

**SMITHVILLE BOARD OF ALDERMEN
REGULAR SESSION**

January 5, 2021 7:00 p.m.
City Hall Council Chambers

Due to the COVID-19 pandemic this meeting was held via teleconference.

Mayor, Aldermen and staff attended via Zoom meeting. The meeting was streamed live on the city's FaceBook page. Attendance in person by members of the public was not permitted.

1. Call to Order

Mayor Boley, present at City Hall, called the meeting to order at 7:00 p.m. A quorum of the Board was present via Zoom meeting: Steve Sarver, Marv Atkins, John Chevalier, Dan Ulledahl, Melissa Wilson and Jeff Bloemker.

Staff present via Zoom: Cynthia Wagner, Chuck Soules, Chief Jason Lockridge, Matt Denton, Stephen Larson, and Linda Drummond. John Reddoch, City Attorney was also present via Zoom. Jack Hendrix was present at City Hall

2. Pledge of Allegiance lead by Mayor Boley

3. Public Hearing – Involuntary Annexation of Certain Lots in Lakeside Crossing

Lot 4, Lakeside Crossing First Plat	Lot 8, Lakeside Crossing First Plat
Lot 12, Lakeside Crossing First Plat	Lot 24, Lakeside Crossing First Plat
Lot 34, Lakeside Crossing First Plat	Lot 36, Lakeside Crossing First Plat

Mayor Boley opened the Public Hearing at 7:01 p.m.

Jack Hendrix, Development Director gave testimony on behalf of the City and presented the following twenty items.

1. Lakeside Crossing is a subdivision which was originally platted by Clay County. The Developer (who owned all of the land at issue at the time) entered into an agreement/contract with the City of Smithville ("the Developer Agreement") to provide sewer service to the subdivision at greater than the cost charged to City Residents. This Agreement dated November 1, 1996 was recorded in the Clay County Recorder of Deeds office on October 22, 1997 at Book 2740 Page 327.
2. The Developer Agreement provided in part that when Smithville grew to the point that it was contiguous to the subdivision, that the owners of the land would apply to be voluntarily annexed into the City. The Developer Agreement specifically provided at ¶13 "The City and Property Owners further agree that upon the request of the City and provided that the property of Property Owners above mentioned is contiguous to the City, Property Owners shall take all

necessary measures to voluntarily annex all property above mentioned into the City of Smithville.”

3. Since November 1, 1996 all the lots of the Lakeside Crossing subdivision have changed hands from the developer to the builder(s) to the ultimate buyers and/or their assigns. Each of the current owners of the lots in this subdivision acquired their ownership after November 1, 1996.
4. The City is now contiguous with all lots in the subdivision. By the Spring of 2020, a substantial majority of lot owners of this subdivision had applied for and been annexed into the City. However, eleven (11) lots had not. One of these lots annexed in August, and three more in December. One more has now made application to voluntarily be annexed into the City in January 2021. Six (6) lots remain within the subdivision but not within the City and have not applied for annexation.
5. The length of the contiguous boundary common to the City’s existing limit is at least 15% of the length of the perimeter of each of the following lots/property proposed for annexation that currently remain outside the City limits:
6. Lot 4, Lakeside Crossing First Plat, Clay County Missouri 15719 North Chestnut, Smithville, Missouri 64089 owned by Gary W. and Lisa L. Duddy.

Lot 8, Lakeside Crossing First Plat, Clay County Missouri also known as 2413 NE 157th Terrace, Smithville, Missouri 64089 owned by Angela Covey.

Lot 12, Lakeside Crossing First Plat, Clay County Missouri also known as 2417 NE 157th Terrace, Smithville, Missouri 64089 owned Alan B. and Nicole D. Bibler.

Lot 24, Lakeside Crossing First Plat, Clay County Missouri also known as 15705 N. Wabash Street, Smithville, Missouri 64089 owned by Ronald D. Walker and Pamela G. Faulkner. An application was received today for voluntary annexation.

Lot 34, Lakeside Crossing First Plat, Clay County Missouri also known as 2224 NE 158th Street, Smithville, Missouri 64089 owned by Russell and Betty Woollums.

Lot 36, Lakeside Crossing First Plat, Clay County Missouri also known as 2402 NE 158th Street, Smithville, Missouri 64089 owned by the Kevin T. and Regina L. O’Brien Trust.

7. The City is providing police service to most of the lots in the subdivision. Absent checking a plat map, the City’s police officers have no way of knowing when one neighbor is in the City and the other is not. Also, those neighbors

and properties set forth above not in the City have the benefit of the services paid for by City residents.

8. The City's Ordinances apply to most of the lots in the Lakeside Crossing subdivision but not all.
9. The City is charging two different sewer rates to lots within the same subdivision.
10. Last year the City sent each of the current owners of the lots in the Subdivision not within the City, a letter outlining the history and previous agreements and asking that they apply to be voluntarily annexed pursuant to §71.012 R.S.Mo.. One has asked to be annexed others refused to respond. Other than continued questions, there has been no further contact or response from the remaining owners to the City's request that they ask to be voluntarily annexed.
11. The process for involuntary annexation is set forth in § 71.015, R.S.Mo.
12. The City by its Board of Aldermen Pursuant to §71.015 R.S.Mo. adopted Resolution 839 on the 6th day of October 2020 announcing its intention as an alternative to the above said litigation to Involuntarily Annex the above said property and setting the 17th day of November 2020 at 7.00 P.M. Thereafter, the City adopted Resolution 854 on the 17th day of November 2020 to amend the date of the hearing to January 5, 2021 at 7:00 pm for a public hearing to be held at City Hall before the Board of Alderman concerning whether the City has met its burden under §71.015 R.S.Mo. to Involuntarily Annex the above property and whether to pass an Ordinance proceeding with the annexation.
13. The City has made a good faith effort to notify all fee owners of record of the land proposed to be annexed by certified mail between 30 days and 60 days before 5th day January 2021 at 7.00 P.M.
14. The City has published in a newspaper of general circulation qualified to publish legal matters in the Clay County at least three weeks before the hearing notice of the hearing regarding the proposed involuntary annexation of the above said property. The publications occurred on December 10, December 17 and December 24.
15. The boundaries of each of the above said properties comply with the statutory requirements of §71.015 R.S.Mo. regarding Involuntary Annexation.
16. The City is either currently providing services to each of the above said properties or has a plan of intent to provide or make sure said services are provided to the each of the properties proposed for annexation within three years of annexation. The City either currently provides or has available, Sewer Service, Police Protection, Parks Services and Refuse Collection and Street

Repair and Maintenance. Fire Protection is provided by the Smithville Area Fire Protection District and Water is provided by Public Water Supply District #9 of Clay County.

17. The City believes that the annexation of each of the above said properties is reasonable and necessary to the proper development of the City.
18. The effective date of the Annexation for each of the above said properties will be on the earlier of: (A) The date when said properties are approved for voluntary annexation pursuant to §71.012 R.S.Mo. or (B) Thirty (30) Days after the latter of the Declaratory Judgment or the final election required by §71.015 R.S.Mo..
19. Upon annexation each of the above said properties will be zoned R-1B Single Family pursuant to the Ordinances of the City of Smithville.
20. Upon annexation each of the above said properties will subject to City Sales Tax in the Amount of 8.475% (2.5%) and City Use tax in the amount of 7.85% ((2.5%) and City Real Property Tax in the amount of \$0.4484 per One Hundred Dollar Valuation and Personal Property Tax in the Amount of \$0.4484 per One Hundred Dollar Valuation, pursuant to the Ordinances of the City of Smithville. Sewer fees will be reduced to those rates charged other residents in the City limits.

Public Testimony

Russ Woollums, 2224 NE 158th Street, Lot 34, stated that he and his wife are the original purchaser and current occupant. He said the primary point he would like to make to the Board of Alderman was that they would be willing to sign off on a voluntary annexation however they would request a one-year lead time before the effective date.

Kevin O'Brien, 2402 NE 158th Street, Lot 36, stated that he and his wife Regina purchased their home in 2006. Shortly after they purchased the home, they were approached by the City of Smithville asking if they would like to voluntarily annex. They decided not to and were told they did not have to but whoever purchased the house from them would have be forced to annex into the City. He said that he had consulted a lawyer and was told that he if brought the case to court he would probably win but it would cost him his life savings.

Pam Faulkner, 15705 N. Wabash Street, Lot 24, stated that she did not address the issue because her home is for sale. She had a contract on it, and they were to close but one week prior to closing the buyer backed out. She explained that she called the City Monday to find out what advantage it would be to annex. She stated that they moved there in 2003 and where told they would always be in the County unless they sold, then the home would have to be annexed into the City.

She also said that the City did not inform them when the Lakeside Crossing subdivision plat was changed to include larger lots.

Adjourn Public Hearing for Involuntary Annexation of Lakeside Crossing

Mayor Boley closed the Public Hearing at 7:16 p.m.

4. Consent Agenda

- **Minutes**

- December 15, 2020 Board of Alderman Work Session Minutes
- December 15, 2020 Board of Alderman Regular Session Minutes

No discussion.

Alderwoman Wilson moved to approve the consent agenda. Alderman Ulledahl seconded the motion.

Ayes – 5, Noes – 0, Abstained – 1, motion carries. The Mayor declared the consent agenda approved.

REPORTS FROM OFFICERS AND STANDING COMMITTEES

5. Committee Reports

Alderman Chevalier reported on the December 17 Parks and Recreation Committee meeting. They met with the Future iQ, Landworks Studio and JS & A consultants to discuss the process for the Parks Master Plan.

Mayor Boley thanked Alderwoman Wilson for attending the meeting and encouraged the Alderman to attend future Parks Master Plan meetings.

6. City Administrator's Report

Cynthia noted that in the packet was information about staff preparing to respond to the winter events last week. Chuck Soules and Allen Jensen have provided additional information on those events. Tuesday was basically a rain event that turned to ice and slush, City crews spent about nine and a half hours and dispersed approximately 25 tons of salt. The Friday event was more extensive and all our crews as well as the contractor, Lotus, were called in to begin work around 1:00 a.m. to pretreat hills and stops. The rain and sleet started around 3:00 a.m. and ended around 2:00 p.m. with as all snow. City crews remained working until about 7:45 p.m. on Friday evening and at that point in time had most roads clear. Lotus worked until about 9:00 p.m. Lotus was responsible for the Hills of Shannon, Harborview, Ashmont, Basswood and Emerald Ridge subdivisions. We did receive some complaints with regard to the areas where the contractor removed the snow, and we are working through those.

Cynthia said she believed it was a communication issue of ensuring the public knows what to expect of both the City crew as well as the contract crew. Staff has scheduled a debrief with both the City crew and the contract crew for later this week and hope

that we can work through that. One of the things we did find in conversations with a number of the members of the Board was an improvement in the areas cleared by City crews because they were able to focus their time on some of those other areas while the contract crews took some of that pressure off. There are some kinks to work out, but Cynthia feels it was a good first start.

Mayor Boley said that he appreciated that City crews removed the piles of snow from the downtown area Monday for the businesses.

Cynthia also indicated the crews had used a total of about 80 tons of salt and 10 tons of salt and sand mix. We do have another 100 tons of salt on order to replenish our stores.

Cynthia noted there is a memo in the packet with regard to grant applications for Mid-America Regional Council (MARC) grant funding. Cynthia indicated she had not heard from the Board with questions or concerns about the timing outlined in the memo. She said unless the Board had concerns staff would proceed as outlined.

Today the management team, Alderwoman Wilson, Alderman Sarver, Mayor Boley and Kelly Kobylski participated in the process to interview four candidates for the Assistant City Administrator position. Cynthia explained we had a good pool and have a couple candidates that we are looking to continue through the process as outlined in the packet. We are hopeful to have someone onboard mid-February.

Cynthia noted that Chuck has confirmed with Evergy that the new electric poles going up 169 Highway will be a loop for the electric power. The service will tie into the existing power around 180th Street. This system should reduce the frequency of power outages.

Alderman Chevalier asked about the grant funding timeline from MARC and what was the reason for not receiving the funding until 2023-2024 and is there any way they would fund them sooner?

Staff Memo on MARC Grant Funding

Commercial Street Sidewalk – the project includes the development of 4,500 linear feet of 6-foot-wide pedestrian pathway starting at the Smithville School District property and ending on Main Street in downtown Smithville. ADA improvements on all legs at intersecting streets with crosswalk markings. Bike Sharrows will be installed on Commercial Street from HWY 92 to Main Street in downtown Smithville with new share the road signage.

The total project cost is estimated at \$756,000. The grant would provide \$500,000 with the City share of \$256,000. This project is included in the City's CIP in year 2023, in the Transportation Sales Tax Fund.

Streetscape Phase III - North on Bridge Street from Church Street to First Street - The Project would include: mill and overlay pavement; full sidewalk replacement/ crosswalk signs & ramp; full curb and gutter replacement / bulb outs at intersections; pedestrian lighting; brick accents at streetlights;

minor storm Improvements; street trees; decorative rail on Bridge and the addition of bike sharrows and Share the Road signage.

The total project cost is estimated at \$707,600. The grant would provide \$488,400, with a City Share of \$219,200. The project was identified in the City's CIP in the Transportation Sales Tax Fund but had not been funded in a specific year.

MARC is now programming funding for these projects and is requesting Cities let them know in which years they want the projects to be bid. Currently MARC has proposed the Commercial Street Project being funded in FY 2023 and the Streetscape project in FY2024. This is Federal Fiscal Year and funds would be available October of the preceding year (2023 funding becomes available on October 1, 2022. 2024 funding becomes available October 1, 2023.)

Chuck explained that MARC schedules these grants out two years. They have already awarded the federal funding for 2021 and 2022. The federal funds will not be available for this round until October of 2022 and that is reason for the scheduled dates of these projects. Chuck explained that the grant process is a long process and staff has been working on this one since April 2020 and MARC is just now getting around to awarding the funds. He noted that if they have a project that does not go through, we can be ready to proceed with ours. There are some rights-of-way we will have to obtain for the sidewalk on Commercial Street, but Chuck believes that we have all of the rights-of-way for the Streetscape project. We will still have to meet the FHWA guidelines for a design and MoDOT is going to have to review it. This is a yearlong process just to get through the design phase. Staff will start on that as soon as we get written confirmation from MARC. Chuck said that if they have funds available earlier, we can sure see if we can get on the schedule, sometimes projects do not move forward as quickly as they think.

Alderwoman Wilson asked when the north phase of Streetscape is scheduled or is it dependent on the funds from MARC?

Mayor Boley noted that the north phase of Streetscape is Bridge Street and is slated as Phase III. He said that in the memo the two projects on Main Street the sidewalk project and Streetscape Phase II. He asked if the Board would want to flip flop those projects or were, they good with the way they stand now?

Alderwoman Wilson said she would rather see Streetscape Phase III be completed first. She would rather see the Streetscape be completed before the Commercial Street sidewalks.

The Board agreed with Alderwoman Wilson.

Mayor Boley asked if we would be alright with revenue to flip the projects?

Cynthia said she believes that will work.

Mayor Boley confirmed the Board recommendation is starting Streetscape III in October 2022 based on the time the funds are scheduled to be received from MARC, the project

being part of the FY23 budget, then the Commercial Street sidewalks project. He asked if the Board was all in agreement?

The Board all agreed with the schedule change for the projects.

ORDINANCES & RESOLUTIONS

7. Bill No, 2882-20, Initial Zoning 18523 County Line Road – 2nd Reading

Alderman Chevalier moved to approve Bill No. 2882-20, setting the initial zoning for Landmark Farms, 18523 County Line Road, recently annexed into the City Limits, to A-R. The initial zoning is set by the City. 2nd reading by title only. Alderwoman Wilson seconded the motion.

No discussion.

Upon roll call vote via teleconference:

Alderman Sarver – Aye, Alderwoman Wilson – Aye, Alderman Ulledahl – Aye,
Alderman Chevalier – Aye, Alderman Atkins – Aye, Alderman Bloemker – Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2882-20 approved.

8. Bill No. 2883-21, Involuntary Annexation – Lakeside Crossing – 1st Reading

Alderman Chevalier moved to approve Bill No. 2883-21, annexing certain lots in Lakeside Crossing. 1st reading by title only. Alderwoman Wilson seconded the motion.

Alderman Chevalier asked Mr. Woollums why he requested one-year lead time?

Mr. Woollums said it was because they were in the process of constructing a new home and would prefer to wait until the home was sold or January 1, 2022.

Upon roll call vote via teleconference:

Alderman Bloemker – Aye, Alderman Sarver – Aye, Alderman Chevalier – Aye,
Alderwoman Wilson – Aye, Alderman Atkins – Aye, Alderman Ulledahl – Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2883-21 approved for first reading.

9. Resolution 865, Final Plat, Landmark Farms

Alderman Chevalier moved to approve Resolution 865, approving the final plat for Landmark Farms at 18523 County Line Road. Alderman Ulledahl seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 865 approved.

10. Resolution 866, November and December CARES Funding

Alderman Chevalier moved to approve Resolution 866, approving eligible expenditures incurred through December 30, 2020 totaling \$604,476.31 in the CARES Act Stimulus Fund. Alderman Ulledahl seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 866 approved.

11. Resolution 867, Smith's Fork Camp Host Agreement

Alderman Chevalier moved to approve Resolution 867, to renew the agreement with Dennis and Katrina Reeves for Camp Host services for the FY21 camping season. Alderman Atkins seconded the motion.

Alderwoman Wilson and Alderman Atkins said they were pleased to see the positive comments for the Reeves.

Mayor Boley said he had not received any complaints and asked Matt Denton to please convey a message to the Reeves that they have done a stellar job.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 867 approved.

12. Resolution 868, Acknowledgement of Purchase of Auto Sampler

Alderman Chevalier moved to approve Resolution 868, acknowledging the purchase of an Auto Sampler for the Wastewater Plant. Alderman Ulledahl seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 868 approved.

OTHER MATTERS BEFORE THE BOARD

13. Public Comment

None

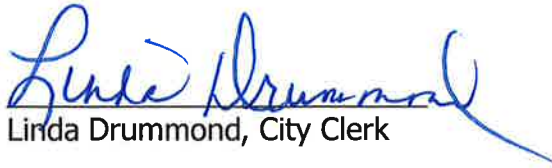
14. New Business from the Floor

None

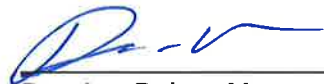
15. Adjourn.

Alderman Ulledahl moved to adjourn. Alderman Chevalier seconded the motion.

Ayes – 6, Noes – 0, motion carries via teleconference. Mayor Boley declared the regular session adjourned at 7:32 p.m.



Linda Drummond, City Clerk



Damien Boley, Mayor