



City Council Meeting

Regular Session Minutes
May 22, 2017

I. CALL TO ORDER

A regular meeting of the City Council of the City of Liberty, Missouri was held in the Council Chambers at City Hall on May 22, 2017 with Mayor Lyndell Brenton presiding. Mayor Brenton called the meeting to order at 7:00 p.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Gene Gentrup, who then led the pledge of allegiance.

III. ROLL CALL

Council Members Present: Harold Phillips and Paul Jenness, Ward I
Greg Duncan and Rae Moore, Ward II
Kevin Graham and Jeff Watt, Ward III
Michael Hagan and Gene Gentrup, Ward IV

Council Members Absent: None

Staff Present: Curt Wenson, City Administrator
Andy Noll, Public Works Director
Brian Hess, Utilities Director
Janet Bartnik, Parks and Recreation Director
James Simpson, Police Chief
Mike Snider, Fire Chief
Katherine Sharp, Assistant Planning Director
Mike Peterman, Planner
Janet Pittman, Deputy City Clerk

Public Present: Kellie Houx, Liberty Tribune
35 members of the public

IV. APPROVE MINUTES AND SUMMARIES

A. Regular Session Minutes of May 8, 2017

Council Member Watt moved to approve the minutes as distributed. Council Member Hagan seconded the motion, which carried 7-0-1. Council Member Moore abstained due to absence.

V. CITIZENS' PARTICIPATION

A. Public Works Week Proclamation

Mayor Brenton read the Public Works Week Proclamation and presented it to Public Works Director Andy Noll.

Bradley Dice, 1400 North B. Highway, stated that over the past 10 years he has been in contact with Time Warner and AT&T regarding broadband access on the east side of town. They have never had access to high speed internet over 3 megabytes. AT&T stated to him that if fiber was run from downtown to the old VFW Hall it could serve 400 citizens. He was wondering if service providers are able to pick and choose the areas they want to serve. Does the City have any input? He is curious as to what the franchise agreements say, and if the City has any leverage.

VI. MEETING SCHEDULE

VII. CONSENT AGENDA

- A. Motion to authorize the payment to Jeff Soligo Construction Co., Inc. in the amount of \$51,078.01 for the purchase of rock for the roadway maintenance of Petty Road.

The 2016 Capital Plan for Public Works included the replacement of storm culverts under Petty Road and rebuilding the surface of Petty Road with rock. The purchase and transport of rock from Jeff Soligo Construction Co. was determined to be the most efficient method to acquire the needed materials to complete the project.

Action: Council Member Hagan moved to authorize the payment. Council Member Phillips seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

- B. Resolution approving a Liberty Community Center Alcoholic Beverage Service Application for Isabel Fierro-Cheda for a small/private event on June 3, 2017

Action: Council Member Hagan moved to approve the resolution. Council Member Phillips seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Inscribed in Resolution No. 2898.

VIII. PUBLIC HEARINGS

- A. Ordinance amending the Official Zoning Map of the City of Liberty, Missouri by Rezoning 2.23 acres at 8301 NE 69 Highway, South of South Liberty Parkway from R-1A, Suburban Residential District to PD, Planned Development District to allow the Development of a Logistics Business [P&Z Case 16-41R&PDP] **{to be further postponed to June 26, 2017}**

Action: Council Member Watt moved to postpone consideration of the ordinance to the June 26th Regular Session. Council Member Gentrup seconded the motion, which carried unanimously.

- B. Resolution approving a Special Use Permit to allow the Temporary Sale of Fireworks by Belfonte Fireworks, from June 20, 2017 to July 4, 2017 on a 2.44 acre lot in Oakwood Business Park Southwest of Clay County Health Center, Liberty, Missouri [P&Z Case 17-15SUP]

Mayor Brenton opened the Public Hearing and asked if anyone wished to speak either in favor or in opposition of the resolution. Seeing no one wishing to speak, the Mayor closed the Public Hearing.

Action: Council Member Hagan moved to approve the resolution. Council Member Graham seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Inscribed in Resolution No. 2899.

- C. Resolution approving a Special Use Permit to allow the Temporary Sale of Shaved Ice by Hawaiian Ice, LLC from May 25, 2017 to August 25, 2017, on an Industrially-Zoned Lot East of 2108 College Street, in the City of Liberty, Clay County, Missouri [P&Z Case 17-22SUP]

Mayor Brenton opened the Public Hearing and asked if anyone wished to speak either in favor or in opposition of the resolution. The applicant, Patrick Revnew, 9403 N. Laurel Ave., Kansas City, stated that he has operated other stands and this will be his first in Liberty.

Seeing no one else wishing to speak, the Mayor closed the Public Hearing.

Action: Council Member Watt moved to approve the resolution. Council Member Phillips seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Inscribed in Resolution No. 2900.

- D. Resolution approving an Amended Preliminary Development Plan for North Haven Center, in Liberty, Clay County, Missouri [P&Z Case 17-18PDP-A]

The central change in this plan is to allow a four story, 58,500 square foot hotel on Lot 2, a departure from the 10,000 square foot, one story retail building shown on the previous preliminary plan. The applicant is requesting 2 variances. The variances

requested include: four story building height (maximum height in the C-3 district is three stories), and proposed parking at a ratio of one stall for every guest room.

Mayor Brenton opened the Public Hearing and asked if anyone wished to speak either in favor or in opposition of the resolution.

Art Akin, AGC Engineers, Inc., 405 S. Leonard Street, Liberty, stated the parking variance requested is for one stall per room, plus four for employees, for a total of 97 stalls provided within their lot.

Heather Woleski, Brownfig Development, stated that one stall for each room, plus four additional stalls for employees, was comparable to other area hotels she surveyed.

Seeing no one else wishing to speak, the Mayor closed the Public Hearing.

Action: Council Member Phillips moved to amend the resolution by including the height variance of four stories and parking variance of one stall per room, plus four additional for staff. Council Member Jenness seconded the motion, which passed unanimously.

Action: Council Member Hagan moved to approve the resolution as amended. Council Member Jenness seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Inscribed in Resolution No. 2901.

- E. Resolution approving a Special Use Permit to allow Eleven Attached Single-Family Units on 3.4 Acres at the Clayview Drive and Guinevere Drive Intersection in Liberty, Clay County Missouri [P&Z Case No. 17-07SUP]

This is an application to allow the construction of 4 buildings with 11 units on 3.4 acres on the west side of Clayview Drive between Guinevere Drive and Lancelot Drive.

Mayor Brenton opened the Public Hearing and asked if anyone wished to speak either in favor or in opposition of the resolution.

Rick Westmoreland, 380 N. Clayview Drive, Liberty, stated that the new design is connected to the existing units. They will be using similar building products to the units to the south.

Seeing no one else wishing to speak, the Mayor closed the Public Hearing.

Action: Council Member Watt moved to approve the resolution. Council Member Hagan seconded the motion.

Vote: Motion passed 7-1-0

Yes: Council Members Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None
Abstain: Council Member Phillips
Inscribed in Resolution No. 2902

- F. Ordinance amending the Official Zoning Map of the City of Liberty, Missouri by Rezoning 1.71 Acres at the Southwest Corner of N. Prairie St. and W. Mississippi St. from CBS, Central Business Service District and RNC, Neighborhood Conservation Residential District to PD, Planned Development District to allow the development of at 38 Unit Apartment Complex [P&Z Case No. 17-21 R&PDP]

This application to rezone is to allow the construction of a 38 unit multi-family complex to be used as a rental apartment complex. There will be 32 two-bedroom units and 6 one-bedroom units. The ground floor units will be accessible for the elderly and disabled renters. The applicant is requesting a variance from the parking requirement of two parking stalls for each dwelling unit. The applicant proposes a per unit ratio of 1.87 stalls per unit counting the on-street parking and 1.47 stalls per unit of designated off-street parking.

Document No. 8484 was read.

Mayor Brenton opened the Public Hearing and asked if anyone wished to speak either in favor or in opposition of the ordinance.

Mayor Brenton stated that the City Council had received non-substantial ex-parte communication from the public pertaining to density and parking concerns. He also stated that a valid protest petition, signed by property owners of 33.56% of the land within the 185 foot area of notification, had been received. As such, a super majority vote of the Council would be required for passage of the ordinance.

Amy Gray, A3G Architects, spoke on behalf of the applicant. She stated that is a blighted area of town, and trends show that adjacent single family homes benefit when there is a multi-family residential buffer to commercial. The proposed location is outside but abutting the historic district. The project design would be a complement to the surrounding area. These residents, living within a walkable distance, would utilize downtown amenities and be good for the commercial businesses. There will be a 50 ft. landscape buffer surrounding the proposed development. The developer has taken into account the neighbor's concerns and has reduced the density, building height and design.

Mike Bedinger, W. Franklin, stated that of the nine property owners against the project when it was first proposed, two have since moved away. He asked Council if the City was going to 'do something' here or do a 'do nothing' on this property. The proposed development would bring additional housing options to the City.

Landon Whitsitt, 116 W. Franklin, stated he is opposed to the plan. Since the development would be open to families and not just seniors, there is the potential for multiple vehicles per household, and he is concerned about parking. Vehicles will be parking on the street and in area lots which are already in short supply.

Heather Anderson, 127 N. Morse, stated that she is not opposed to the development, the plan is very good. She is requesting that the 3-story buildings come down to 2-stories.

Eric Schmidt, 222 W. Franklin, stated that he has handled commercial real estate and that the density of this project is too high. It will put pressure on City infrastructure (ie. street parking).

Ashley Backs, 28 S. Main, stated that she is a small business owner living and owning a business in Liberty. This residential development would be a great opportunity for area businesses.

Carl Rinker, 210 W. Franklin, stated he has lived in Liberty for 38 years. The property has had two residential structures and two commercial structures on it that have sometimes been well maintained, and sometimes not. The current homes in that block house 27 people, with 23 vehicles. The proposed project, which is approximately 1/3rd of the block, at 38 units would have a greater amount of people and parking needs. This complex will be a dominant feature on this block. He is not opposed to higher density, this proposal is just too dense.

Doug Day, 131 N. Morse, stated that the developer and the architect are both good. He is worried about decreasing values. There are many other developments in the area that have more amenities at the same price. A price war will lower price/value, and decreasing property values will ensue for neighbors. He asked 'how many 40-50 year old apartment complexes is the Council proud of that are right off the square?'. There are numerous 100 year old homes there that the Council is proud of.

John Keller, 221 W. Franklin, stated that this project would add dozens of additional families and children into an already stressed area (ie. school resources).

David Fulk, 227 W. Kansas, stated that rezoning applications consider the highest and best use for a property. The best use for this area is residential. Part of the Blueprint for Liberty and Downtown Master Plan discussions for this property envisioned it as something 'more' (ie. higher density residential, not single family). However, it wasn't something of this great of density. The proposal is beautiful, but too much in that space.

Shane Griffin, 1016 Scott Drive, stated he is a local property and business owner who is investing money to help downtown thrive. Downtown business owners need more people in proximity to downtown. This lot will eventually be something, and it won't be single family residential. The overall value of property values benefit from a thriving downtown. He presented a petition signed by area businesses that are supportive and want to see such a higher density project.

Brett Rinker, 425 Miller, stated there is a 14 unit/acre complex across from his home that is well maintained and blends in with the neighborhood. Having all of the buildings two stories, instead of some being 3 stories, would blend better. He added that a few less people won't impact downtown businesses that much.

Andre Grey, 501 Franklin, stated that he sells real estate. Area property values have been increasing over the last couple of years. Housing inventory is needed, especially near the downtown.

Rob Hill, the developer, stated that he has been working at this project for over 1 ½ years. He noted that some of the neighbors attended informational meetings; however, most do not. Mississippi is a blighted area now. The proposed density for

this project is 22, and 50 ft. away at Morse Plaza, the density is 21. He stated that the neighbors wanted the project to have two parking spots per unit so he was able to increase it to 1.87. They had stated that they were ok with a density of 30 so he was able to reduce the number of units to 38. He noted that there was good discussion with the neighbors and he felt they were on board and supportive so he was surprised when these same individuals signed a protest petition. He stated that he has tried to keep addressing their concerns; however, it's like they don't want anything built there.

Seeing no one else wishing to speak, the Mayor closed the Public Hearing.

The Mayor stated that second reading of the ordinance would be scheduled for June 12, 2017.

G. Ordinance amending Article XV of the Unified Development Ordinance of the Code of the City of Liberty, Clay County, Missouri (Design Specifications, Streets and Alleys)

Former MoDOT roadways currently function well and meet engineering standards. Staff is recommending a modification to Section 30-93.3 of the UDO, adopting a Natural Route typical section.

Mayor Brenton opened the Public Hearing and asked if anyone wished to speak either in favor or in opposition of the ordinance. Seeing no one wishing to speak, the Mayor closed the Public Hearing.

Document No. 8485 was read.

Action: Council Member Hagan moved to waive the rules and consider the ordinance on first reading. Council Member Graham seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Watt moved to approve the ordinance. Council Member Gentrup seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 10736.

IX. ORDINANCES, CONTRACTS AND RESOLUTIONS

A. Acknowledgement vendor payments for the period of April 28, 2017 to May 12, 2017

Mayor Pro Tem Phillips took over as Chair of the meeting.

1. Ordinance excluding Westland Landscape payments

Document No. 8486 was read.

Action: Council Member Hagan moved to approve the vendor payments. Council Member Graham seconded the motion.

Roll Call

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 10737.

2. Ordinance including Westland Landscape payments.

Document No. 8487 was read.

Action: Council Member Watt moved to approve the vendor payments. Council Member Gentrup seconded the motion.

Roll Call

Vote: Motion passed 7-0-1

Yes: Council Members Phillips, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: Council Member Jenness, due to potential conflict of interest

Approved by the Chair and inscribed in Ordinance No. 10737.

Mayor Brenton resumed as chair of the meeting.

B. Resolution approving a Final Development Plan for B&B Theater in Blue Jay Crossing on Victory Drive, in Liberty, Clay County, Missouri [P&Z Case 17-17FDP]

Council Member Hagan recused himself from the meeting and left the room.

This final development plan contains one 68,000 square foot building, containing a 1,141 seat multiplex theater, and an 85 seat bar and lounge. The theater constitutes the second phase of Blue Jay crossing, and will connect to the first phase by an access point to Victory Drive to the north.

Action: Council Member Jenness moved to approve the resolution. Council Member Watt seconded the motion.

Vote: Motion passed 7-0-0

Yes: Council Members Phillips, Jenness, Moore, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Inscribed in Resolution No. 2903.

Council Member Hagan returned to the meeting.

C. Withers Farm Senior Apartments

This is an approximately 16.8 acres, one lot plat to accommodate the development of three 4 and 5 story apartment buildings in the Withers Farm Senior community.

1. Ordinance accepting and approving a Final Plat for Withers Farm, in the City of Liberty, Clay County, Missouri [P&Z Case No. 17-19FP]

Document No. 8488 was read.

Action: Council Member Watt moved to waive the rules and consider the ordinance on first reading. Council Member Phillips seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Phillips moved to approve the ordinance. Council Member Hagan seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 10738.

2. Resolution approving a Final Development Plan for Withers Farm Senior Apartments on Withers Road North of South Liberty Parkway, in Liberty, Clay County, Missouri [P&Z Case 17-20FDP]

Withers Farms Senior community is a planned development of approximately 16.8 acres, which is comprised of one lot containing three apartment buildings, two of which are 5-story and one that is 4-story. The 4-story building will have 75 units and the 5-story buildings are proposed to have 58 units each for a total of 191 units. Also included will be a community clubhouse and a pool. The applicant received approval of two variances during the preliminary development plan phase. The variances granted included reducing the parking requirement from two spaces per unit to 1.61 spaces per unit, and encroachment into the required Riparian edge buffer zone as it relates to the FEMA floodplain.

Action: Council Member Phillips moved to amend the resolution to include the previously granted parking and encroachment variances. Council Member Hagan, which passed unanimously.

Action: Council Member Hagan moved to approve the resolution as amended. Council Member Phillips seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Inscribed in Resolution No. 2904.

- D. Ordinance amending Ordinance No. 10700, approving a Contract with Natara

Corporation for the Outdoor Pool Liner Replacement Project at the Liberty Community Center, increasing the contract by \$1,920., from \$40,000 to a not to exceed amount of \$41,920.

While the PVC membrane system with a proprietary anchoring system was expected to function for approximately 7 years, the outdoor pool liner has performed well for a much longer time than that life expectancy. Staff recommended replacing the existing liner with the same liner type and utilizing the existing anchoring system. In preparation for the project it was brought to light that the original contract was for a pool 75 feet in length and the Liberty Community Center's outdoor pool is 82 feet in length. The cost to correct the measurement error is \$1,920.

Document No. 8489 was read.

Action: Council Member Jenness moved to waive the rules and consider the ordinance on first reading. Council Member Graham seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Hagan moved to approve the ordinance. Council Member Phillips seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 10739.

- E. Ordinance amending Ordinance No. 10638, approving a Contract with Phillips Paving Co. for Asphalt Construction Services at the Fountain Bluff Sports Complex, increasing the contract by \$25,000., from \$216,811 to a not to exceed amount of \$241,811 for additional asphalt services at 1400 Southview Drive, Liberty

Construction services included maintenance of existing asphalt areas located at the Fountain Bluff Sports Complex's baseball/softball and soccer venue. This amendment will provide funds to upgrade the existing asphalt parking lot at the Church of the Nazarene for the practice soccer areas, currently leased by the City, to handle the additional traffic that will occur during practice times.

Document No. 8490 was read.

Action: Council Member Phillips moved to waive the rules and consider the ordinance on first reading. Council Member Hagan seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Watt moved to approve the ordinance. Council Member Jenness seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup
No: None
Abstain: None
Approved by the Chair and inscribed in Ordinance No. 10740.

F. Ordinance approving an Agreement with Fire Recovery EMS, LLC for Emergency Medical Services Cost Recovery Services

In 2004, the City entered into an agreement with a third party vendor for the billing process. To ensure this rate was the current market rate, potential billing companies were sent a Request for Qualifications (RFQ). After review of the RFQ, and interview with Fire Recovery EMS, followed by reference checks it was determined that Fire Recovery EMS met RFQ components and was a company that focused on customer service both internal and external.

Document No. 8491 was read.

Action: Council Member Phillips moved to waive the rules and consider the ordinance on first reading. Council Member Hagan seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Watt moved to approve the ordinance. Council Member Jenness seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 10741.

G. Ordinance approving an amendment to an Agreement with Denali Water Solutions, LLC for the Disposal of Water Plant Residuals in an amount not to exceed \$50,000 [Project UT-005-16]

Wastewater bio solids are produced in the wastewater treatment process and are the end product that is created from processing the waste. The process is continuous and requires a disposal process which may include land application on farm fields or in a landfill. As the wastewater treatment facility is now at the point of producing bio solids, it is necessary to contract with a provider to dispose of the bio solids.

Document No. 8492 was read.

Action: Council Member Phillips moved to waive the rules and consider the ordinance on first reading. Council Member Jenness seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Watt moved to approve the ordinance. Council Member Gentrup seconded the motion.

Vote: Motion passed 8-0-0
Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup
No: None
Abstain: None
Approved by the Chair and inscribed in Ordinance No. 10742.

- H. Ordinance amending Ordinance No. 10271, approving a Contract with Goodwin Bros. Construction Co. for the Design and Construction of the Liberty Wastewater Treatment Facility Project [Project UT-002-14], increasing the contract by \$1,281,934.16 for a not to exceed amount of \$75,298,992.16

The contract amendment is established to incorporate additional expenses related to boring and excavation cost for the west trunk main extension, additional information technology hardware/software, mitigation restoration, and an additional sewer main extension. The majority of the costs are in conjunction with unsuitable material or rock that was encountered while constructing the west trunk extension. The sanitary sewer main extension with this contract amendment is a condition of an easement that was acquired as part of the project to extend the west trunk main. Other costs are enhancements to the security of the information technology aspects of the project and restoration of the wetland areas encountered during the construction of the sewer mains.

Document No. 8493 was read.

Action: Council Member Hagan moved to waive the rules and consider the ordinance on first reading. Council Member Phillips seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Phillips moved to approve the ordinance. Council Member Hagan seconded the motion.

Vote: Motion passed 8-0-0
Yes: Council Members Phillips, Jenness, Moore, Hagan, Graham, Watt, Duncan and Gentrup
No: None
Abstain: None
Approved by the Chair and inscribed in Ordinance No. 10743.

- X. OTHER BUSINESS
- XI. MISCELLANEOUS MATTERS FROM CITY ADMINISTRATOR
- XII. MISCELLANEOUS MATTERS FROM MAYOR AND CITY COUNCIL

XIII. ADJOURNMENT

The meeting adjourned at 9:15 p.m.

Attest:

Mayor

Deputy City Clerk