

City of Troy, Missouri
Regular Board of Aldermen Meeting
Monday, June 18, 2018
6:30 P.M.

Present for the Regular Board of Aldermen Meeting were Aldermen Detert, Sconce, Curt, Walker, Norman, Anderson and Mayor Cross. Also present were Public Works Superintendent Cunningham, Police Chief Taylor, Water Superintendent Lourance, Parks Director Howell, Wastewater Superintendent Peasel, Treasurer Flinn, City Attorney Granneman and City Clerk Schneider.

Mayor Cross called the Regular Board of Aldermen Meeting to Order, announced a Quorum present and led in the Pledge of Allegiance.

Alderman Sconce made a motion, seconded by Alderman Detert to Approve the Consent Agenda. Vote: Sconce aye, Detert aye, Walker aye, Norman aye, Curt aye, Anderson aye.

*Approved the Minutes of Regular Board of Aldermen Meeting dated May 21, 2018 and Budget Workshop dated May 31, 2018

Eric Dunlap stated that he had four sewer back-ups starting back in 2011 without remuneration by the City's insurance carrier who determined each time that the City was not liable. After this latest back-up, Mr. Dunlap has now installed a backflow preventer but stated that does not fix the problem. Several weeks ago, Mr. Dunlap requested the maintenance records of Whitetail Crossing lift station but the email-transmitted file would not open. The Mayor asked if he had let the City Clerk know that Mr. Dunlap could not access the requested maintenance records and he said no. Mr. Dunlap stated that the City's insurance carrier said the first two back-ups were caused by lightning strikes to the lift station but he did not see a storm. He then asked if the lift station system was big enough since it served two subdivisions and eight houses on Elm Tree Road. Wastewater Superintendent Peasel stated that it was designed to handle that capacity. Mr. Dunlap said his insurance paid out \$10,000 every back-up and the insurance company will be contacting the City for subrogation. He would like to recoup some of his cost of \$15,000 each time to repair his basement. Mr. Dunlap said the insurance company paid \$100,000 in damages and he wanted one-half of that amount or \$50,000 from the City. Mr. Dunlap said he lost more than that amount with carpet and hotel expenses. Alderman Norman looked at pictures supplied by Mr. Dunlap. Alderman Sconce said if an incident was determined not the fault of the City, the City cannot pay out taxpayers' dollars. Mayor Cross added that the City has quality maintenance people addressing issues all the time at the lift station. Mr. Dunlap wants the problem fixed for next person. Mayor Cross empathized with Mr. Dunlap but said

the City cannot fix what is unknown. Alderman Anderson asked if Mr. Dunlap was advised earlier to install a backflow preventer. Mr. Dunlap responded affirmatively by a letter written from Mayor Cross dated July 14, 2016. Alderman Sconce made a motion, seconded by Alderman Anderson to Take No Action on Eric Dunlap's Request for Reimbursement from City for Sewer Back-Up dated May 4, 2018. Vote: Sconce aye, Anderson aye, Curt aye, Detert aye, Walker aye, Norman aye.

Dale Black, CMS Homes LLC, was developing a large tract of land for a subdivision and requested to hook onto City water. The subdivision would have 3-acre lots, on-site septic, concrete streets and storm sewers. Mr. Black requested that either (a) CMS Homes would build access and purchase City water; or, (b) annex the property into the City with an agreement to keep the streets private designating the homeowner's association with the responsibility of street maintenance. Discussion ensued on taxes paid for City services, private streets not built to City specifications and snow plowing. Alderman Sconce had reservations on selling outside City limits or annexing with special conditions. Mr. Black said that cost is prohibitive at \$25,000-\$30,000 due to high density and 80-foot lot depth. Mr. Black continued that the average sales price at \$250,000 would benefit the City's tax revenues. Alderman Anderson made a motion, seconded by Alderman Sconce to Table Request for Annexation and Hook-On to City Public Water System at Residential Development/Keeven Property (3 acre lots/septic systems pursuant to City Code Sections 705.020 and 705.030). Vote: Anderson aye, Sconce aye, Detert aye, Norman aye, Walker aye, Curt aye.

Jennifer Fitzwater, Sugar Creek Assisted, Living, was not present.

Mary Jane Woodson was not present.

Charles Marino, 317 Annie Avenue, Apt. A., asked if sidewalks were going to be added to the construction of West Cherry specifically between Creech to Front Street and Front Street to Troy Feed. Mayor Cross answered affirmatively that there would be sidewalks all the way down Cherry Street. Mr. Marino asked the Police Department to monitor speeding on Annie Avenue. Chief Taylor agreed to assign patrol squads to specifically address the speeding complaint.

Jay Ikemeier, 1312 Shagbark Court, wanted to wait and comment during the PALS' item on the agenda under New Business Item 8K.

Judy Montgomery, 1471 Boone Street, wanted to wait and comment during the Pit Bull, Old Business, Item 7C and PALS New Business Item 8K.

Alderman Detert made a motion, seconded by Alderman Curt to Go Into Closed Session in compliance with 610.021 of RSMo., for the purposes of discussing Legal. Vote: Detert aye, Curt aye, Anderson aye, Walker aye, Sconce aye, Norman aye.

City Attorney Granneman alerted the Board of a Request to Expunge Records received by the Troy Police Department. The police clerk located one (1) record in the matter. Alderman Curt made a motion, seconded by Alderman Sconce to Authorize City Attorney Granneman to Enter an Appearance for the Purpose of Providing Updates to the Board of Aldermen on the Court Proceedings in Re: Jimmy Lee Kerley vs. Lincoln County Circuit Court, Case No. 18L6-CC00069. Vote: Curt aye, Sconce aye, Walker aye, Detert aye, Anderson aye, Norman aye.

City Attorney Granneman advised the Board on Legal matters.

Alderman Sconce made a motion, seconded by Alderman Anderson to Go Out of Closed Session. Vote: Sconce aye, Anderson aye, Curt aye, Norman aye, Walker aye, Detert aye.

*Approved Reports of Park, Planning & Zoning/Board of Adjustment, Historic Preservation Commission, Troy Convention and Visitors Bureau

*Approved Reports of Police, Public Works, Wastewater, Finance, Building Inspection, Parks and Administration Departments

*Approved Payment of Regular Monthly Bills

Mayor Cross read Bill No. 1277 -- as Ordinance _____ -- An Ordinance Amending Chapter 210: Offenses, Section 210.2340: Fireworks, Specifically Amending Subsection Z and Adding a New Section BB, first and second times by title only. Alderman Anderson made a motion, seconded by Alderman Sconce to Adopt Bill No. 1277 as Ordinance 1253. Vote: Anderson aye, Sconce aye, Curt aye, Detert aye, Walker aye, Norman aye.

Mayor Cross read Bill No. 1278 -- as Ordinance _____ -- An Ordinance of the City of Troy, Missouri, Amending Section 340.113 Recreational Off-Highway Vehicles, Operation on Highways Prohibited, Exceptions – Operation Within Streams and Rivers Prohibited, Exceptions – License Required for Operation, Exception, first and second times by title only. Discussion ensued whether the legislation included Buchanan Creek and Whitcomb Branch within the streams prohibited from operation, whether it allowed vehicle operation on any street at any time under 35 mph, and whether it allowed the Board to give permits under certain circumstances under Section B-5 Special Permits. City Attorney Granneman replied to all queries in the affirmative. Chris Groh stated that he wanted to operate his off-road vehicle to go to the gas station for lawnmower fuel or go to Sonic. Alderman Norman was concerned about safety in operating an off-road vehicle on City streets alongside cars and trucks. Christopher Groh asserted that a license may be obtained through the State of Missouri to operate as a passenger vehicle. Alderman Anderson requested clarification of operation within a three-mile radius of

residency. City Attorney Granneman responded in the affirmative to Alderman Anderson's query. Alderman Walker made a motion, seconded by Alderman Sconce to Adopt Bill No. 1278 as Ordinance _____. Vote: Walker aye, Sconce nay, Curt nay, Norman nay, Detert nay, Anderson aye. Motion failed 2-4.

Mayor Cross read Bill No. 1279 as Ordinance _____ -- An Ordinance of the City of Troy, Missouri, Amending Section 340.110 All-Terrain Vehicles – Prohibited – Exceptions – Operation Under an Exception – Prohibited Uses – Penalty, first and second times by title only. Alderman Walker made a motion, seconded by Alderman Anderson to Adopt Bill No. 1279 as Ordinance _____. Vote: Walker aye, Anderson aye, Norman nay, Sconce nay, Detert nay, Curt nay. Motion failed 2-4.

Mayor Cross read Bill No. 1280 as Ordinance _____ -- An Ordinance of the City of Troy, Missouri, Amending Section 340.125 Utility Vehicles, Operation on Highway and in Streams or Rivers Prohibited—Exceptions—Passengers Prohibited—Violations, Penalty, first and second times by title only. Alderman Walker made a motion, seconded by Alderman Sconce to Adopt Bill No. 1280 as Ordinance _____. Vote: Walker aye, Sconce nay, Curt nay, Anderson aye, Detert nay, Norman nay. Motion failed 2-4.

Robert and Lisa Seely, Tri-County Glass, requested the City allow Public Water Supply District #2 ("PWSD #2") to purchase one sewer tap on their behalf at last month's meeting. Alderman Sconce stated the current situation jeopardizes the City from allowing a hook-up even if recommended by Lincoln County Health Department without the new sewer plant in place. City Attorney Granneman was advised by the Environmental Protection Agency that if an additional hook-up caused a violation, the City would be held liable and fined a large monetary amount. Lisa Seely asked when the new plant would be ready and was told in two years.

Scott and Cindy Wallace requested for Tara Valley to Hook-Up to City Water (Outside City Limits) at last month's meeting. Scott Wallace had not held a neighborhood meeting yet awaiting the City's response. Water Superintendent Lourance had discussed the proposal at great lengths with MECO Engineering who performed the engineering study. When asked the question if the City's water system had capacity to hook-up Tara Valley, Water Superintendent Lourance said yes. Scott Wallace said that there would be no costs incurred to the City for the hook-up. Tara Valley would connect through an empty lot in an adjoining subdivision, install a master meter, and take care of their own individual meters. Lourance spoke of a 6" meter main going through the lot with a fire hydrant and then reduce it to either a 2" or 4" line. City Attorney Granneman said the agreement to hook-on would be contingent upon all owners entering into water connection agreements. Alderman Sconce said this decision would set a precedence for requests of City services outside city limits wherein the City's responsibility lies instead to citizens of Troy. Alderman Sconce made a motion, seconded by Alderman Anderson

to Approve Request for Tara Valley to Hook-Up to City Water (Outside City Limits) Contingent Upon All Property Owners Entering Into Water Connection Agreements. Vote: Sconce nay, Anderson aye, Norman aye, Walker nay, Curt aye, Detert aye. Motion carried 4-2.

Carol Wieman, Doug Justice and Jamilee Smith were joined by Lisa Niebur, 40 Vail Lane, Troy, Missouri 63379, Christopher and Colleen Groh, 1270 Sleepy Hollow Drive, Troy, Missouri 63379, and Cindi Watts, 1159 Pinewood Place, O'Fallon, Missouri 63366 to discuss the City's Pit Bull Ban ordinance. Ms. Wieman submitted a dog-bite report from Lincoln County Health Department. She also submitted Survey Saint Louis showing that 60% of the participants would rather the City regulate all dogs versus pit bulls.

Discussion ensued that the City had a dangerous dog ordinance in place so why was a separate pit bull ban required, debate on what breeds were more dangerous than pit bulls, and the need to educate citizens rather than discriminate against a certain breed. Alderman Anderson explained that at least ten years ago, angry and upset citizens came to a Board meeting and requested the City ban pit bulls relaying a story of an unprovoked pit bull attack on a neighborhood dog. Anderson continued that the ordinance was adopted as a tool to keep people safe. Further, Anderson, also a dog owner, was not motivated to lift the ban after current research revealed articles containing facts and figures against pit bulls. Ms. Niebur commented that it is a deal-breaker for folks to buy in Troy due to the ban on pit bulls. Mr. Justice agreed with public safety concern but would like to see ordinances against bad owners rather than the breed. Alderman Anderson asked who in the group lived in Troy. Ms. Wieman, Mr. Justice and The Groh's lived in town. Alderman Norman suggested a temporary lift of the ban for six months and see how it goes. Alderman Detert asserted that he was present at the meeting years ago and recalled the story that began the pit bull ban. Detert relayed that a small dog was in his own yard and the pit bull jumped the fence and it took four people to beat the dog off the small dog which eventually died from its wounds. Alderman Detert asked the group if they would feel the same way if a child had been mauled to death instead of a small dog. He continued that all Aldermen receive periodic calls from citizens of Troy requesting not to lift the ban. It appears, however, that people outside of city limits of Troy want the ban lifted. Alderman Curt recommended folks run for office to make a difference.

Ms. Wieman asked again why not just dangerous animal ordinance instead of pit bull ban. Ms. Wieman explained that several years ago, the City of Florissant lifted their pit bull ban. Mayor Cross agreed that was true but at that same time, the City of Springfield adopted a pit bull ban. Alderman Anderson said that the pit bull ban accomplished its purpose of grandfathering-in current pit bulls and limiting new pit bulls from coming into the City to keep folks happy and safe. Alderman Anderson did not agree to a six-month

temporary lift on the ban and labeled it counterproductive allowing pit bulls to come into Troy rather than negating and limiting the breed. The group suggested a petition and larger numbers of people to attend meetings but were advised that municipalities are not bound by petitions and legislation was handled in the best interests of the citizens of Troy. Alderman Anderson reviewed the presented dog bite list and commented that the ban must be working as there are only two pit bulls on the list and hopefully tickets were issued to all owners of dogs on the dog bite list.

Mayor Cross asked if any of the aldermen wanted to sponsor an ordinance change for shared Landlord/Tenant responsibility on utility services or table the matter indefinitely. Alderman Curt made a motion, seconded by Alderman Anderson to Table Indefinitely Utility Services – Landlord/Tenant Responsibility per RSMo. 250.140. Vote: Curt aye, Anderson aye, Walker aye, Sconce aye, Detert nay, Norman aye. Motion carried 5-1.

*Approved 2018 Liquor License Renewals: Troy BP, Inc., 205 N. Lincoln Drive; Taormina's, LLC, 892 E. Cherry Street; Mr. D's Pizza, 3 N. Lincoln; Carcamco Corp. d/b/a Stefanina's-Troy, 180 N. Main Street; El Pino, Inc. d/b/a Dos Primos, 25 The Plaza; Troy Elks Lodge #2805, 541 Second Street; Troy Development Company d/b/a Woods Fort Golf Course, #1 Country Club Drive; Mrika, Inc. d/b/a Zadocks Restaurant, 7 Troy Square; Victory Lane Fuel & Food LLC, 1424 S. Main Street; Victory Lane Fuel & Food 2 LLC, 1760 W Hwy 47; Troy Movie House LLC, 1436 S. Main Street; Brown's Around the Block Butcher Shop LLC, 185 E. Cherry Street; Big Sticky's BBQ LLC, 180 E. Cherry Street; Hilltop Phillips 66, 201 S. Lincoln Dr.; Chihuahua's of Troy LLC, 101 N. Lincoln Drive

*Approved Change Order #1 by Karrenbrock Excavating on Crooked Creek Park Rough Grading and SWPPP, Project #M16-7353A decreasing contract price (\$1,798.00) by removing fiber log ditch checks

*Approved Pay Application 3 by Karrenbrock Excavating on Crooked Creek Park Rough Grading and SWPPP, Project #M16-7353A in the amount of \$4,275.00

*Approved Final Pay Application for Retention Contingent Upon Receipt of Certified Payroll, Lien Waivers and Material Lien Waivers in the amount of \$4,042.93

*Approved Request for Building Expansion for 6 The Plaza by The Sterling Group, Applicant, on behalf of Aldi, Inc., as recommended by Planning & Zoning Commission

Alderman Sconce made a motion, seconded by Alderman Curt to Table Discuss, Approve and Authorize Mayor to Sign Commercial Lease Agreement with Houghton Mifflin Harcourt Regarding Third Street Property Until After Closed Session. Vote: Sconce aye, Curt aye, Detert aye, Norman aye, Walker aye, Anderson aye.

Mayor Cross advised the Board that the old Main Street bridge was gone and had been prepared for replacement concrete slabs. The slabs were expected for delivery in mid-July. Public Works did the asphalt and concrete work to bring up layers level with the bridge at a cost of \$1,400.00. The completion of the bridge is expected by the beginning of August before school starts.

Alderman Sconce made a motion, seconded by Alderman Detert to Approve Take-Home Vehicle Policy, Employee Personnel Guidelines. Vote: Sconce aye, Detert aye, Norman aye, Walker aye, Anderson aye, Curt aye.

Dennis Lyons, Utility Service Partners, was not present. Mayor Cross relayed that Mr. Lyons would be presenting on a low-cost insurance program endorsed by National League of Cities and Missouri Municipal League to protect citizens from sewer lateral line repair costs.

Alderman Anderson made a motion, seconded by Alderman Sconce to Approve and Authorize Mayor to sign Project Contract for Chip Seal Road Repair with Missouri Petroleum Products Company LLC for Main Street and Cap Au Gris totaling \$22,847.06. Vote: Anderson aye, Sconce aye, Detert aye, Curt aye, Norman aye, Walker aye.

Andrew Westmeier, Attorney representing PALS of Lincoln County, requested the Board consider PALS request to pick-up stray animals inside City limits and transport to PALS Animal Shelter at 4287 Hwy 47 West, Hawk Point, Missouri. Chief Taylor and Public Works Superintendent Cunningham relayed that stray dogs were picked up after-hours by police officers or public works crew. Alderman Sconce believed there were no issues with stray dogs and there was no need to utilize an outside agency. Alderman Detert commented that stray dog postings on social media work great and dogs are reunited with their owners usually within twenty-four hours. Alderman Walker agreed. Alderman Curt said she received messages from citizens today asking the Board to leave the current dog pound operation the way it was running.

Jay Ikemeier, 1312 Shagbark Court, relayed that he had nothing personally against PALS but he does not see animals running wild and does not think their offered proposal was needed and would be a burden to the citizens of Troy.

Christopher Groh relayed that the community did a great job of placing lost dogs on social media and stray dogs are reunited with owners within hours.

Alderman Anderson made a motion, seconded by Alderman Detert to Discuss, Approve and Authorize Mayor to Enter Into Agreement with PALS Animal Shelter in Response to Their Request to Pick-Up Stray Animals Inside City of Troy Limits and Transport to PALS Animal Shelter at 4287 Hwy 47 West, Hawk Point, Missouri. Vote: Anderson nay, Detert nay, Walker nay, Curt nay, Norman nay, Sconce nay. Motion failed 0-6.

Mayor Cross relayed that an inquiry was made to place a grocery store in Troy. The inquirer asked the City about development incentives. Alderman Curt would like everyone to keep an open mind and see what the developer wants. Alderman Anderson was against corporate welfare in any form and stated that the biggest employer did not request incentives and had been a great community partner. Alderman Sconce did not want to go down that road. Mayor Cross said that many municipalities have spent money to make money. The Board consensus was to make contact with inquirer and ask to make their request for tax incentives at the July Board meeting.

With the Board's consensus, Treasurer Flinn set Tuesday, June 26, 2018 for a Special Meeting to Adopt the City's FY2019 Budget.

Mayor Cross told the Board that Cochran Engineering did not recommend approval of Change Order #1 in the amount of \$58,400.00 Whitetail Crossing Lift Station Project#2017031 submitted by Cannon General Contractors, Inc. Cochran Engineering met with Cannon General Contractors, Inc. to discuss the adjustment to the project to dig deeper for storage tanks and Cannon's Change Order #1 to rent a crane. After researching the change order request, Cochran Engineering determined that original equipment was sufficient rather than rent a 55 ton 40' reach crane at a cost of \$25,000.00. Citing further that the contractor could scrape topsoil to adjust the grade by approximately three feet using a John Deere rather than adding the expense of a crane. Mayor confirmed with other construction firms that this project could be done with original equipment. Alderman Curt made a motion, seconded by Alderman Walker to Approve Change Order #1 in the amount of \$58,400.00 Whitetail Crossing Lift Station Project #2017031 submitted by Cannon General Contractors, Inc. Vote: Curt nay, Walker nay, Sconce nay, Norman nay, Detert nay, Anderson nay. Motion failed 0-6.

Alderman Sconce withdrew his request to Approve and Authorize Historic Planning Commission to Complete Grant Application Generally.

Alderman Detert made a motion, seconded by Alderman Sconce to Go Into Closed Session in compliance with 610.021 of RSMo., for the purposes of discussing Real Estate and Personnel. Vote: Detert aye, Sconce aye, Walker aye, Norman aye, Anderson aye, Curt aye.

Alderman Sconce made a motion, seconded by Alderman Detert to Approve Transfer of William Schaffer to Meter Reader I at G11-8 \$16.75 per hour effective next pay period. Vote: Sconce aye, Detert aye, Walker aye, Anderson aye, Curt aye, Norman aye.

Alderman Walker made a motion, seconded by Alderman Norman to Accept the Resignation of Ryan Parker, Patrol Officer, effective June 24, 2018. Vote: Walker aye, Norman aye, Curt aye, Anderson aye, Sconce aye, Detert aye.

City Attorney Granneman advised the Board on Real Estate Matters.

Alderman Sconce made a motion, seconded by Alderman Anderson to Take No Action on Crown Castle proposal dated June 18, 2018 to purchase current lease in the form of an easement either by installment or lump sum payment on the Third Street water tower.

Vote: Sconce aye, Anderson aye, Curt aye, Walker aye, Norman aye, Detert aye.

Alderman Anderson made a motion, seconded by Alderman Norman to Go Out of Closed Session. Vote: Anderson aye, Norman aye, Curt aye, Detert aye, Walker aye, Sconce aye.

Alderman Sconce made a motion, seconded by Alderman Walker to Authorize the Mayor to Negotiate Long-Term Lease with Houghton Mifflin Harcourt on the Water Tank Pump and Equipment on the City's Third Street well tower property. Vote: Sconce aye, Walker aye, Anderson aye, Detert aye, Norman aye, Curt aye.

Alderman Sconce made a motion, seconded by Alderman Sconce to Adjourn the meeting. Vote: Sconce aye, Anderson aye, Curt aye, Detert aye, Norman aye, Walker aye. Meeting adjourned at 9:34 p.m.

ATTEST:

City Clerk

Mayor Mark Cross

*Approved on Consent Agenda