motioned to adjourn the meeting. Barbara Evans seconded. All in favor. No opposed. Meeting adjourned at 8:57 PM.

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CITY CLERK

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MAYOR