

**SMITHVILLE BOARD OF ALDERMEN
REGULAR SESSION**

February 21, 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 7:25 p.m. following the Work Session. A quorum of the Board was present: John Chevalier, Leeah Shipley, Marv Atkins, Ronald Russell and Dan Ulledahl. Dan Hartman was absent

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

2. Pledge of Allegiance led by Mayor Boley

3. Consent Agenda

- **Minutes**
 - February 7, Board of Aldermen Work Session Minutes
 - February 7, Board of Aldermen Regular Session Minutes
- **Finance Report**
 - Financial Report for January 2023
- **Resolution 1184, MOU for Farmer's Makers Market**

A Resolution authorizing the Mayor to enter into a Memorandum of Understanding with the Smithville Lion's Club for the 2023 Farmer's and Makers Market.
- **Resolution 1185, Expenditure Approval for Purchase of Water Meter Setters**

A Resolution authorizing the expenditure of funds from the Combined Water and Wastewater Systems Fund for the purchase of utility meter setters from Kansas City Winnelson Company in the amount of \$23,021.05.
- **Resolution 1186, Chlorine Dioxide Generator**

A Resolution authorizing the purchase of a chlorine dioxide generator at the water treatment plant from Chem-Sult in the amount of \$9,330.
- **Resolution 1187, Award Bid - Clean Main Lift Station**

A Resolution awarding a bid in the amount of \$21,039.90 to Ace Pipe Cleaning to clean the main lift station at the Wastewater Treatment Plant.
- **Resolution 1188, Purchase of the Variable Frequency Drive**

A Resolution authorizing the purchase of a Variable Frequency Drive (VFD) at the Wastewater Treatment Plant from Mid-America Pump in the amount of \$13,564.60.
- **Resolution 1189, Leak Adjustment**

A Resolution approving a water and wastewater leak adjustment request for Dustin Conover in the amount of \$471.42 for his December utility bill.

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

No discussion.

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

REPORTS FROM OFFICERS AND STANDING COMMITTEES

4. Committee Reports

Mayor Boley reported on the February 14 Planning and Zoning Commission meeting. They discussed a couple of the items that are on the agenda this evening. One item on their agenda was pulled. There is a tenant finish permit for a brewery in town and housing permits are zero for the year.

Alderman Russell reported on the February 14 Finance Committee meeting. They went over the vendor payments in excess of \$7,500, bank reconciliation, update for the first quarter of FY2023, and the outstanding checks list. They also discussed the certificates of participation and the COP update.

Alderman Russell gave an update on Lakefest/Founder's Day. They met last Wednesday. There are still a lot of preparations to do for the festival, generator update, dunk tank, table and chairs, t-shirts, parking and the normal things they have to get together. They do have 38 vendors and 12 food trucks lined up so far. They also discussed the sign for Founder's Day, parking access on Bridge Street and the volunteering of City employees.

5. City Administrator's Report

Cynthia Wagner, City Administrator, noted at our next meeting on March 7 there will be an item that will have to be considered as an emergency ordinance. Cynthia explained that the City received a letter from Spire related to their proposed increases in rates. Staff was reminded that anytime a utility increases their rates by 7% or more and they notify us of that change in rates, the City is required by statute to either lower our gross receipt tax or maintain the same gross receipt tax rate. Our rate now is at 5% of gross receipts on all utilities. She noted that this is a Hancock Amendment item. We either have to lower our rate so that we maintain the same amount of revenues or vote to leave the rate the same at that 5% and maintain the level of revenues. If the Board wants to maintain the 5% they will have to take action on that and staff would recommend that we leave it at that 5%. We want to be consistent with all of the utilities plus it has an impact on the budget if we have any reduction. Staff will be bringing that forward for Board approval by emergency ordinance because we have a short window in which we have to make those changes. Cynthia explained that she had conversation with the Mayor and he will sponsor it as an emergency so first and second reading will occur at the next meeting to maintain that 5% rate.

Cynthia noted that Stephen Larson, Finance Director, has been working over the last couple of weeks putting information together from the reports and information we received from the County Assessor's office. We have received the property tax information for the Marketplace, and he has been working to put together letters with checks that will go out to taxing jurisdictions later this week that include the increment that are due to those taxing jurisdictions as part of the Marketplace TIF project. Cynthia explained that when those taxes are paid, they are paid to the county then the county remits them back to the City. Part of that tax revenue is captured for the Marketplace TIF project and then a portion of those tax revenues go back to the taxing jurisdictions. She noted that based on the way the TIF was structured, the taxing jurisdiction including the School District, the Fire Protection District, the Library District, the Ambulance District and Clay County receive a portion.

Those checks total about \$108,000 and will go out this week to those various jurisdictions.

Alderman Chevalier asked the amount the School District would receive.

Cynthia said it was between \$60,000 and \$65,000.

Alderman Chevalier asked if that was about what we were anticipating annually.

Mayor Boley said that last year they received \$55,000.

Alderman Chevalier asked if that number was in line with the initial projections.

Mayor Boley explained that the original projections were based off Heritage Tractor going in there.

Cynthia noted that last summer staff provided a report on the Marketplace TIF and will do so annually to provide that information to be able to do a good analysis on it. As the Mayor said those numbers are really difficult to make comparison to because there was a different additional tenant that was proposed to go in there.

Cynthia noted there will be an additional item that staff will be recommending as an emergency ordinance for the March 7 meeting. She explained that staff has been working with Megan Miller of Gilmore Bell, preparing for the TIF process related to 110 Smithville. In looking at the Code of Ordinances, staff found that it actually still reflects TIF Commission composition as outlined prior to the change in population information from Clay County. With Clay County changing to a Charter and the population numbers increasing those changes triggered a change in the TIF composition. She explained that the City initially appointed six TIF Commissioners. In the State Statutes because of the population of Clay County and the form of government of Clay County, we have to change the City's Code of Ordinances so it reflects the new composition. This has to be done before the TIF commission meets late in March. Cynthia noted that this was more of a housekeeping issue making sure that we have that taken care of.

Cynthia also noted that the TIF Commission has an educational meeting tomorrow evening.

Cynthia noted that there was a question in public comment at our last meeting regarding business licensing. Staff is reviewing that information and anticipate being able to provide follow-up information at the March 7 meeting in the City Administrators report.

Cynthia noted that the City and the City's Economic Development attorneys have receive communication from the School District related to the upcoming TIF. That letter is included in the report if the Board has any questions you can contact Cynthia or Megan Miller.

ORDINANCES & RESOLUTIONS

6. Bill No. 2974-23, Repealing and Replacing Section 100.220 – 2nd Reading

Alderman Ulledahl moved to approve Bill No. 2974-23, repealing section 100.220 regarding general penalties related to marijuana and enacting in its place a new section 100.220 regarding general penalties. 2nd reading by title only. Alderman Atkins seconded the motion.

No discussion.

Upon roll call vote:

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

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2974-23 approved.

7. Bill No. 2975-23, Repealing and Replacing Section 205.1810 – 2nd Reading

Alderman Ulledahl moved to approve Bill No. 2975-23, repealing Sections 205.1800 and 205.1810 and replacing it with a new Sections 205.1800 and 205.1810 regarding use, consumption or possession of marijuana and controlled substances. 2nd reading by title only. Alderman Atkins seconded the motion.

No discussion.

Upon roll call vote:

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

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Bill No. 2975-23 approved.

8. Bill No. 2976-23, Electric Fence for Industrial Zones – 2nd Reading

Alderman Ulledahl moved to approve Bill No. 2976-23, authorizing electric fences in both A-1 and Industrial zones, subject to certain performance standards. 2nd reading by title only. Alderman Atkins seconded the motion.

No discussion.

Upon roll call vote:

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

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Bill No. 2976-23 approved.

9. Bill No. 2977-23, Conceptual Plan – Fairview Crossing North – 1st Reading

Alderman Ulledahl moved to approve Bill No. 2977-23, approving the conceptual plan for Fairview Crossing North. 1st reading by title only. Alderman Shipley seconded the motion.

Public Comment.

Constance Scott, 308 Killarney Lane, noted that she is president of the Hills of Shannon Homeowners Association. She said that they welcome the development of lots one through three at the corner of 169 and Commercial but had concerns regarding the developments of lots four through six. They had concerns with the water flow and watershed runoff. Ms. Scott explained that they had met with Mr. Crees and had their questions about the water answered for now. Their main focus remains primarily on the fact that the current designated design for privacy is based solely on a 30-foot utility easements. They do not feel that the 30-foot utility easement as good enough and is not a guarantee of continued privacy. Ms. Scott said they have been in a good dialogue with Mr. Crees the current property owner and acting developer and he has made a few suggestions for landscape design or a natural screen barrier, but nothing has been finalized. She said that there is

no guarantee that privacy will be preserved by relying on this utility easement. Ms. Scott asked the Board please defer this vote until we can get the privacy concerns sorted out.

Mayor Boley asked Jack Hendrix, Development Director, if this is approved, before they build anything they have to go back to Planning Commission for review of the landscaping and everything else having to do with the building process.

Jack Hendrix explained that each building will have to have its own site plan and be reviewed through the Planning Commission. At that time the landscape buffering is also reviewed.

Mayor Boley clarified that regardless of who owns the property this will still have to be reviewed by the Planning Commission.

Jack explained that any time we have a commercial building construction it has to go through the Planning Commission for review.

Alderman Russell asked Ms. Scott if the 30-foot easement was not sufficient what does she purpose it should be.

Constance Scott said that Mr. Crees was proposing more of a screen barrier such as conifer trees that grow up and would help block the sound and additional light.

Alderman Russell asked if they were onboard with that.

Ms. Scott said that they are open to that.

Alderman Russell asked Ms. Scott if since the last meeting where she had requested the Board to come meet with them and walk the property if anyone had.

Ms. Scott said that Alderman Atkins had visited about it but then the weather took a turn and she had not had the ability to reach back out to him.

Alderman Chevalier asked if they provided the proposed ideas 30-foot barrier to mitigate this could the Board consider that now. He asked if this could be amended to add the proposed barrier or does it have to go through the Planning Commission first.

Mayor Boley explained that the landscape is approved on the site plan not the conceptual plan.

Jack noted that there is a landscape plan as part of the conceptual plan that shows a landscaping plan identified in that covers the minimum. Jack explained that if there are changes between what that plan shows and what the site plan for each building requires they have to do the higher of those two.

Mayor Boley noted that the site plan is the more appropriate process and also mentioned that we do not allow overhead utilities so they will not be cutting off the tops of the trees, they will be burying them.

Alderman Chevalier said that burying the lines could kill the trees.

Mayor Boley said that the utilities for this would go in front of the buildings and under the road not behind.



Jack clarified that this is utility easement and also a drainage easement.

Mayor Boley said that this is another reason that the utilities would go in on the front side.

Jack noted that it also depends on Evergy, but usually with the street in the center they try to put the utilities there so they can go under the road and service both sides.

Mayor Boley noted that usually for new constructions they run conduit before they put concrete down so they do not have to try to run it after the fact.

Alderman Chevalier said that he just wanted to make sure that it will be put in the site plan.

Randall Palmer, 14702 Shamrock Way, said that he is directly affected by this new development. He noted that 30-feet would be the distance between the dumpsters and his backyard. It would also be the distance between the trucks and his backyard. Mr. Palmer said that he is only opposing lots four through six and not lots one through three. He said that he does appreciate the business coming in and that we do need it. Mr. Palmer said that he believed the frontage was supposed to be 300-feet and supposedly zoned commercial the entire time but it has never been used. He said that this construction is going to shorten the 300-foot of frontage down to 150-feet just to satisfy this development. He also said that the road that will be constructed to come out onto Commercial Street will be coming out on to concrete and blacktop. He said that the street is not suitable to be entered and exited from that area of the because the blacktop in is poor condition and the concrete is in good condition so the City will have obligations to fix the blacktop. Mr. Palmer asked if the Board would like a dumpster in the backyard 30-feet away from their house.

He said that evergreen trees are not going to stop the noise. He asked that the Board deny lots four through six or hold off until they can come to some satisfactory buffer solution. Mr. Palmer said that this plan goes against 80% of the City's 2030 Comprehensive Plan he asked that we stick to the plan and keep Smithville a small town. He asked that we keep the buffer zones in place. He noted that Mr. Crees has a lot of property to build on to the south and one acre is not going to hurt anything.

Shane Crees, 13530 Mount Olivet Road, noted that he is the applicant and wanted to clarify a few points. He noted that the project was approved unanimously by the Planning Commission last week. He said that the 30-foot easement meets the City's requirements. Mr. Crees noted that this has been a commercial site for some time regardless if the back area was developed or not. He added that he could put a 40,000 foot building on that lot that could back up to that homes as well. Mr. Crees noted that he is trying do what meets the City's Comprehensive Plan and designed this so it does. He said that he understands the resident's concerns and has spoken to the Homeowners Association and offered solutions that are outside of what is required and will try his best to provide the screening and buffering so it will have minimal impact on the homeowners. He noted he appreciated the Boards consideration

Upon roll call vote:

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

Ayes – 4, Noes – 1, motion carries. Mayor Boley declared Bill No. 2977-23 approved first reading.

10. Bill No. 2978-23, Rezoning Northeast Corner of Second Creek and Lowman Road from A-1 to R-1B and R-3 – 1st Reading

Alderman Ulledahl moved to approve Bill No. 2978-23, approving the rezoning of the Northeast Corner of Second Creek and Lowman Road from A-1 to R-1B and R-3. 1st reading by title only. Alderman Shipley seconded the motion.

Public Comment.

Roberta Lowman, 16251 Lowman Road, asked the Board to rezone the property R-1, for single family home only. She said that she was given that plat that was to be developed with only single family homes that would range from \$400,000 to \$500,000. She asked that the Board rezone the property R-1 and not R-3.

Kristine Bunch, 18608 Primrose Street, said that no one was opposing the property being rezoned R-1. Ms. Bunch felt that the Ms. Lowman was not being heard. She said it could stay zoned as Ag or be rezoned R-1.

Upon roll call vote:

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

Ayes – 4, Noes – 1, motion carries. Mayor Boley declared Bill No. 2978-23 approved first reading.

11. Resolution 1190, Agreement with Jeffrey Place, Labor Law Attorney

Alderman Ulledahl moved to approve Resolution 1190, approving the engagement of Jeffrey Place for labor attorney services. Alderman Shipley seconded the motion.

No discussion.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Resolution 1190 approved.

12. Resolution 1191, Reimbursement of Expenses Related to COP Projects

Alderman Ulledahl moved to approve Resolution 1191, declaring the intent of the City of Smithville to finance costs of a utility project and reimburse itself for expenditures relating to this project from proceeds of the financing. Alderman Atkins seconded the motion.

No discussion.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared Resolution 1191 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 Atkins seconded the motion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared the regular session adjourned at 8:00 p.m.

Linda Drummond, City Clerk

Damien Boley, Mayor