

The Carl Junction City Council met in regular session on Tuesday October 16, 2007 at 7:00 PM at City Hall. Mayor Mike Moss called the meeting to order with the following present: Richard Zaccardelli, Barbara Evans, Mark Powers, Pat Smith, Dee Lynn Davey, Walter Hayes and Wayne Smith. Alderman Carl Skaggs was absent. Also present were City Clerk Maribeth Matney and City Attorney Mike Talley.

### **AGENDA**

Pat Smith motioned to approve the agenda as presented. Dee Lynn Davey seconded. All in favor. No opposed. Pat Smith motioned to approve the consent agenda as presented. Walter Hayes seconded. All in favor. No opposed.

### **PUBLIC FORUM**

Darius Adams, Jasper County Commissioner, addressed the council regarding the bridge tax that will be on the November ballot. This was originally passed in 1986 and it was ¼ of 1%, which is about 57% of their budget. This is used for road repairs, culverts and bridge repairs. He is here asking for the council's support of this tax. It was stated it was county wide and a fair tax. It was also stated that we could either pass a resolution supporting this tax or do it by a motion. Pat Smith motioned to support this tax issue. Richard Zaccardelli seconded. All in favor. No opposed.

### **P&Z CASES**

P&Z Case #07-11 – Membership – City Code 400.030. Mayor Mike Moss opened the public hearing at 7:07 PM. Currently our code requires one council member to be on our P&Z Commission. We have been rotating this position. This amendment clarifies this code to allow a council member to be appointed or not be appointed. There were no comments from the audience during this public hearing. The public hearing closed at 7:09 PM. Pat Smith motioned to put “AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARL JUNCTION, MISSOURI, BY AMENDING TITLE IV. LAND USE, CHAPTER 400 -- PLANNING AND ZONING, SECTION 400.030, MEMBERSHIP OF PLANNING AND ZONING COMMISSION, TO ALLOW THE BOARD OF ALDERMEN TO CHOOSE ANNUALLY WHETHER TO SELECT ONE ALDERMAN, WITH ONE OR MORE ALTERNATES, TO BE A MEMBER OF THE COMMISSION” on first reading by title only. Richard Zaccardelli seconded. All in favor. No opposed. Pat Smith motioned to put it on second reading by title only with a roll call vote. Richard Zaccardelli seconded. Zaccardelli-y, Evans-y, Skaggs-absent, Powers-y, P Smith-y, Davey-y, Hayes-y, W Smith-y. Motion on Ordinance #07-36 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.

### **TAMMY FREDERICKSON – COMMERCIAL TRASH SERVICE**

Tammy Frederickson, 303 Grimes, addressed the council about her problem with their trash service. They are into their 4<sup>th</sup> week with no trash pickup. They stated that they have had kindergarten students there and have ½ eaten lunches and spoiled milk in the dumpster. They have talked to the trash company and they used to get picked up in the evenings and that is not happening now. Tammy said that they got snooty with her when she called and stated that they can't use anybody else. They came to City Hall and talked to the City Clerk and she said they could use someone else. They contacted another company and they put a dumpster there. Allied Waste said that they couldn't use anyone else. The City Clerk looked at the revised contract and the commercial was not changed and they do have to use Allied Waste. Steve said that the other trash hauler is cheaper than Allied. Tammy said when she first called it was not that they were sorry and how can we make you happy it was you have to use us. Recently they have said those phrases but in the mean time they have had to move the dumpster for health reasons. She has not had a problem in the past. They talked to some other business owners and they have had the same type of problems. They all had prior engagements and couldn't come here tonight. Steve asked what procedures they have if they have a problem with the trash. The City Clerk said that they would need to talk to the council and the contract did not have any other course to take. Tammy said that they were allowed to keep the other dumpster until they had come before the council. Mike Talley pointed out that the addendum was for contractor dumpster's not commercial. Our code allows the director to set rules and regulations but there are very few regarding commercial pick up. The contract can be broken if one party fails to live up to the contract. He is not sure if this could be called a breach of contract. Part of the rationale in May 1999 was that the board looked at reducing rates for our residents with an exclusive contract. Steve said that Allied might be open to negotiation on this issue.

Jennifer Fagan, Allied Waste, addressed the council and admitted that the 1<sup>st</sup> phone call was not treated well and they have dealt with their customer service department as a whole since they did not have a name of the representative. She said that they quit picking up nights 2 years ago. She also reported that the supervisor was on vacation when all this happened. They have made several attempts to dump the container. She also stated that they said they could keep the other container on a temporary basis. She stated that they have tried to pickup the container but they do not know where it is. She said that the supervisor has given them his cell phone number and they are to call him directly when there is a problem. She apologized to the Frederickson's. She said that the notes on the file show that on 9/26/07 the dumpster was blocked and they could not pick it up. The next day it was still blocked. On 10/4/07 they received the 1<sup>st</sup> phone call. They show it was blocked during the day that day. On 10/9/07 they received a call and they went to dump and there was no container. On 10/16/07 there was still no container. Steve & Tammy said they moved it to their house. Wayne Smith asked if they did not have any communication with the customer. This is a health issue also. Tammy also stated that the evening pick up changed 2 months ago and that they have never moved it to a different location during the season. They usually pick up on Tuesday at 10:00 PM. They also said that their neighbors have never complained about the noise. Steve said that they have no problem with the people they are talking to now only with the customer service in Springfield. They didn't like the fact they kept

telling them they could not use anyone else, not that we will take care of you. There was discussion amongst the council that they thought the commercial had been affected with the addendum. There was also discussion about commercial pick up and if Allied Waste was meeting our needs. Jennifer assured the council that they can meet our needs. Walter Hayes said he thought it was wrong at the time to give an exclusive contract for commercial. Mike Talley said that we have to provide a notice of the problem and give them a chance to resolve it. There was more discussion about opening up renegotiation on commercial pick up and whether we should form a committee. Richard Zaccardelli said that we don't want to make a decision that will affect the residential pick up. Walter Hayes said we should give notice based on what happened and then if there is a problem in the future they have been put on notice. Dee Lynn said that they are willing to take care of the problem and that we should give them a chance to correct it. Mayor Moss said that we can give them formal notice that a complaint has been lodged about the commercial trash service. Jennifer assured the council that it was being taken care of and that we should review our minutes of the negotiations on what was discussed on commercial accounts.

### **REVIEW AND APPROVE BIDS ON SOCCER BIDS**

Bob Wentworth, BYAA, stated that he received 2 bids on the soccer fields. Jeff Asbell- \$35200 and Brian Bennett- \$15000. He is recommending that we go with the bid from Brian Bennett for \$15000. There was discussion about who would oversee the project. Bob offered his services if needed. Bob said we need to make sure that we follow DNR's guidelines. There was discussion about a contract but if there is no payment until the project is done then we can go ahead. Bob reported that Brian is ready to start. BYAA will be responsible for the seeding of the grass. Richard Zaccardelli motioned to accept the bid from Brian Bennett for \$15000. Barbara Evans seconded. All in favor. No opposed. Bob also reported that the lighting project is complete and working well.

### **COUNCIL DISCUSSION REGARDING GO BOND TAX LEVY**

Steve Lawver then went over our last meeting's discussion regarding our tax levy that will pay off this year. There has been discussion about going on the April ballot with a bond issue for a Community Center/City Hall. This would require an extension of our current levy. It will also incorporate our Senior Center. Wayne Smith asked about the cost of running the facility after it is built. It could be \$1000's of dollars. Wayne said it was a good idea but we need to know the cost of operation. Walter asked if the budget committee needs to get involved. There was also discussion of transportation issues that we will try to do as part of this project. Walter said we need a visual site plan of the whole area. Walter Hayes then motioned to get a conceptual drawing done. Dee Lynn Davey seconded. All in favor. No opposed.

### **ORDINANCES & RESOLUTIONS**

The council reviewed the ordinance approving the agreement with Sproul's Construction. Pat Smith motioned to put "AN ORDINANCE APPROVING A CONTRACT BETWEEN THE CITY OF CARL JUNCTION, MISSOURI AND SPROULS CONSTRUCTION, INC., TO CONSTRUCT THOM'S STATION TRAIL, JASPER COUNTY, MISSOURI, FOR THE CITY OF CARL JUNCTION, MISSOURI, IN ACCORDANCE WITH THE CONTRACT DOCUMENTS, FOR THE SUM OF \$ 86,528.00 OR AS OTHERWISE PROVIDED IN THE CONTRACT; PROVIDING THE TERMS AND CONDITIONS THEREOF; AND AUTHORIZING THE MAYOR TO EXECUTE SAID CONTRACT FOR AND ON BEHALF OF THE CITY OF CARL JUNCTION, MISSOURI" on 1<sup>st</sup> reading by title only. Walter Hayes seconded. All in favor. No opposed. Pat Smith motioned to put it on second reading by title only with a roll call vote. Walter Hayes seconded. Zaccardelli-y, Evans-y, Skaggs-absent, Powers-y, P Smith-y, Davey-y, Hayes-y, W Smith-y. Motion on Ordinance #07-37 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 2 versions of the ordinance approving a settlement agreement with Verizon. Dee Lynn stated that we should pass the version giving contribution to MML. Mike Talley reported that Neosho is not sure since they switched attorneys and they have not decided yet. This is for future needs not past. It was stated that MML is a powerful voice against the lobbyist groups that affect the cities. Anything to give MML a stronger voice is money well spent. There was a lot of discussion about MML and their lobbying for the City's. Mark Powers said that he does not agree with all the things MML does. We need more control. There was more discussion of this law suit. Walter commented that if we had not participated we would not be getting \$18000 from Verizon. Walter Hayes motioned that we put the ordinance with the \$927.26 to MML on the agenda for consideration. Dee Lynn Davey seconded. 6 (Zaccardelli, Evans, P Smith, Davey, Hayes, W Smith) in favor. 1 (Powers) opposed. Walter Hayes motioned to put "AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT WITH VERIZON WIRELESS AND ASSIGNING A PERCENTAGE OF THE SETTLEMENT PROCEEDS TO THE MISSOURI MUNICIPAL LEAGUE" on 1<sup>st</sup> reading by title only. Pat Smith seconded. All in favor. No opposed. Walter Hayes motioned to put it on second reading by title only with a roll call vote. Pat Smith seconded. Zaccardelli-y, Evans-y, Skaggs-absent, Powers-no, P Smith-y, Davey-y, Hayes-y, W Smith-y. Motion on Ordinance #07-38 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 discussed the ordinance amending our code regarding sidewalks. Mike Talley explained the amendments. It allows for corrections in site plan review, repairs to sidewalks and allows for cost sharing under certain circumstances. Pat Smith motioned to put "AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARL JUNCTION, MISSOURI, BY AMENDING TITLE V. BUILDING CODE BY AMENDING CHAPTER 530: MAINTENANCE OF PUBLIC AND PRIVATE PROPERTY TO ADD NEW SECTION 530.015: LANDOWNERS TO PETITION THE BOARD FOR SIDEWALKS, TO PROVIDE FOR LANDOWNERS TO PETITION THE BOARD OF ALDERMEN FOR CONSTRUCTION OF

SIDEWALKS UNDER CERTAIN CONDITIONS, TO AMEND SECTIONS 530.040, 530.060, 530.070 AND 530.080 TO DESIGNATE THE PUBLIC WORKS SUPERINTENDENT TO PERFORM CERTAIN FUNCTIONS REQUIRED BY SAID SECTIONS, TO AMEND SECTION 530.080 TO PROVIDE PROCEDURES TO REPAIR AND REPLACE SIDEWALKS CONSISTENT WITH PROCEDURES TO CONSTRUCT NEW SIDEWALKS, AND TO REPEAL EXISTING SECTIONS 530.090 AND 530.100” on 1<sup>st</sup> reading by title only. Dee Lynn Davey seconded. All in favor. No opposed. Pat Smith motioned to put it on second reading by title only with a roll call vote. Barbara Evans seconded. Zaccardelli-y, Evans-y, Skaggs-absent, Powers-y, P Smith-y, Davey-y, Hayes-y, W Smith-y. Motion on Ordinance #07-39 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. Richard also commented that next time we have site plan for senior citizens complex the P&Z need to consider sidewalks.

Mike Talley then introduced the ordinance establishing a Senior Citizen Committee. He stated that the ordinance that went out in the council packet was modified slightly. He took out the address of the facility and broadened the duties of the committee. Pat Smith motioned to put “AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARL JUNCTION, MISSOURI, BY AMENDING TITLE II. PUBLIC HEALTH, SAFETY AND WELFARE BY ADOPTING A NEW CHAPTER 233: SENIOR CITIZEN COMMITTEE TO ESTABLISH AN ADVISORY COMMITTEE TO ASSIST THE BOARD OF ALDERMEN DETERMINE THE DEVELOPMENT AND MAINTENANCE NEEDS OF THE SENIOR CITIZEN FACILITY AND OTHER RELATED ACTIVITIES PERTAINING TO SUCH FACILITY FOR THE CITY OF CARL JUNCTION” on 1<sup>st</sup> reading by title only. Walter Hayes seconded. All in favor. No opposed. Pat Smith motioned to put it on second reading by title only with a roll call vote. Barbara Evans seconded. Zaccardelli-y, Evans-y, Skaggs-absent, Powers-y, P Smith-y, Davey-y, Hayes-y, W Smith-y. Motion on Ordinance #07-40 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. The City Clerk reported that the meeting with Empire has to be rescheduled.

Chief Haase stated that he included a report from the code enforcement officer for the month of September. He had 262 violations he dealt with in September. He also took care of 304 Leonard. Richard Zaccardelli said that the MML had an interesting article about neighborhood code compliance.

Jimmy did not have anything to add to his report. Richard Zaccardelli thanked Jimmy for the job he did at Springhill & Briarbrook Drive. Pat Smith also thanked him for the work done for the Bluegrass Festival and all the other volunteers.

Mayor Moss reported they met with Buxton, a marketing firm, and it would cost the city \$60,000-\$70,000 for their services. We already have a lot of what they would do and we feel our website will be our best investment. They want to come to give us a presentation.

### **COMMITTEE REPORTS**

The Nuisance Committee had nothing to report.

The Public Facilities Committee had nothing to report.

The Park/Pool Committee reported there will be a Bluegrass Committee meeting 10/18/07 at 6:30 PM. Also there will be a thank you lunch on 10/25/07 for people who helped with the Bluegrass (pizza & desert).

The Code Review had nothing to report. Walter wants to get with Steve Lawver & Mayor Moss to get feedback on the sign ordinance.

The Budget/Finance Committee had nothing to report at this time but will be getting with the City Clerk in November to go through our 6 month financial report.

Human Resource Committee had nothing to report. Richard Zaccardelli pointed out that when we promoted Jimmy he lost a man in that department and would like for the council to think about replacing that position.

The Citizen’s for Better Life Committee had nothing to report.

### **UNFINISHED BUSINESS**

There was no old business to discuss.

### **NEW BUSINESS**

Walter apologized for missing the last meeting. He would like to start reviewing the draft of the pool and fence code amendment. Our fence packet refers to BOCA and the pool packet is IRC and the set backs are different. They had this discussion 2 months ago and would like to get the code book updated. We need to clean it up. There is a draft of this code that we need to look at.

Mayor Moss then pointed out that the Tri-State Water Coalition was asking for dues. Walter stated that we need a report on what they have done and what study they want to do. There was some discussion of the history the local water issues. Mayor Moss said it is not a new issue. Mayor Moss will check into it and get back to the council.

Jimmy reported they did 3 smoke testing areas. There were 7 holes in a 400’ of line that they will need to dig up and repair.

Walter Hayes said that Lowe’s has building permit holders that won’t allow the permit to get wet so we can sign off on them. He asked that we look into them so that we can post the permits as our code requires.

**CLOSED SESSION PER RSMO 610.021(2): LEASING, PURCHASE OR SALE OF REAL ESTATE BY A PUBLIC GOVERNMENTAL BODY WHERE PUBLIC KNOWLEDGE OF THE TRANSACTION MIGHT ADVERSELY AFFECT THE LEGAL CONSIDERATION THEREFOR.**

Pat Smith motioned to go into closed session per RSMO 610.021(2): leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. Barbara Evans seconded. All in favor. No opposed. Session closed at 9:05 PM.

Session re-opened at 9:20 PM.

Mike Talley said that we had 2 closed sessions posted on the agenda. The second one was regarding personnel. Mayor Moss would like to stay in open session, but Mike Talley said if the council feels the need to discuss personal information we need to go into closed session before discussing it.

Mayor Moss then pointed out the e-mail dated 10/8/07 from Jim Whisenant. He is wishing to terminate his employment so that he can collect his unemployment benefits. We have not needed his services so far and Mayor Moss said his letter is self explanatory. Jim also wants copies of documents to show his writing ability. Jim said that we would still pay out on monthly installments. He would like move on with his life. He has had to make adjustments in his family life. He said that severance pay is apart from unemployment and shouldn't affect it. Mark Powers said we can pay out as scheduled. He also does not have any problems with him getting copies of some documents. Mike Talley said that if Jim can identify the documents he can look at them to see if there is a problem with confidentiality. Jim would like 3-4 documents. There was some discussion about allowing Jim to take copies of the documents. Walter Hayes offered his services in helping retrieve the documents. Mayor Moss would like to be in the office when he does. Mark Powers & Richard Zaccardelli said that we could continue to pay on the schedule originally set. Jim also stated that he was within easy commuting distance if we did require his services. Walter Hayes and Mayor Moss will work with Jim on his request of document copies.

**ADJOURNMENT**

Walter Hayes motioned to adjourn the meeting. Richard Zaccardelli seconded. All in favor. No opposed. Meeting adjourned at 9:40 PM.

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CITY CLERK

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MAYOR