

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

December 16, 2010

The Board of Aldermen of the City of Osage Beach, Missouri, met to conduct a regular meeting on Thursday, December 16, 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 had nothing to report at this time.

Citizens Communications. No one was present who wished to speak during this portion of the meeting.

Consent Agenda.

Alderman Farmer moved to approve the consent agenda which includes minutes of the regular meeting held on December 2, 2010, the minutes of the special meetings held on November 10, 2010, November 15, 2010 and the bill list as submitted. Alderman Kahrs seconded the motion which was voted on and unanimously passed.

Unfinished Business.

Bill No. 10-75. AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, ADOPTING AN ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011, AND ENDING DECEMBER 31, 2011, AND APPROPRIATING FUNDS PURSUANT THERETO

Mayor Lyons presented the second and final reading of Bill No. 10-75 by title only. It was noted that Bill 10-75 has been available for public review.

Alderman Gasper moved to approve the second and final reading of Bill No. 10-75 as presented. Alderman Rucker seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill No. 10-75 and to pass same into Ordinance: "Ayes": Alderman Olivarri, Alderman Farmer, Alderman Kahrs, Alderman Gasper, Alderman Rucker, Alderman Schmitt. "Nays": None. Bill No. 10-75 was passed and approved as Ordinance No. 10.75.

New Business.

Insurance Report.

City Treasurer Karri Bell reported that due to the competitive nature of insurance, Naught Naught Agency solicited quotes from various insurance companies and after analyzing the coverage and price, they recommended the City remain with Moperm for liability coverage, Travelers for property and Ace for airport liability. The City has participated in the pool for 19 years and Naught Naught recommended the City remain in the pool with same companies. The cost is \$16,850 less than 2010 and \$26,600 less than the amount budgeted. Ms. Bell was pleased with Naught Naught Agency and with the lower premiums.

Alderman Rucker moved to remain in the pool with the companies as recommended by Naught Naught Agency. Alderman Schmitt seconded the motion which was voted on and unanimously passed.

Bill No. 10-80. AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING ORDINANCE 09.52 ADOPTING THE 2010 ANNUAL BUDGET, TRANSFERRING APPROPRIATIONS FOR NECESSARY EXPENSES.

City Administrator Nancy Viselli explained that Bill 10-80 changes the numbers to correctly reflect the actuals.

Mayor Lyons presented the first reading of Bill 10-80 by title only. It was noted that Bill 10-80 has been available for public review.

Alderman Olivarri moved to approve the first reading of Bill 10-80 as presented. Alderman Farmer seconded the motion which was voted on and unanimously passed.

Mayor Lyons presented the second and final reading of Bill No. 10-80 by title only. It was noted that Bill 10-80 has been available for public review.

Alderman Gasper moved to approve the second and final reading of Bill No. 10-80 as presented. Alderman Schmitt seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill No. 10-80 and to pass same into Ordinance: "Ayes": Alderman Farmer, Alderman Kahrs, Alderman Gasper, Alderman Rucker, Alderman Schmitt, Alderman Olivarri. "Nays": None. Bill No. 10-80 was passed and approved as Ordinance No. 10.80.

Public Hearing. Dierbergs Osage Beach LLC Tax Increment Financing Plan.

Jerry Ebest, Vice President of Real Estate for Dierbergs, introduced Brent Beumer, Director of Real Estate for Dierbergs and Bev Marcin, attorney for Dierbergs.

Mr. Ebest said Dierbergs is a closely held family company that has been in business since 1914 and the management teams consist of both the third and fourth generations. Dierbergs is under construction of their 24th store in Des Peres and their centers are 95% occupied. Dierbergs has been in ten projects either with a TIF, TDD or a business district and they are up to date and current and there have been no problems honoring their commitments.

Brent Beumer explained that the site between Zebra and Links Roads and Dierbergs will be under construction contingent upon all approvals including the TIF. The site consists of 14 acres with ingress and egress and they have worked to address some of the grade issues. Mr. Beumer explained where the entrances and exits would be. He said they are in negotiations with Best Buy and another junior anchor tenant. Mr. Beumer said the project would be constructed in one phase with anticipated opening in the spring of 2012. The Des Pres store has a new design and some of the design elements will be incorporated into this store in Osage Beach as well as incorporate the design into the other anchor stores.

Mr. Beumer went over the landscape plan and said that the rear of the property would be maintained as it exists and all areas that are new will be irrigated. He said the TIF is necessary for the project and he looked forward to bringing new jobs to the City with over 200 construction jobs and 190 full time jobs. Mr. Beumer also looks forward to bringing two new high end stores to Osage Beach with significant tax revenue to the county and the City and other taxing entities.

Andy Struckoff, a planning consultant from PGAV, developed the TIF Plan. Two components of the TIF Plan are that if the TIF is paid off in ten years, sales tax generated would be an average of \$450,757 annual revenue to the City and \$281,700 to Camden County; property tax would generate \$60,900

annually for the County if the TIF is paid off in ten years. Mr. Struckhoff said that the developer would pay upfront the entire cost of the project and the developer would only receive benefits from the TIF Plan after the development is built and open.

Mr. Struckhoff explained that the property is blighted because the buildings have been demolished; the pavement has deteriorated creating an economic liability. He said that property taxes would decline without buildings; the site is generating no jobs and no sales tax revenue. The site is under utilized and deteriorating both physically and economically.

Mr. Struckhoff said that without the TIF the property will not develop. He concurred with the blight determination.

Mrs. Bernadine Chisholm, of 1412 Apple Blossom Circle, said having Dierbergs in Osage Beach would do well for the economy in Osage Beach and she said that Dierbergs has high quality goods and services and they offer jobs for people in the area. Mrs. Chisholm said she was in sales and advertising and if there is no competition, there would be no business.

Robert Harry of Columbia was present representing Gary Prewitt and pointed out problems for granting a TIF. He said the plan is inadequate noting that Dierbergs has not provided evidence for improving the infrastructure in Osage Beach, there are no detailed costs in the plan, no third party feasibility study, and the blight study was done in 2008 and it is inadequate. Mr. Harry said other TIF projects in the region have had significant infrastructure improvement.

George Baker of 1248 Greenwood Circle, lives directly behind the proposed site and said that the site is not pretty, and it is in the middle of town. He said he spent most of his adult life in St. Louis and he knows no one in Dierbergs Company, but he knows their business reputation. He said Consumers did not go broke but the main company in Springfield went bankrupt. Mr. Baker said the projected income the project will produce is encouraging.

Richard Urton, speaking on behalf of his father in law Mr. McQuillen of 5123 Aqua Road, said the income would only be produced if enough people come to shop. He said it is great if the site would improve but there are enough grocery stores. Mr. Urton said there should be something built for kids to do. He added that he does not know any of Dierbergs representatives and he is not necessarily Gary Prewitt's friend.

Dan Calvino of 5277 Wren Lane welcomed Dierbergs and Best Buy and thanked them for coming to Osage Beach and he thanked the City for putting the plan together. He said Dierbergs would provide year round employment and he liked choices and competition and he looks forward to having them in the community.

Kim Ebling of 4877 Highway 54 said she is a concerned citizen and a business owner in Osage Beach of 36 years. She said that competition makes all businesses better and if they do not improve they do not survive. She said this is an opportunity to make the City and its citizens' better, and she encouraged the Board to vote in favor of the plan.

Don Chisholm of Apple Blossom Lane said Osage Beach is a wonderful place to live. He said there was an opportunity for a hotel to be constructed here and the project was delayed due to greed and it cost many jobs. He said he would hate to see that happen again. Mr. Chisholm said Dierbergs would provide jobs and tax revenue and more businesses would draw more people to the area.

Mayor Lyons closed the public hearing at 7:10 p.m.

City Attorney Ed Rucker asked David Bushek of Gilmore and Bell Attorneys at Law if the Board is ready to consider the TIF plan and project and Mr. Bushek responded in the affirmative. He added that all proper procedures have been followed and all notices had been given.

Alderman Rucker said that all procedures had been followed and he wanted to continue to do so, therefore he recommended that the second reading of the ordinance be delayed until the next meeting to give Osage Beach residents an opportunity to voice their concerns or approval.

City Attorney Rucker said that the first reading could occur and there could be a motion to delay the second reading, but if it fails, the Board would consider a second reading as allowed by law.

Mr. Bushek said that all proper procedures and all notices have been given, there was an additional time period that the notice was posted, and two public hearings were held. Mr. Bushek said the public has been given everything that is allowed by law.

Alderman Rucker said he is concerned whether another grocery store and another electronics store could be supported. He also questioned what this would do to the existing TIF. Alderman Rucker said the projected revenue is fine but he questioned how much is new business.

The next step is the actual TIF agreement which would come back to the Board for review and approval by ordinance. Alderman Olivarri said that performance clauses are critical to protect the City and citizens, and he could not in good conscience approve the TIF without a performance clause as it relates to revenue and jobs. He expressed his desire to complete the contract and he asked for a schedule of construction dates.

Alderman Olivarri said he had some concern regarding cannibalism and he has had an opportunity to visit with PGAV. He has taken a look at the numbers and projections and as a whole; it is a good move for the City.

Bill No. 10-81. AN ORDINANCE APPROVING THE DIERBERGS OSAGE BEACH TAX INCREMENT FINANCING REDEVELOPMENT PLAN AND PROJECT, ESTABLISHING A REDEVELOPMENT AREA, DESIGNATING THE REDEVELOPMENT AREA AS A BLIGHTED AREA, APPROVING THE REDEVELOPMENT PROJECT, INITIATING TAX INCREMENT FINANCING IN THE REDEVELOPMENT PROJECT AREA, AND DESIGNATING DIERBERGS OSAGE BEACH, LLC, AS THE DEVELOPER OF RECORD FOR THE REDEVELOPMENT PLAN AND REDEVELOPMENT PROJECT.

Mayor Lyons presented the first reading of Bill 10-81 by title only. It was noted that Bill 10-81 has been available for public review.

Alderman Olivarri moved to approve the first reading of Bill 10-81 as presented. Alderman Gasper seconded the motion which was voted on and passed with Alderman Schmitt expressing a negative vote and Alderman Rucker abstaining.

Mayor Lyons presented the second and final reading of Bill No. 10-81 by title only. It was noted that Bill 10-81 has been available for public review.

Alderman Gasper moved to approve the second and final reading of Bill No. 10-81 as presented. Alderman Farmer seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill No. 10-81 and to pass same into Ordinance: "Ayes": Alderman Kahrs, Alderman Gasper, Alderman Olivarri, Alderman Farmer. "Nays": Alderman Rucker, Alderman Schmitt. Bill No. 10-81 was passed and approved as Ordinance No. 10.81.

Mayor Lyons announced that the contract with Dierbergs would be discussed at the first Board meeting in January.

Bill No. 10-82. AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE THE REAL ESTATE LICENSE AGREEMENT WITH BRINK AND BALL LAND COMPANY, LLC.

The City has obtained all necessary property for the second phase of Passover Road. The prospective buyer Brink and Ball Land Company LLC would like to make sure that they have use of the haul road for the Marina until the City completes the proposed roadway improvements to Passover Road.

The City Attorney and the Engineering Department have been working with the prospective buyer and find this agreement to be acceptable. The Engineering Department recommends approval of this ordinance.

Mayor Lyons presented the first reading of Bill 10-82 by title only. It was noted that Bill 10-82 has been available for public review.

Alderman Farmer moved to approve the first reading of Bill 10-82 as presented. Alderman Olivarri seconded the motion which was voted on and passed.

Mayor Lyons presented the second and final reading of Bill No. 10-82 by title only. It was noted that Bill 10-82 has been available for public review.

Alderman Kahrs moved to approve the second and final reading of Bill No. 10-82 as presented. Alderman Gasper seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill No. 10-82 and to pass same into Ordinance: "Ayes": Alderman Gasper, Alderman Rucker, Alderman Schmitt, Alderman Olivarri, Alderman Farmer, Alderman Kahrs. "Nays": None. Bill No. 10-82 was passed and approved as Ordinance No. 10.82.

Bill No. 10-83. AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION TRANSPORTATION ENHANCEMENT FUNDS PROGRAM AGREEMENT PROVIDING FOR CONSTRUCTION OF A SIDEWALK ON THE WEST SIDE OF HIGHWAY 54 FROM HATCHERY ROAD TO BLUFF DRIVE, PROJECT NUMBER STP-9900(575).

This is for the second phase of the sidewalk from Osage Beach Elementary School to Beach Drive.

Mayor Lyons presented the first reading of Bill 10-83 by title only. It was noted that Bill 10-83 has been available for public review.

Alderman Olivarri moved to approve the first reading of Bill 10-83 as presented. Alderman Schmitt seconded the motion which was voted on and passed.

Mayor Lyons presented the second and final reading of Bill No. 10-83 by title only. It was noted that Bill 10-83 has been available for public review.

Alderman Kahrs moved to approve the second and final reading of Bill No. 10-83 as presented. Alderman Olivarri seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill No. 10-83 and to pass same into Ordinance: Alderman Rucker, Alderman Schmitt, Alderman Olivarri, Alderman Farmer, Alderman Kahrs, Alderman Gasper. "Ayes": "Nays": None. Bill No. 10-83 was passed and approved as Ordinance No. 10.83.

Resolution 2010-14. Resolution of Intent to Annex.

Mayor Lyons presented Resolution 2010-14, a resolution of intent to annex. Resolution 2010-14 established a date of January 6, 2011 for a public hearing on the voluntary annexation petition submitted by Allen and Jonna Scott.

Alderman Kahrs moved to approve Resolution 2010-14 as presented. Alderman Schmitt seconded the motion which was voted on and unanimously passed.

Proposed Contract Modification No. 4 for Zebra Road and Stewart Drive, Phase 1.

This is a modification for utility work. The first need for the modification is to avoid cutting the street. This work includes extending gravity sewer lines and water service to three properties. Other utilities in the field did not meet the as built drawings. They had to be lowered and tied into the existing city utilities.

A new water main needs to be extended to be low enough for the new roadway.

The existing subgrade in two areas of Stewart Drive was unstable. To complete the construction of the roadway improvements, the unsuitable subgrade must be removed.

We also need to perform grade adjustments. There are two locations where extra grading was required for the new roadway to ensure that driveways will work with the new roadway.

Additional work is required to tie in the new 36-inch pipe under Links Road. Twenty feet of the existing pipe planned for the tie in was in unusable condition. The existing junction box was also inadequate and fell apart during excavation.

The Engineering Department has reviewed APAC's price and concurs. Funding for this modification can come from 20-00-773206 Zebra Connector. This fund balance is \$796,942. The Engineering Department recommends approval of this modification in an amount not to exceed \$62,509.35.

Alderman Rucker questioned whether APAC has caused damage on Cove Road. The overlay that was to be complete this year has been delayed until next summer to acquire easements. City Administrator Viselli said she would get an update on the project on Monday.

Alderman Olivarri moved to approve Contract Modification No. 4 for Zebra Road and Stewart Drive, Phase 1 in an amount not to exceed \$62,509.35. Alderman Farmer seconded the motion which was voted on and unanimously passed.

Communications from Board Members.

Alderman Kahrs. Steve Kahrs wished everyone a Merry Christmas. He reported that he attended a

TCLA meeting and MoDOT will install additional signage for Osage Beach directing the motoring public to the business areas of Osage Beach.

Alderman Rucker. Kevin Rucker said there is a conflict with the Annual Lake Area Legislative session sponsored by the Chamber of Commerce that is being held on January 6, 2011 which is the same night as the Board meeting. There was no interest in changing the date of the Board meeting.

Alderman Rucker asked for a five year budget of anticipated expenses when the City takes over maintenance of Highway 54 to make sure the amount is placed in the budget. Mayor Lyons commented that Superintendent of Public Works Rick King has a list of some projects but the information would need to be updated.

Alderman Olivarri. John Olivarri wished everyone a happy holiday and he thanked everyone in the audience for attending and for those who participated.

Alderman Gasper. Dave Gasper thanked everyone for attending the public hearing for the Dierbergs Osage Beach, LLC and he expressed his appreciation to those who spoke. He thanked everyone for their interest and he appreciated the presentation made by representatives of Dierbergs Osage Beach LLC.

Alderman Gasper asked for a special meeting to discuss funding the ambulance service. The meeting was scheduled for Thursday, January 13, 2011.

Alderman Farmer. Lois Farmer thanked everyone who spoke at the Dierbergs public hearing and she wished everyone a Merry Christmas

Alderman Schmitt. Ron Schmitt also voiced his concern about Cove Road and stated that if APAC damaged the road they should repair it. Alderman Schmitt said that his voting in the negative is no reflection on Dierbergs, there is unfair competition when assistance is given. He added that Dierbergs would also apply for a Transportation Development District which would mean they would receive \$8 million in tax incentives which would be a 25% return. Alderman Schmitt said this is not a level playing field. He said that the site is in a prime location with its proximity to the outlet mall.

Staff Communications.

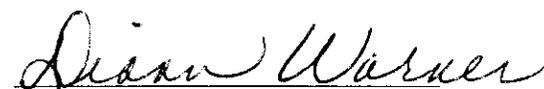
City Administrator. Nancy Viselli wished everyone a Merry Christmas.

City Treasurer. Karri Bell wished everyone a Merry Christmas.

Park Manager. Brian Willey wished everyone a Merry Christmas.

There being no further business to come before the Board, the meeting adjourned at 7:40 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 December 16, 2010.


Diann Warner, City Clerk


Penny Lyons, Mayor