

The Carl Junction City Council met in regular session on Tuesday December 1, 2009 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, Dee Lynn Davey Walter Hayes and Wayne Smith. Also present were City Administrator Steve Lawver, City Clerk Maribeth Matney and City Attorney Mike Talley.

AGENDA

Mike Talley stated we needed to amend our agenda to strike the ordinance approving the water tower maintenance contracts and insert the amended bill. Mark Powers motioned to approve the agenda as amended. Carl Skaggs seconded. All in favor. No opposed. Steve Daniels motioned to approve the consent agenda. Carl Skaggs seconded. All in favor. No opposed.

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.

Mike Talley explained that he asked for a closed session to revisit the substance of the closed minutes of the 6/16/09 and 8/4/09 meetings. Carl Skaggs motioned to 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. Don Marshall seconded. Zaccardelli-y, Marshall-y, Skaggs-y, Powers-y, Daniels-y, Davey-y, Hayes-y. Smith-y. Council went into closed session at 7:05 PM.

Mike Talley stated that after reading the Joplin Globe article on 11/20/09 he felt the council should consider opening up the minutes of the 6/16/09 meeting since most of the information discussed in the meeting had been made public by the paper. He noted that since publication of the newspaper article it was no longer reasonable to maintain a closed record based on the belief that public knowledge of the transaction might adversely affect the legal consideration therefor, and that was the only rationale for closing the record in the first place. He also recommends that we open up the closed minutes of the 8/4/09 meeting that clarified the minutes of the 6/16/09 meeting. Mike Talley advised that with the Mayor's consent he had spoken with both Steve Hays and Bud Gehrs concerning opening of these closed minutes since those individuals had ownership interest in the property which was the subject of the closed meeting and proposed transaction, and that they both understood and did not object to opening the minutes since the information had already become public knowledge. There are 9 words that need to be redacted since they should not have been in the minutes to begin with, could cause embarrassment to the party or parties referred to and could have an adverse effect on the outcome of the project; accordingly, public knowledge of the redacted language – language which relates to an aspect of the proposed transaction - might adversely affect the legal consideration for the property. The council reviewed the minutes and agreed with the City attorney to redact the 9 words in the one sentence and make the minutes of 6/16/09 and 8/4/09 open. Walter Hayes then motioned to redact the sentence and open the minutes of the 6/16/09 and 8/4/09 meetings. Carl Skaggs seconded. Zaccardelli-y, Marshall-y, Skaggs-y, Powers-y, Daniels-y, Davey-y, Hayes-y. Smith-y. Wayne Smith then motioned to make the minutes of this closed session open. Richard Zaccardelli seconded. Zaccardelli-y, Marshall-y, Skaggs-y, Powers-y, Daniels-y, Davey-y, Hayes-y. Smith-y. Mark Powers then motioned to go into open session and take a 5 minutes recess for copies to the minutes to be made available to the public. Dee Lynn Davey seconded. Zaccardelli-y, Marshall-y, Skaggs-y, Powers-y, Daniels-y, Davey-y, Hayes-y. Smith-y.

Mike Talley then made a statement to the audience of the action taken during the closed session and why the one sentence was redacted out of the 8/4/09 minutes.

PUBLIC FORUM

Mayor Moss called twice for public forum. There was no one for public forum.

DONNIE RION

Donnie Rion, 117 Hedge Drive, thanked the council for letting him speak. He asked if we had received the petition for the CID yet. It was responded no. He also thanked them for opening the minutes of the meetings. He asked why we took tower #5 off of the maintenance list. It was responded that it was out of operation. Mr. Rion asked why our website stated Mr. Teeter talked to each and every council member but yet at the last meeting the council stated they did not know any particulars of the petition. He also asked what would happen with the back taxes that are owed on it if the CID is approved. Mr. Lawver stated that we put on our website what is in the papers and the council assured Mr. Rion that not all of them had been contacted. Mr. Talley stated that the he does not have an answer on the back taxes but that the council will address that when discussions are taking place between them and the CID Board.

DISCUSSION AND CONSIDERATION OF REAL ESTATE CONTRACT

The council then reviewed the contract on Lot 81 that is for sale. Walter Hayes excused himself from the meeting since he has a conflict of interest. The offer is from the CJFPD. Don Marshall asked if he should also leave since he is a volunteer fireman. Mr. Talley replied no since he has no decision making powers with the Fire Department. It was stated that the offer is for what we listed it at, it was also stated that it would bring no revenue to the City since they are tax exempt and want to build offices. It was discussed as to whether it would be a breach of contract if we refused and Walter was brought back in for his expertise in real estate contracts. Mr. Hayes stated that we were under no legal obligation to accept the contract even if it is for the contract amount. Mr. Hayes then left the meeting again. It was discussed that it is for the asking price, that they take care of their property, it was also

stated that it would not generate any income for the city and we should wait until our Community Center is finished. The last comment was that it would generate income indirectly. Mark Powers motioned to accept the contract. Wayne Smith seconded. 7 (Zaccardelli, Marshall, Skaggs, Powers, Daniels, Davey, Smith) in favor. 1 (Hayes) abstained. It was stated that an ordinance needs to be drawn up for final approval.

ORDINANCES

The council reviewed the ordinance approving the maintenance agreements on 6 water towers with Utility Services. Carl Skaggs motioned to put "AN ORDINANCE APPROVING SIX WATER TANK MAINTENANCE CONTRACTS BETWEEN THE CITY OF CARL JUNCTION, MISSOURI AND UTILITY SERVICE CO., INC., TO MAINTAIN WATER TANKS DESCRIBED AS TOWERS 2, 3, 6, 7, 8 AND 9 FOR THE CITY OF CARL JUNCTION, MISSOURI, IN ACCORDANCE WITH SAID CONTRACTS FOR THE FOLLOWING SUMS: TOWER 2, \$31,184.00 ANNUALLY FOR 6 YEARS, AND THEREAFTER \$13,879.00 ANNUALLY FOR THREE YEARS; TOWER 3, \$27,068.00 ANNUALLY FOR 6 YEARS, AND THEREAFTER \$11,311.00 ANNUALLY FOR THREE YEARS; TOWER 6, \$22,989.00 ANNUALLY FOR 6 YEARS, AND THEREAFTER \$10,632.00 ANNUALLY FOR THREE YEARS; TOWER 7, \$24,841.00 ANNUALLY FOR 6 YEARS, AND THEREAFTER \$16,372.00 ANNUALLY FOR THREE YEARS; TOWER 8, \$28,199.00 ANNUALLY FOR 6 YEARS, AND THEREAFTER \$12,781.00 ANNUALLY FOR THREE YEARS; TOWER 9, \$26,193.00 ANNUALLY FOR 6 YEARS, AND THEREAFTER \$12,580.00 ANNUALLY FOR THREE YEARS; AUTHORIZING PAYMENT OF SAID \$1,195,509.00 OVER 9 YEARS; 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. Dee Lynn Davey seconded. All in favor. No opposed. Carl Skaggs motioned to put it on second reading by title only with a roll call vote. Dee Lynn Davey seconded. Zaccardelli-y, Marshall-y, Skaggs-y, Powers-y, Daniels-y, Davey-y, Hayes-y, W Smith-y. Motion on Ordinance #09-54 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 that the dirt at the Community Center does not appear to have the need to be reported since the preliminary report shows that less than 50 gallons of diesel was in the dirt. He does not have the final report back yet. Richard Zaccardelli asked about a walk through and Steve reported that the Committee's can do a walk through after our meetings on Thursday but that they will not allow any other groups until after it is completed due to liability reasons.

Public Works report – there was nothing new to report.

Police Department report – there was nothing new to report. Steve reported that Delmar got out of surgery at 12:00 today and seems to be doing fine. It was stated that we will need volunteers for Shop with a Cop on 12/19/09.

Court Report – there was nothing to add.

COMMITTEE REPORTS

The Nuisance Committee had nothing to report.

The Long Range Planning Committee had nothing to report but asked that Steve set up a meeting with Brian Ross.

The Budget/Finance Committee reported they will be meeting Thursday at 3:30 PM with the Public Facilities Committee.

The Human Resource Committee reported that they will be handing out evaluation forms to the council to be filled out on the City Administrator.

The Public Facilities Committee met tonight on the trash proposal. We got positive reports back from Carthage and Bentonville. Allied is putting together a proposal for Mike Talley to review to go to automated trash hauling. The committee will also be meeting this Thursday 12/3/09 at 3:30 PM with the Budget/Finance Committee.

The Code Review Committee had nothing to report.

The Citizen's for Better Life reported that they have suspended the Saturday breakfast until they move into the new building. Steve stated that we were ready for the funds that they were going to donate to the Community Center.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

Steve Daniels reminded everyone of the Christmas parade this Sunday at 2:00 PM.

Mayor Moss asked that the Human Resource Committee consider moving our insurance renewal to January so that it coincides with the deductibles in our health insurance plan. He also asked that they look into a plan that the employee can put money aside to each month to help out with their deductibles.

The City Clerk pointed out that the opening date for candidate filing is 12/15/09 and that there are 4 council positions up for election. The closing date is 1/19/10.

ADJOURNMENT

Wayne Smith motioned to adjourn the meeting. Carl Skaggs seconded. All in favor. No opposed. Meeting adjourned at 8:20 PM.

CITY CLERK

MAYOR