

MINUTES OF THE REGULAR MEETING OF THE BOARD OF ALDERMEN  
OF THE CITY OF OSAGE BEACH, MISSOURI

July 22, 2010

The Board of Aldermen of the City of Osage Beach, Missouri, met to conduct a regular meeting on Thursday, July 22, 2010, at 6:30 p.m. at City Hall. The following were present: Mayor Penny Lyons, Alderman Lois Farmer, Alderman David Gasper, Alderman Steve Kahrs, Alderman John Olivarri, Alderman Kevin Rucker, and Alderman Ron Schmitt. City Clerk Diann Warner was present and performed the duties of that office.

**Mayor's Communications.** Mayor Lyons reported that she attended a LOWA meeting at Tan-Tar-A on Monday where an announcement was made that the lake was clean. She reported that storm water run off and erosion were items of concern. AmerenUE presented a program on their wetlands management.

On Tuesday, Mayor Lyons reported that the betterment committee met. The *Keep it Clean* brochures that the committee produced have been distributed in the Lake area and there are enough on hand to finish out the season. She said that the response from customers and businesses has been very favorable according to reports.

The Joint Sewer Board had its monthly meeting Tuesday evening and the report from Alliance stated that the plant effluent quality was 99.5% removal. Besides routine maintenance everything has been running smoothly. Mayor Lyons reported that in the 25 years since the plant was built, no spills have occurred.

Today, Mayor Lyons attended the MML Economic Development and Human Resources Committee meeting in Jefferson City. The speaker discussed current Missouri Economic trends and he believed that the diversity of Missouri has somewhat cushioned the State from the recent national downturns. Missouri mirrors the national economy but because of the central location in the nation and the diversity of retail, manufacturing, farming and natural resources, there are more options. The speaker expects a 10% increase next year.

Mayor Lyons reported that the City's sales tax receipts for May were up 11.9% from last year, and year to date the receipts show a 2.4% decrease which is a lot less than the State numbers.

**Citizens Communications.**

Juda Schell, owner of Vista Grande, stated that no one advocates drunk driving however there needs to be rational and reasonable police protection. She said that the problem in Osage Beach is that the image is not local or tourist friendly and a plan of action is needed. Mrs. Schell said that a group of people have created the Lake Area Law Enforcement Review Board which will address police actions that cause fear.

Mrs. Schell said that people are afraid to visit friends and go out because police park their vehicles outside businesses and wait for patrons to come out. She said an officer may make an arrest using his own judgment even if a person is not legally impaired. Mrs. Schell said that those who live here who do not depend on tourism want more enforcement; businesses would like less enforcement and the community is disgruntled. She compared it to a pendulum out of balance when organizations like MAAD can take away the rights of others. Mrs. Schell questioned how many man hours it took to get 60 DWI arrests.

John Schell said he has lived in Osage Beach since 1983, however his father owned property in 1953. He explained that he owns property with a small dock and he said that he has shot off fireworks since the 1950's. Mr. Schell said the people in the nearby condominiums love it and there are many friends and family members there to watch. He said that Police Officer Mike Hutzler showed up and said he saw fireworks from Highway 54 and informed him that fireworks were illegal in Osage Beach. Officer

Hutzler told him not to shoot off anymore fireworks and left. Mr. Schell said that they continued shooting fireworks and five police vehicles came down his driveway. He said one of the officers was Officer Chapman who told his daughters-in-law, who were walking up the driveway, to get in the car and he wanted to hand cuff them. They were not handcuffed, however his son was. The other officers were there for an hour. Mr. Schell said that Lieutenant Todd Davis said that no one would be arrested; however, Mr. Schell was issued a ticket. He added that his grandchildren were crying to see their dad in handcuffs.

Mr. Schell said that a ticket was fine but the actions of the police officers were out of hand. He said he thought he should have been allowed to finish the fireworks display, he believed the officers could have been nicer and there was no reason to have five police cars respond. He said Officers Hutzler and Chapman should be fired and they are no good for the City; or they should have training in human relations. Mr. Schell commented that he has had one run in with Officer Hutzler in the past.

Mr. Schell also complained about police officers hiding on Passover Road to catch speeders and sometimes they stop vehicles right in front of his business. He said that common sense is needed.

Samuel Trapp, an attorney who said he frequently sues cops, said the reputation here in this area is driving tourists away. Mr. Trapp said the group had asked him to join the Lake Area Law Enforcement Review Board. Mr. Trapp said no one is saying there should be no enforcement rather; reasonable enforcement is needed. He said that the approach taken by the police here is driving away the livelihood of business owners and there are less people visiting the area. Mr. Trapp said that a reasonable approach should be taken.

Chad Kautz, owner of Mexicali Blues said he is not going to sit back and watch the police drive business away. He said people are leaving, selling their homes and boats and will not come back. Mr. Kautz said that many of the police officers are friendly to tourists but the young officers have a bully attitude.

Ken Kuenzie, from KRMS, said that perception is reality. He said that there have been comments from listeners about being stopped for no reason, and people say they are not coming back. They are staying home and he said a balance needed to be found. Mr. Kuenzie said that other communities take impaired drivers home or call a cab for them. He said he would like the perception to change.

A citizen, whose name was illegible on the sign in sheet, was present to applaud the Board for not rushing into passing the ordinance prohibiting "Spice" or "K2". He said this product is a substitute for marijuana and it is what allowed him to walk away from marijuana. The individual said that some people are leaving the state because this will become a State law in August. He added that he has witnessed people buying this product and it is a good source of sales tax revenue.

Bud Balke, a member of MADD, thanked the Board for their time and effort. He said the information in the *Direct Connection* is valuable and a Lake Area Law Enforcement Review Board sounds like a good idea. Mr. Balke said he has been with MADD for twenty-five years and he supports law enforcement. He said he lives in Lebanon and works in Jefferson City and travels through Osage Beach daily.

Gary Tompkins, the owner of Bootleggers, said it cost \$65,000 to bring the building occupied by his business up to code and he pays sales tax each month. He said that the change in attitude and the stepped up presence of the Highway Patrol drives people away and the City needs to make sure tourists are happy. He said his wife will not have a glass of wine with dinner and then drive because she is scared she will be pulled over. Mr. Tompkins said he supports law enforcement but the idea of law enforcement is public safety to get people home safely. He added that he wants to be a part of the solution and not part of the problem. He said law enforcement is drying up tourism dollars because after 10:00 p.m., there are no

customers. Mr. Tompkins said it is about jobs and revenue and the level of service to citizens.

**Consent Agenda.**

Alderman Olivarri moved to approve the consent agenda which includes minutes of the regular meeting held on July 1, 2010, the special meeting held on July 8, 2010, the bill list as submitted and liquor licenses to Pickled Pete's and Harry and David.

Alderman Farmer seconded the motion which was voted on and unanimously passed.

**Unfinished Business.** None

**New Business.**

**Bill 10-35.** Amends Schedule II. Stop Signs by Deleting Stop Signs Located at Golf Road at Nichols Road; the Stop Sign at Broadwater Lane at Highway 54 and Reinstallation of a Stop Sign on an Unnamed Street.

Mayor Lyons presented the first reading of Bill 10-35 by title only. It was noted that Bill 10-35 has been available for public review.

Alderman Gasper moved to approve the first reading of Bill 10-35 as presented. Alderman Schmitt seconded the motion which was voted on and passed.

**Bill 10-36.** Supplemental Agreement for the Passover Road Sidewalk Project.

Mayor Lyons presented the first reading of Bill 10-36 by title only. It was noted that Bill 10-36 has been available for public review.

Alderman Farmer moved to approve the first reading of Bill 10-36 as presented. Alderman Olivarri seconded the motion which was voted on and passed.

Mayor Lyons presented the second and final reading of Bill 10-36 by title only. It was noted that Bill 10-36 has been available for public review. Alderman Gasper moved to approve the second and final reading of Bill 10-36 as presented. Alderman Olivarri seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill 10-36 and to pass same into Ordinance: "Ayes": Alderman Gasper, Alderman Kahrs, Alderman Rucker, Alderman Schmitt, Alderman Olivarri, Alderman Farmer. "Nays": None. Bill 10-36 was passed and approved as Ordinance 10.36.

**Bill 10-37.** Creating a Limitations Period for Access to the Procedure to Allow for the Administrative Handling of Protests of Various Fees, Taxes and License Charges.

City Attorney Ed Rucker explained that in reviewing the ordinances, he determined that they should include a statute of limitations of five years on the administrative process and he wanted to limit the liability.

Mayor Lyons presented the first reading of Bill 10-37 by title only. It was noted that Bill 10-37 has been available for public review.

Alderman Rucker moved to approve the first reading of Bill 10-37 as presented. Alderman Olivarri seconded the motion which was voted on and passed.

**Bill 10-38.** Banning a Substance Known as “Spice” or “K2” Used as a Marijuana Substitute.

City Attorney Rucker explained that the substances are synthetic marijuana and the state passed legislation to prohibit the use and sale effective August 28, 2010.

Alderman Rucker questioned the reason the City is considering passing an ordinance when the state already has a law. Police Chief Severson explained that it is to keep cases in Municipal Court rather than sending them to the state to be prosecuted. City Attorney Rucker said an ordinance is created for cases a state prosecutor might not take, and the City is trying to be consistent with State Statutes. Alderman Kahrs said he understands the need to prohibit the sale and use of “Spice” and “K2” but he thought making it illegal would increase the presence of the products. He said it is just one more thing police officers must look for and his belief is that those types of products should be heavily taxed.

Alderman Schmitt said that passing the ordinance would make it more convenient for individuals to come to Municipal Court rather than go to state court. City Attorney Rucker said that when an officer writes a ticket, if the county prosecutor wants to handle the case, he has no objections. He said this bill would not change the legal status of “K2” because on August 28<sup>th</sup> “K2” would be illegal, however it would be a City ordinance violation in Municipal Court.

Mayor Lyons presented the first reading of Bill 10-38 by title only. It was noted that Bill 10-38 has been available for public review.

Alderman Olivarri moved to approve the first reading of Bill 10-38 as presented. Alderman Schmitt seconded the motion which was voted on and passed.

**Bid Award.** Casa Bonita Grinder Station.

The following bids were received:

Travis Hodge Hauling, LLC	\$38,820.99
Stockman Construction Corp	\$56,290.00

City Engineer Nick Edelman recommended the bid be awarded to the low bidder, Travis Hodge Hauling, LLC in the amount of \$38,820.99. The project is budgeted under 35-00-773186, MoDOT mandated projects.

Alderman Olivarri moved to award the bid to the low bidder, Travis Hodge Hauling, LLC, in the amount of \$38,820.99. Alderman Gasper seconded the motion which was voted on and unanimously passed.

**Approval of Expenditure for Relocating AmerenUE Aerial Power Lines along Stewart Drive.**

City Engineer Nick Edelman explained that this project involves AmerenUE moving their utility poles along Stewart Drive which is required to complete the roadway improvements on the Zebra Connector job.

This work is budgeted under item #20-00-773111, Utility Relocates in the amount of \$100,000.

The Engineering Department has been in contact with AmerenUE to relocate the power lines along Stewart Drive. The utility relocates along Stewart Drive were originally estimated at \$91,000. The

Engineering Department has been working with AmerenUE to reduce this cost. We have decided to build a retaining wall at the end of the project to delete the removal of one utility pole. This will save an estimated \$9,000. Normally if it is under \$100,000 AmerenUE does an estimated cost and we go off of that. Since we have been working on saving money, their computer system does not allow for the reduction and removal so it goes into an actual cost agreement. We were notified today that is how they would be treating this project.

This work must be done for the completion of the roadway improvements. The Engineering Department recommends approval of a not to exceed amount of \$100,000 for the utility relocates for the Stewart Drive portion of the Zebra Road Reconstruction project.

Alderman Olivarri moved to approve the expenditure in an amount not to exceed \$100,000 for relocating utility poles along Stewart Drive as recommended. Alderman Farmer seconded the motion which was voted on and unanimously passed.

#### Communications from Board Members.

Alderman Kahrs. Alderman Kahrs thanked everyone who spoke tonight on a number of issues that need to be addressed. He suggested working with Chief Severson to accomplish goals that need to be done.

Alderman Rucker. Alderman Rucker suggested sending the concerns expressed from the business community to the Osage Beach Citizen Advisory Committee for input.

Alderman Gasper. Alderman Gasper said the Board should listen to concerns expressed tonight but he had not personally witnessed police officers trying to trap people. He reported that he spoke with City Engineer Nick Edelman and Superintendent of Public Works Rick King about the lack of mowing along Highway 54 after a neighbor pointed it out to him. Alderman Gasper said when the City takes possession of the Highway; it will take additional manpower to maintain it properly.

#### Staff Communications.

City Attorney. Ed Rucker reported that City Administrator Nancy Viselli had asked him to contact David Bushek about timelines for TIF applications. Mr. Bushek acknowledged receipt of the request; however, Mr. Rucker said he has not responded.

City Clerk. Diann Warner reported the MML Conference will be held in St. Charles from September 12-15. She asked those who would like to attend to complete the registration form and return it to her by the end of August.

Police Chief. Dave Severson reported that the number of stops, arrests, and DWI's has been decreasing over the last five years because there are designated and more responsible drivers. He said statistics prove that one out of every ten drivers on the road is impaired and driving while intoxicated is a problem in the Lake area. Chief Severson said that he could not speak for the Highway Patrol but as long as the numbers are high, there will be saturation points.

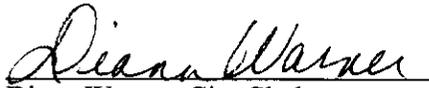
Chief Severson said he does review police officers and their demeanor on video taken of stops and he is open to hearing about the conduct of the police officers if someone has a complaint.

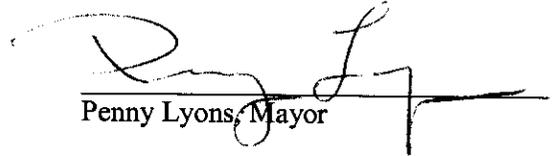
Chief Severson reported that he and Gary Woodson looked at an ambulance in Kansas City. He said that specifications were created and bids are being solicited.

Superintendent of Public Works. Rick King reported that one of his sons will be coming home from Afghanistan tomorrow.

There being no further business to come before the Board, the meeting adjourned at 7:25 p.m.

I, Diann Warner, City Clerk of the City of Osage Beach, Missouri, do hereby certify that the above foregoing is a true and complete journal of proceedings of the regular meeting of the Board of Aldermen of the City of Osage Beach, Missouri, held on July 22, 2010.

  
Diann Warner, City Clerk

  
Penny Lyons, Mayor