

SMITHVILLE BOARD OF ALDERMEN REGULAR SESSION

August 2, 2022, 7:00 p.m.
City Hall Council Chambers and Via Videoconference

1. Call to Order

Mayor Boley, present, called the meeting to order at 6:58 p.m. following the Work Session. A quorum of the Board was present: Kelly Kobylski, Ronald Russell, Marv Atkins, Dan Hartman and Dan Ulledahl. John Chevalier was absent.

Staff present: Cynthia Wagner, Chief Lockridge, Anna Mitchell, Chuck Soules, Jack Hendrix, Stephen Larson, Matt Denton, Linda Drummond and John Reddoch, City Attorney.

2. Pledge of Allegiance led by Mayor Boley

3. Consent Agenda

- **Minutes**

- July 19, 2022, Board of Aldermen Work Session Minutes
- July 19, 2022, Board of Aldermen Regular Session Minutes

- **Resolution 1092, Amending the Harborview Neighborhood Beautification Grant Award**

A Resolution approving additional scope and increasing the expenditure of funds for the Harborview Neighborhood Beautification Grant in an amount of \$7,950.

- **Resolution 1093, Adopting the Revised Economic Development Incentive Policy**

A Resolution adopting the revisions recommended by the Economic Development Committee to the Economic Development Incentive Policy pertaining to NID, CID and TIF incentives.

- **Resolution 1094, Authorizing Payment to Platte-Clay Electric Cooperative**

A Resolution authorizing the payment to Platte-Clay Electric in the amount of \$11,500 for new service and transformers at the Raw Water Pump Station.

- **Resolution 1095, Snow Removal**

A Resolution authorizing and directing the Mayor to execute an agreement with R&S Lawn Service for residential snow removal.

- **Resolution 1096, Site Plan Extension for KoZak's Restaurant**

A Resolution authorizing the extension of 60 days for the time to commence construction for KoZak's restaurant on Stonebridge Lane.

Alderman Hartman abstained from Resolution 1096.

Alderman Hartman moved to approve the consent agenda. Alderman Atkins seconded the motion.

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

REPORTS FROM OFFICERS AND STANDING COMMITTEES

4. Committee Reports

Matt Denton, Parks Director reported on the July 21, 2022, Parks and Recreation Committee meeting. They elected a chair and vice chair. They discussion issues that Cynthia will talk about in the City Administrator's report. They also discussed updates to Emerald Ridge Park.

5. City Administrator's Report

Cynthia noted the Parks and Recreation Committee has recommended to amend Section 225.090 smoking in city parks and renaming Hawthorne Park the Humphrey and Nancy Smith Park.

The City applied for a \$10,000 ARPA Funds Marketing Grant administered through Clay County and have received word that the grant has been awarded it. The grant is for signage. Staff and Main Street District will be working on an RFP to be posted on August 15. The RFP will be requesting firms for Way Finding Signage Guidelines for downtown.

Cynthia noted that staff will be conducting a washout on the water tower by Super 8. The tower will be drained and refilled by tomorrow.

The Police Department has hired a new officer, Dawson Simanton. He comes to us from the Linn County Sheriff's Department. Dawson is POST certified and will begin with the department tomorrow. His field training will begin later this month. Cynthia noted that by filling this position the department is down to one vacancy.

ORDINANCES & RESOLUTIONS

6. Bill No. 2950-22, Amending the General Fund Reserve Policy – 2nd Reading

Alderman Atkins moved to approve Bill No. 2950-22, amending the General Fund Reserve Policy, adjusting the General Fund Reserve Policy from 40% of budgeted operating expenditures to 25%. 2nd reading by title only. Alderman Hartman seconded the motion.

No discussion.

Upon roll call vote:

Alderman Kobylski – Aye, Alderman Russell – Aye, Alderman Chevalier – Absent,
Alderman Hartman – Aye, Alderman Ulledahl – Aye, Alderman Atkins- Aye.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Bill No. 2950-22 approved.

7. Bill No. 2951-22, Rezoning Eagle Ridge Commercial Property – 2nd Reading

Alderman Hartman moved to approve Bill No. 2951-22, approving rezoning Eagle Ridge Commercial property at 561 S. Commercial from B-1P to B-3. 2nd reading by title only. Alderman Atkins seconded the motion.

No discussion.

Upon roll call vote:

Alderman Atkins – Aye, Alderman Chevalier – Absent, Alderman Ulledahl – Aye,
Alderman Russell – Aye, Alderman Kobylski – Aye, Alderman Hartman - Aye.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Bill No. 2951-22 approved.

8. Bill No. 2952-22, Re-Adopt the Code of Ethics – 1st Reading

Alderman Ulledahl moved to approve Bill No. 2952-22, to re-adopt the Code of Ethics to comply with Missouri Ethics Commission standards. 1st reading by title only. Alderman Kobylski seconded the motion.

No discussion.

Upon roll call vote:

Alderman Chevalier – Absent, Alderman Hartman– Aye, Alderman Atkins – Aye,
Alderman Russell – Aye, Alderman Ulledahl – Aye, Alderman Kobylski– Aye.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Bill No. 2952-22 approved first reading.

9. Bill No. 2953-22, Term of Office of the Mayor and Aldermen – 1st Reading

Alderman Hartman moved to approve Bill No. 2953-22, calling for the questions regarding the length of the term of office for the Mayor and the Board of Aldermen increasing the term from two years to four years to be placed on the November 8, 2022 election ballot. 1st reading by title only. Alderman Kobylski seconded the motion.

Alderman Russell asked for confirmation that we could not put a limit on the number of terms an elected official could run.

Cynthia explained that per State Statutes, the City does not have the authority to put a limit on terms.

Upon roll call vote:

Alderman Russell – No, Alderman Atkins – Aye, Alderman Hartman – Aye,
Alderman Chevalier – Absent, Alderman Kobylski – Aye, Alderman Ulledahl- Aye.

Ayes – 4, Noes – 1, motion carries. Mayor Boley declared Bill No. 2953-22 approved first reading.

10. Bill No. 2954-22, Conditional Use Permit – 1st Reading

Alderman Hartman moved to approve Bill No. 2954-22, approving a Conditional Use Permit for a telecommunications tower at 904 Northeast 180th Street. 1st reading by title only. Alderman Kobylski seconded the motion.

Public Comment:

James Allsbury, 902 NE 180th Street, stated that he opposed this issue. He said that the findings and facts had incorrect information in it. He asked if the tower must be made to look like a tree. Mr. Allsbury noted that he shares the driveway, and it is only 12-foot wide and not wide enough for two vehicles especially 70,000 – 90,000 pound trucks. He said that building a tower there will affect the value of their property.

Dawn Cramer, 905 Banbridge Road and owns a business at 100 North Mill Street, noted that she is a Kansas City Police Commissioner and owns property that adjoins this property. She and her husband plan to build a two-million-dollar home there but not if the tower is built. Mrs. Cramer voiced concern about the safety issues with a tower and ice falling from it. She also is concerned about the property values. She asked that they consider putting the tower in more of a rural area.

Ted Lake, 500 NE 180th Street, noted that he owns property close to the where the tower would be built. He asked if the City would be generating any money if the tower was built there? Mr. Lake said that if the tower is built there everyone else would lose money. He asked that the equipment be located on a water tower where it would not affect anyone but the City.

Stacey Lindensmith, 500 NE 180th Street, told the Board that she opposed the tower.

Robert Marriott, 18212 Marcus Road, noted that he has been a resident since 1996 and opposed the tower. He said that it would be an eye sore. He asked that they consider a more feasible option. He is also concerned about the property values and about health.

Gabe Grider, 808 NE 180th Street, explained to the Board that there is an existing 98-foot tower already on the property. He said that he understood that two towers over 90 feet in height could not be located within one quarter mile of each other. He noted that there are more suitable sites for this. He said that the property impact study that was added after the Planning and Zoning Commission meeting has inaccurate information in it and the original study has inaccurate information also, it says the existing tower is the same height as the existing tower, but the proposed tower is 150 feet. Mr. Grider noted that in the City code it encourages locations of towers in non-residential areas. He said that even though this property is zoned ag the properties surrounding are zoned residential. He noted that City code also encourages the joint use of existing tower sites. Mr. Grider explained that there is an existing 300-foot tower less than two miles from this location, another existing tower three miles to the west and other towers close to this location that do not have very many radios on them. He noted that Mr. Erwin testified at the Planning Commission hearing that they would like this tower to be 200 feet tall, not the 150 feet and that they would like it to be located further south. He encouraged the Board to not support this.

Ann Grider, 808 NE 180th Street, noted that she has lived in her home for 24 years. This tower is to be located 450 feet due south from her home. She will be able see the 150-foot tower from almost every window in her home. She said that Mr. Beggs will be benefiting monetarily from the tower will only be able to see base of it. Mrs. Grider said that in the petition of protest the property owners have shown that they do not want this tower. She asked that the Board vote no.

Derrick Basye, 18206 Marcus Road, noted that he opposed the tower, that it would be an eye sore. He said that it would be better placed on a water tower. He asked that the Board vote no.

Patrick Erwin, 5607 W 130th Street Overland Park, KS, noted that he is the applicant of the proposal. He said that the purpose of this structure is to provide reliable FirstNet service and also AT&T service for the area. He explained that FirstNet is a broadband network for first responders. Mr. Erwin noted that they do meet of the requirements in Chapter 400 of the City's code. He noted that they are asking to construct a 150-foot tower that would be placed 98 foot from the property line. He noted that they had submitted engineer's letters and their letter of intent to allow additional users onto the tower when the need arises. He believes they have met all of the criteria of the second part of the Conditional Use Permit which is to promote the welfare and the general convenience of the public. Meaning this would be a reliable service for the public. Mr. Erwin said that this would not cause injury to the value of the property and have submitted evidence for this.

Larry Thornton, 906 NE 180th Street, noted that he shares a driveway with this property, and he is opposed to it.

Gary Beggs, 904 NE 180th Street, owner of the property. He believes he has the right to have this. He noted that the Conditional Use Permit is all within the laws of the City.

Rochelle Allsbury, 902 NE 180th Street, noted that FirstNet is a service that you have to buy into and asked if the City would be providing that service for our fire and police department. She asked if there was some stipulation that you cannot have two towers on one property. She said that this tower will not benefit them. She asked if anyone has asked Eric Craig Realty if this would hurt their property value. She asked the Board if they would buy a house next to a tower. She asked if the Board they would want a tower built 500 feet from their current home. Mrs. Allsbury said that if they answered no to either of those questions, please vote against it.

Board discussion.

Alderman Russell asked what the Planning and Zoning Commission's recommendation is?

Mayor Boley noted that the finding of facts are in the packet and asked the City Attorney to explain them.

John Reddoch, City Attorney explained that the Planning and Zoning Commission has seven members, one member recused himself, so had six members that voted. The vote was a tie three to three. The applicant for something like this has the burden of carrying the day. With a three-to-three vote is the same as a recommendation of no. The Planning and Zoning Commission then had to go back and make specific findings for each of findings of facts and then vote on each of those things. John noted that this comes to the Board with a three-to-three vote which has to be interpreted as a recommendation of no. He also noted that we have letters of protest and under our Ordinance and State Statutes we have to have four votes in favor this evening to approve the CUP. He also noted that any documentation provided after the Planning and Zoning Commission's public hearing you may or may not take that into consideration.

Alderman Atkins asked about the two-tower rule and if it relates to this.

Jack Hendrix, Development Director, explained that it is in City Code, and he has always understood it to mean that there had to be a Conditional Use Permit for each of them.

Alderman Hartman noted that this is the first he has heard about two towers. He said that he thought this tower would be replacing the other tower.

Patrick Erwin stated that this tower would not be replacing the tower it would be an additional tower. He noted that the existing tower is not structurally sound to put antennas that they would be installing. He said that Missouri State Statutes 67.5904 Subsection 2, disallows the jurisdiction to consider the proximity or the availability of another within the area.

Mayor Boley noted that he had spoke to Eric Craig and he said the tower would not impact the property values. He also explained that this would be put on private property and no money from this would go to the City.

Alderman Hartman asked if we have FirstNet accessibility with other towers in the City?

Mayor Boley clarified that the Fire Department is not a city entity, it is a Fire District.

Chief Lockridge explained that the Police Department does not subscribe to FirstNet, they use a different service. He did note that some of the officers do have their own personal accounts for it.

Alderman Atkins asked if the access road for this is a gravel road and if the contractor needs to keep it as a gravel road?

Mayor Boley explained that one of the stipulations made by the Planning and Zoning Commission was that the approach would need to meet the current code which is a concrete entrance.

Patrick Erwin stated that as part of their agreement they would repair any damage they caused to the road made during construction and during the life of the structure.

Alderman Kobylski asked if they would widen the road so make it possible for two vehicles to pass.

Patrick Erwin explained that there are two other houses that share the access, and that Mr. Beggs owns the property the other two have easements. He noted that the road is very narrow, and they would work around it and coordinate with the landowners their comings and goings. He said that they construction should take approximately four weeks to complete and would not be every day.

Alderman Russell noted that when he was searching for a home, they looked at a beautiful home that had a tower in the yard. They did not choose that home. He said

that he watched the price of the house continually drop so he personally does not see how this tower would not affect property values.

Alderman Atkins asked how many people would benefit from this tower?

Mayor Boley noted that he has had a lot of individuals contact him because the service in that area is not good.

Patrick Erwin noted that the coverage is not circular it could coverage the distance of three miles one direction and up to seven miles another direction. He said that the nearest AT&T antenna is on the water tower across from the library.

Upon roll call vote:

Alderman Ulledahl – Aye, Alderman Hartman – No, Alderman Russell – No,
Alderman Kobylski – Aye, Alderman Atkins – No, Alderman Chevalier - Absent.

Ayes – 2, Noes – 3, motion carries. Mayor Boley declared Bill No. 2954-22 failed.

OTHER MATTERS BEFORE THE BOARD

11. Public Comment

None

12. New Business from the Floor

Alderman Russell noted that the flyer from the Historical Society mentions a Founder's Day Celebration and as Cynthia noted early the changing of the name of Hawthorne Park to Humphrey and Nancy Smith Park. He said that he would ask that the Board consider a day to close the City down every year for a celebration of Founder's Day.

13. Adjourn

Alderman Hartman moved to adjourn. Alderman Atkins seconded the motion.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared the regular session adjourned at 7:43 p.m.

Linda Drummond, City Clerk

Damien Boley, Mayor