

**SMITHVILLE BOARD OF ALDERMEN
REGULAR SESSION**

June 20, 2023 7:00 p.m.
City Hall Council Chambers and Via Videoconference

1. Call to Order

Mayor Boley, present, called the meeting to order at 7:06 p.m. A quorum of the Board was present: Melissa Wilson, Leeah Shipley, Marv Atkins, Ronald Russell, Dan Ulledahl and Dan Hartman.

Staff present: Cynthia Wagner, Gina Pate, Chief Jason Lockridge, Chuck Soules, Stephen Larson, Matt Denton and Linda Drummond.

2. Pledge of Allegiance lead by Mayor Boley

3. Proclamations

- **July is Parks and Recreation Month**

4. Consent Agenda

- **Minutes**
 - June 6, 2023 Board of Aldermen Work Session Minutes
 - June 6, 2023 Board of Aldermen Regular Session Minutes
- **Financial Report**
 - Finance Report for June 2023
- **Resolution 1232, Amending the Cooperative Agreement with Clay County**

A Resolution amending the cooperative agreement with Clay County changing the funding amount for the July 4 fireworks display.

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

Upon roll call vote:

Ayes – 6, Noes – 0, motion carries. The Mayor declared the consent agenda approved.

REPORTS FROM OFFICERS AND STANDING COMMITTEES

5. City Administrator's Report

Cynthia Wagner noted that Stephen Larson and his staff continually work to improve the information that we provide to the public included in utility bills. They have worked with our provider to make updates to provide a more informative utility bill. We will be rolling that information out in the next utility bill and in various social media posts to call attention to the changes that will make the bill easier to read and understand.

Cynthia noted that the Parks and Recreation Agency Performance Review is conducted annually by the National Parks and Recreation Association and this year's report is in the packet.

Cynthia noted that in the packet was information concerning commercial water and wastewater leak adjustments and the difference between residential and commercial accounts. She explained that staff was looking for direction from the Board concerning commercial water and wastewater leaks adjustments.

Water/Wastewater Billing Leak adjustment issue

The City of Smithville has for many years included a provision in the utility billing process that allowed adjustments to a customer's wastewater bill if the account holder suffered a water leak outside the home. The purpose was to effectively not charge the customer for the water that did not enter the sanitary sewer system. After a couple of very large water leaks in 2017 (one inside a home and one on an outdoor irrigation system) the Board of Aldermen requested staff draft changes to the leak adjustment system. The policy of Platte City was recommended as the policy to model for changes to our ordinance. The Board of Aldermen then approved changes to the leak adjustment policy in our combined water and wastewater system on October 3, 2017.

This new policy based upon the Platte City ordinance included a provision to also allow residential customers to get bill adjustments to the water usage bill, in addition to the wastewater process. There were several errors in that ordinance that were identified by staff, including removing the "City of Platte City" references. Those changes also clarified how residential customers could request an adjustment to their bill resulting from a large leak. These new requests were required to come to the Board of Aldermen for the first time. This new ordinance was adopted in February of 2018. The week following this new ordinance, staff discovered that the definitions used in the new ordinance erroneously excluded all wastewater adjustments from commercial accounts. At the next Board meeting, staff presented a new ordinance that changed the definitions and inserted a new provision for Non-Residential wastewater adjustments:

Wastewater Adjustment On Non-Residential Utility Bills. Any non-residential utility account that experiences a water leak outside of the structure served by the account shall, upon submittal of proof of repair of such leak to the City, be entitled to an adjustment to the wastewater portion of such bill to an amount equal to the account's average monthly usage that existed prior to such leak, and in no event shall there be an adjustment to the water portion of the utility bill.

Recently, a non-residential customer suffered a significant water leak outside the building. The customer sought an adjustment to their wastewater bill. While reviewing that request, it was discovered that the ordinance could be interpreted to exclude non-residential leak adjustments from the Board of Aldermen review and approval process. Staff seeks Board input on whether wastewater-only leak adjustments (non-residential customers still are responsible for all water usage) can be adjusted by staff administratively, or if a new review process should be considered. If a new process is recommended, staff recommends a work session discussion on the issue.

Stephen Larson, Finance Director explained that currently commercial wastewater leak adjustments by Ordinance are approved by the City Administrator. Staff is looking for direction from the Board if they want to discuss in a work session changing it to the same

process as the residential leak adjustment for Board approval. Stephen explained that commercials are wastewater leak adjustment only since they are not eligible for water adjustment.

Alderman Ulledahl asked that it be brought forward at a work session for the Board to discuss.

Cynthia reminded everyone that there is no meeting on July 4 due to the holiday and City Hall will be closed July 3 and 4. The August 1 meeting has been canceled. A special meeting is scheduled for Monday, August 28, to approve the language for a public safety sale tax following the approval of the state law allowing us to place this on the November ballot.

ORDINANCES & RESOLUTIONS

6. Bill No. 2995-23, FY2023 Budget Amendment No. 5 – 2nd Reading

Alderman Ulledahl moved to approve Bill No. 2995-23, amending the FY2023 Budget to add \$1,127,902 to the expenditure budget. 2nd reading by title only. Alderman Wilson seconded the motion.

Upon roll call vote:

Alderman Shipley - Aye, Alderman Atkins - Aye, Alderman Wilson – Aye,
Alderman Ulledahl - Aye, Alderman Russell – Aye, Alderman Hartman - Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2995-23 approved.

7. Bill No. 2996-23, 110 Smithville TIF Plan and Redevelopment Agreement – 1st Reading

Alderman Ulledahl moved to approve Bill No. 2996-23, authorizing and directing the Mayor to approve the 110 Smithville Tax Increment Financing Plan, establish the Redevelopment Area, designate the Redevelopment Area as blighted, making other findings, designating 110 Smithville, LLC as the developer of record and authorizing the City to enter into a TIF Redevelopment Agreement between the City and 110 Smithville, LLC. 1st reading by title only. Alderman Wilson seconded the motion.

Public comment:

Deborah Garrison, 161 East First Street, spoke to the Board about her concerns about what the project would do to the parking downtown during an event.

Carol Dawkins, P.O. Box 972, spoke to the Board about their need to listen to what the residents are saying. She had collected another 71 signatures on her letters against the TIF.

Ali McClain, 1004 Coneflower Street, spoke to the Board about her concerns with the TIF project. She said that the census bureau has done studies on TIFs, and they are not good. She said that 65% of school funding comes from property taxes and TIFs divert huge sums of revenues for decades and that is not good for school business climate. Ms. McClain said that police officers and teachers are hard to retain and substitute teachers are making what they did decades ago. She said that she believes in public schools and asked if the Board still did. She said that TIFs are a mess everywhere and only divert public funds to development projects. She said that in 23 years the \$15 million property will depreciate in

value and will again be less money for the schools. She asked the Board to put the people before the money.

Scott Haggerty, 18165 Ridgley Road, spoke to the Board about the numbers for the TIF being incorrect in his opinion. He said that the TIF funding should only be for the removal of the blight.

Jerry Stewart, 14114 Lora Street, spoke to the Board about his concern about growth this project would bring to the City. He used to live in Fort Worth, Texas and has seen what growth can do to a city. He asked if the Board thought 85 little apartments would bring in people that would spend their money in Smithville. Mr. Stewart said that constituents believe and trust in the people that they elect and when those elected people do not listen to the constituents it breaks down and destroys that trust.

Alicia Neth, 708 Quincy Boulevard, spoke to the Board in support of the TIF project. She said that she has heard people comment that the TIF will be the death of downtown and rents would increase and cause businesses to close. She said that she cannot speak for other businesses, but she has not heard anyone downtown voice that concern. Ms. Neth said that she is looking forward to this project especially the potential foot traffic during slow summer months and new business that could come from the new anchor tenants that will be located on the building's main floor. She asked that the Board figure out a way to make it work.

Debra Dotson, 2004 NE 196th Place, spoke to the Board in support of the TIF. She said that with the first TIF there were a lot of people against Price Chopper receiving it, but the Board of Aldermen approved it and now we have a nice big grocery store, and it is great. We also have ancillary businesses located there and it has brought jobs to our community. She said that this TIF project will bring people in to add to the vibrancy of our community, diversity and inclusiveness. Ms. Dotson said that we need more housing, and this type of housing was discussed at length during the strategic part of the comprehensive plan and is exactly what people were asking for.

Board discussion.

Alderman Russell noted that he has heard several people voice opinions about wanting to see this returned to the TIF Commission for further review. A lot of people have been vocal about this, and the Board have all received a lot of letters concerning this issue. He said that it was his understanding that the last TIF was sent back to the TIF Commission.

Mayor Boley explained that the last TIF was not sent back to the TIF Commission once it was approved by them. Mayor Boley noted that the Board of Aldermen is an elected board and sending it back to the TIF Commission would be saying that they do not want to do their job.

Megan Miller, Economic Development Counsel with Gilmore and Bell, explained that there are three way that a TIF goes back to the TIF Commission. If you enlarge the boundaries, if you are changing the general land uses of the project and you are substantially changing the nature of the project. In this case not none of those things have happened, there is nothing that has triggered either of those three things to force it to go back to the TIF Commission for them to reevaluate. She explained that would essentially cause a new plan that they would then have to evaluate. Megan explained that the Board of Aldermen are who make the decision, the TIF Commission is merely a recommending body that looks

over the TIF plan to make sure that it is statutory correct and then recommends approval or disapproval to the Board of Aldermen. The Board of Aldermen will make the decision.

Alderman Russell said that he thinks the TIF Commission did a good job. He noted that School Board has been very vocal about their concerns, and a lot of people were involved during the process, plus he and the other members of the Board of Aldermen and Mayor have received a lot of letters from concerned constituents. He thinks that parking is still an issue and has not been resolved. Alderman Russell said that after just being presented the budget review for the 5-year plan where we went from a 40% Reserve to a 25% reserve and a projection of a zero percent reserve in 2028, with the utility rate increase projected for the next five years and the three tax increases on the next three ballots he does not feel that the City should be funding the TIF. He feels that the owner bought this property for a reason he does not think that taxpayer money should be sent to assist in this development. He thinks the development is good and everybody agrees that that is a terrible eyesore. He feels that a five-story building being seen in its place from 169 would be an eyesore. He does not feel this is a good use of taxpayer dollars.

Alderman Wilson noted that in listening to everyone in support of demolishing the old hospital and looking at the TIF plan and what the developer is asking for is in her opinion just the funding to tear down the building.

Mayor Boley noted that as to Alderman Russell point about spending down to zero, the City has a reserve policy in place that restricts going below the reserve. He explained that the property tax the City receives off of the building is insignificant and 30% of a new building would be a significant amount of money.

Alderman Hartman noted that the Board has paid attention to all of the received letters. He explained that the Board in meeting with the City attorney has gained a better understanding of the TIF plan. He said that in the TIF plan they are only asking for \$480,000 for demolition, \$450,000 for site work, \$154,000 for private land purchase, which no funds from the TIF are used for the land purchase from the City, and \$30,900 for initial commercial tenant improvements. Alderman Hartman said that he feels that school's issue is with the number of children that would come to the district with the project. He said that this is a relatively small TIF at \$1.1 million but it is for \$480,000 for demolition and \$450,000 for site work. He said that he wanted to make sure that people understand that the Board has vetted this process and have listened to the constituents, to the developer and to the attorneys.

Mayor Boley said that he thinks there is a misunderstanding that this TIF is 100% funded by property tax, there is an economic impact based on EATs for economic activity on this property. So, if there is a restaurant or a retail shop that is performing really well the TIF will be paid off sooner than the 20 years. Once the \$1.1 million TIF is paid off the property will go back on the tax rolls.

Cynthia noted that this plan is a changed plan from the plan that was submitted by and recommended by the TIF Commission. Those changes include a reduction in the total amount to be captured and is capped at \$1.1 million, plus interest. The plan is also capped at 20 years. She explained that the attorneys did listen to the TIF Commission in their request to look at capture of utility taxes as part of this, but that number was so small that it really would have been more costly administratively to track. In exchange for that we

have included some reductions in development fees for the project to offset those costs and that basically has the city bearing the burden of some of the other taxing jurisdictions.

Mayor Boley said that the School Board President did request we try to get this below \$1.2 million, and we have done more than that by getting it down to \$1.1 million. He noted that this property has been discussed as an economic impact area for well beyond when he became Mayor five years ago and we have met with at least six developers looking at that property and none of them could get it to pencil out. He said there is a big risk being taken on developing that property and that is the reason we have an economic development incentive program for these types of risks.

Alderman Russell said that even though the cost was gotten down to \$1.1 million he was still questioning why we would not allow only the \$880,000 for the demolition as the amount of the TIF. He said in listening to the TIF Commission meeting the owner said that if we were just to use that he would not be able to do the project. He said if we agree to fund the TIF for the demolition then that would be sufficient to send it back to TIF Commission or if that was explored and how that would affect the current owner. He understood that the developer said if we were just to go to fund the TIF for the demolition and clearing the land on the blighted property that it would not be viable.

Alderman Wilson said that is pretty well where we are at with the current plan. She said the demolition is the majority of the \$1.1 million.

Mayor Boley said that he had heard people say quite often why does the City not buy the building and tear it down or even the school. He explained that with the public construction projects having to go by the prevailing wage for asbestos removal, plus the cost of concrete and construction would be pretty expensive. He noted that the City or the school buying the property takes it completely out of the tax base so that is not a very viable option either. The land discussed for parking lots there are currently no taxes collected on them because the City owns them and once the City sells them and they go to private hands they start paying taxes on them, so it is additional tax income.

Alderman Atkins said that what he has been hearing from a lot of people is the children and the money that is being lost and you made a statement that the School Board President asked that we get it below \$1.2 million, and we did.

By roll call vote.

Alderman Hartman – Aye, Alderman Shipley – Aye, Alderman Atkins – Aye,
Alderman Wilson – Aye, Alderman Ulledahl – Aye, Alderman Russell – No.

Ayes – 5, Noes – 1, motion carries. Mayor Boley declared Bill No. 2996-23 approved first reading.

8. Bill No. 2997-23, 110 Smithville TIF Redevelopment Project – 1st Reading

Alderman Ulledahl moved to approve Bill No. 2997-23, authorizing and directing the Mayor to approve the Redevelopment Project for the 110 Smithville Tax Increment Financing Plan and activating the collection of Tax Increment Financing Revenues within the Project. 1st reading by title only. Alderman Wilson seconded the motion.

Alderman Russell asked if this might be an opportunity for eminent domain for the City to take over the property.

Mayor Boley explained that the City would have to purchase the property and pay for the demolition.

By roll call vote.

Alderman Ulledahl – Aye, Alderman Wilson – Aye, Alderman Hartman – Aye,
Alderman Shipley – Aye, Alderman Russell – No, Alderman Atkins – Aye.

Ayes – 5, Noes – 1, motion carries. Mayor Boley declared Bill No. 2997-23 approved first reading.

9. Bill No. 2998-23, Fairview Crossing CID Funding Agreement – 1st Reading

Alderman Ulledahl moved to approve Bill No. 2998-23, approving the funding agreement for the Fairview Crossing Community Improvement District. 1st reading by title only. Alderman Wilson seconded the motion.

Upon roll call vote:

Alderman Russell - Aye, Alderman Hartman - Aye, Alderman Shipley – Aye,
Alderman Atkins - Aye, Alderman Wilson – Aye, Alderman Ulledahl - Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2998-23 approved first reading.

10. Resolution 1233, Accepting Permanent Sewer Easement

Alderman Ulledahl moved to approve Resolution 1233, accepting a permanent sewer easement from Central Trust Bank to allow Fairview Crossing North access to the pump station.. Alderman Hartman seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 1233 approved.

11. Resolution 1234, Change Order No. 1, 4th Street and 4th Terrace

Alderman Ulledahl moved to approve Resolution 1234, approving change order No. 1 for 4th Street and 4th Terrace to the contract with Menke Excavating in the amount of \$30,300 for additional work involving replacement of the sewer main. Alderman Russell seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 1234 approved.

12. Resolution 1235, Authorizing Expenditure for Playground Resurfacing

Alderman Ulledahl moved to approve Resolution 1235, authorizing the expenditure for the resurfacing of Heritage Park and Smith’s Fork Park playgrounds through the cooperative agreement with Sourcewell to Next Generation Recreation in the amount of \$179,369. Alderman Wilson seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 1235 approved.

OTHER MATTERS BEFORE THE BOARD

13. Public Comment

Scott Allen, 303 Amesbury Drive, spoke to the Board about his concern about John Chevalier and how he believed he should be removed from the Planning and Zoning Commission because of his social media posts.

Roberta Lowman, 16251 Lowman Road, spoke to the Board about the property on the corner of Second Creek and Lowman Road. She explained that the property is overgrown and needs to be maintained. She said that she is getting rodents, snakes and insects coming on to her property because of it.

14. New Business from the Floor

Alderman Russell reminded everyone that we will hold the annual fireworks display at the dam on July 1. He also thanked everyone how helped with Lakefest this past weekend.

15. Adjourn

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

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared the regular session adjourned at 7:52 p.m.

Linda Drummond, City Clerk

Damien Boley, Mayor