

CITY OF WILLARD
BOARD OF ALDERMEN
DECEMBER 11TH, 2006
7:00 P.M.

Board members present: Mayor Thomas J. Keltner, Aldermen Charles Whitehead, Aldermen Bill Caplinger, Aldermen Gordon O'Quinn, and Aldermen Richard Simpson.

Also in attendance: City Administrator, Fred Gress; City Clerk, Kathy Snyder; Municipal Court Clerk, Linda Murray; CFO, Karen Robson; Director of Development, Randy Brown; Director of Public Works, Charlie Jones; Director of Emergency Management, Donna Gordon; Director of Parks & Recreations, Jill Simmons; Chief of Police, Tom McClain; Planning & Zoning Executive Secretary, Lucille Murray.

Guest present: Kim Haase, Evans Ross, Truman Swann, Don Bennett, Cory Bennett, Jacci Gamble, Greg Whitlock, Julie Leeth, Patrick, Cheri, Rachael, Ryan and Reece Raymond.

Mayor Thomas J. Keltner led the Pledge of Allegiance.

City Attorney Ken Reynolds opened the PUBLIC HEARING TO CONSIDER THE PROPOSED TEXT AMENDMENTS TO THE LAND DEVELOPMENT REGULATIONS: ADDING SECTION 14.10 COMMON OPEN SPACE AND COMMON IMPROVEMENT REGULATIONS; SECTION 13.7.4-THE APPLICANT SHALL SUBMIT, ALONG WITH THE FINAL PLAT, A COPY OF THE HOMEOWNERS' ASSOCIATION BY-LAWS AND RESTRICTIVE COVENANTS WHICH SHALL CONTAIN LANGUAGE, APPROVED BY THE CITY, SETTING FORTH RESPONSIBILITY FOR MAINTENANCE OF COMMON AREAS, AND SECTION 17.4 NOISE REGULATIONS.

(P&Z requested Public Hearing on October 24th, 2006; Public Notice published in Cross Country Times on November 8th, 2006)

Ken asked if anyone wished to speak in favor or opposition.

Jacci Gamble: I'm Jacci Gamble, and I'm from Conco Quarries. And I respectfully come before the board tonight with concerns over the proposed Noise Ordinance on the agenda this evening. We're concerned because I've been at the city meetings where this proposed ordinance was discussed and repeatedly it was stated that this ordinance was going to mirror Springfield's Ordinance. We have no objection to that at all. However we did not receive the language in this proposal until this afternoon because as I understand there were some changes being made and not finalized until today. Although we have not had very much time to review it we have already discovered that it does not mirror Springfield's Ordinance. The first thing Willard's Ordinance sets and unreasonably low decimal average level for sounds across property lines. For example

Springfield's Ordinance, Conco's permitted 60 decimals measured at the nearest residential district property line. But the proposed Willard Ordinance reduces this to 50 decimals during the day and 45 decimals at night, which Willard defines as 7:00 p.m. Springfield defines as 11:00 p.m. Springfield's Ordinance also states that all sounds are to be measured at the property line. Willard's proposed language does not state this and it seems to allow the city to measure the decimal levels anywhere on there own property line that the city determines to be the point of maximum noise intensity. Willard's proposed ordinance says also in Exhibit AA that the accuracy of the specified decimal meter is plus or minus 15 decimals. Springfield's Ordinance does not have an accuracy definition. Depending on the interpretation of how this is stated it appears that Conco could be sighted for a violation even through the actually decimals were below permissibly levels. So as I stated we don't have any objection to a Noise Ordinance that mirrors Springfield Ordinance, which is the way it was previously stated at the Planning and Zoning meeting. But Conco does respectfully object to these items in Willard's proposed ordinance that are significantly different from Springfield's Ordinance and that we found out only about today. We request that this ordinance be tabled until these changes be made so that Willard's proposed noise ordinance does reflect Springfield's Ordinance as it was previously stated when it went through the Planning and Zoning Commission. Thank you.

Ken asked if anyone else would like to address the board on this issue. No one spoke. Ken closed the Public Hearing.

Special Recognition (Awards, Certificates and Honors)

The Community of Willard including the city, the school district, and business district have agreed to exemplify those who have these certain attributes of character and honor them. Chief Tom McClain presented Ryan Raymond with a Certificate, and a pair of DARE sunglasses, for showing Honesty.

Mayor Thomas J. Keltner called the meeting to order and stated that the board would be following Roberts Rules of Order during the meeting.

Agenda Amendments/Approval of agenda

Mayor Thomas J. Keltner stated that there were amendments to the agenda as follows: Item #12-Water System Improvements Engineering Services, #13-Safe Routes to School Grant Application Authority, #14-Well Head Plan Update, #15-Thank you to Conco for generator use, #16-Groundwater Study Financial Support. Renumbered Items-#12 to #17, #13 to #18, #14 to #19, and #15 to #20.

Motion made by Gordon O'Quinn with second by Bill Caplinger to approve the amendments to the agenda. All votes yes. Motion carried.

Minutes 11/13/06, 11/14/06, and 11/16/06

Mayor Thomas J. Keltner requested approval of November 13th, 2006 minutes. Mayor asked for questions or comments. Aldermen Richard Simpson asked a question on the November 16th, 2006 minutes. Page 12 of 12 Richard stated that there was a first reading for the Ordinance for Text Amendment to Land Development Regulations-Planned

Development District and the motion died. City Clerk Kathy Snyder stated that there was no motion. Mayor Thomas J. Keltner stated that there was no motion therefore there was nothing to die. There was no action on this issue.

Motion made by Bill Caplinger with second by Gordon O'Quinn to approve the minutes of the November 13th, 2006. Charles Whitehead-yes. Bill Caplinger-yes. Gordon O'Quinn-yes. Richard Simpson-no. Motion carried.

Mayor Thomas J. Keltner requested approval of the November 16th, 2006 minutes.

Mayor asked if there were any questions or comments.

Motion made by Bill Caplinger with second by Charles Whitehead to approve the minutes of November 16th, 2006. All votes yes. Motion carried.

Mayor Thomas J. Keltner went to item #4, Citizens Input.

City Clerk Kathy Snyder stated that the board did not approve all of the minutes.

Mayor Thomas J. Keltner requested approval of the November 14th, 2006 minutes.

Motion made by Gordon O'Quinn with second by Bill Caplinger to approve the minutes of November 14th, 2006. All votes yes. Motion carried.

Citizens Input

None

Julie Leeth-Community Foundation of the Ozarks (Charity Boxing)

Julie Leeth stated that she is the Vice President of the Community Foundation of the Ozarks. Community Foundation of the Ozarks is a Public Charitable Foundation in Springfield. Julie stated that the funds the city receives from the Charity Boxing event would be appropriate to house with the Community Foundation of the Ozarks. They will track all the donors for the event. Also they sent out thank you letters and IRS letters if the amount is over \$250.

Financial Report

Motion made by Charles Whitehead with second by Bill Caplinger to approve the October Financial Statements. All votes yes. Motion carried.

Motion made by Bill Caplinger with second by Charles Whitehead to approve to pay the outstanding bills. All votes yes. Motion carried.

Questions for Department Heads

Aldermen Richard Simpson asked Charlie Jones Director of Public Works about the water report. The month of July it was 13%, August was 14%, September was 19%, and October was 12%, and November 20% loss. Aldermen Richard Simpson asked what was going on. Charlie stated that the city had two subdivisions that they were flushing a lot to try and get them to pass the bact test. The city accomplished this last week. Also the city had some water leaks but they were not enough to attribute to this loss.

Aldermen Gordon O'Quinn stated that he would like to thank Charlie and his crew, and Chief and his crew for providing services for the Christmas Lighting on November 17th.

Mayor Thomas J. Keltner stated that Charlie and his crew did a good job with the snow and ice removal that we had this past week.

Mayor Thomas J. Keltner asked the City Attorney Ken Reynolds if you read an ordinance first and then discussion, or discussion and then read the ordinance. City Attorney Ken Reynolds stated that you read the first reading and they have discussion.

Proposed Text Amendments to LDR's-Section 14.10 & 13.7.4

BILL NO. 06-32

ORDINANCE NO. 061211

AN ORDINANCE ADOPTING AN AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS AND DESIGN STANDARDS FOR THE CITY OF WILLARD, MISSOURI; REPEALING OR AMENDING INCONSISTENT ORDINANCES AND PROVIDING FOR PENALTIES FOR VIOLATION HEREOF.

First reading by City Clerk, Kathy Snyder.

Mayor stated this ordinance was for the Common Open Space and the adoption of covenants and restrictions.

Motion made by Bill Caplinger with second by Gordon O'Quinn to approve the first reading. Charles Whitehead-yes. Bill Caplinger-yes. Gordon O'Quinn-yes. Richard Simpson-yes. All votes yes. Motion carried.

Second reading by City Clerk, Kathy Snyder.

Motion made by Gordon O'Quinn with second by Bill Caplinger to approve the second reading. Charles Whitehead-yes. Bill Caplinger-yes. Gordon O'Quinn-yes. Richard Simpson-yes. All votes yes. Motion carried.

Proposed Text Amendments to LDR's-Section 17.4

BILL NO. 06-33

ORDINANCE NO. 061211A

AN ORDINANCE ADOPTING AN AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS AND DESIGN STANDARDS FOR THE CITY OF WILLARD, MISSOURI; REPEALING OR AMENDING INCONSISTENT ORDINANCES AND PROVIDING FOR PENALTIES FOR VIOLATION HEREOF.

First reading by City Clerk, Kathy Snyder.

Motion made by Richard Simpson.

Mayor asked if there was any discussion.

City Attorney Ken Reynolds: Is this the noise?

Mayor Thomas J. Keltner: This is the noise.

City Attorney Ken Reynolds: I just wanted to tell you I addressed these issues with John Price. He called me about 4 o'clock or 4:30 today about the changes and I said well the changes were through the Planning and Zoning. But his concern was, he said Ken you could almost interpret it to be measurement of the noise right up against our rock crusher. And I said well John I don't agree with you, I don't... I mean that's really a strange interpretation of that ordinance. He said well what happen to the language that Springfield's ordinance. And I explained to him. He did point out what he was concerned about is on the Springfield ordinance where they list the sound level, which we deleted that and put in the other measurements now. It has, in Springfield's ordinance measured at the boundary of any residential district. And that's what he was concerned about. And I said well I don't think, I mean I'll address it to the board, I told him I would do that, and that's what I'm doing know. And I said I don't think any interpretation of the ordinance says this now would allow us to come up to the rock crusher and measure your noise. I mean I don't think that's even could stand the mustard of a constitutional challenge on that particular issue. But I told him I would mention it to you. If you do want that in there measured at the boundary of any residential district I can certainly put it in there. I told him I don't think the power of the ordinance allows it anyway. But I did want to mention that to you all.

Mayor Thomas J. Keltner: Is there discussion on this?

Aldermen Bill Caplinger: We would make our....we would do it at the residential boundary, right?

City Attorney Ken Reynolds: You would have to do it at the boundary lines.

Aldermen Bill Caplinger: I mean that's just common practice.

City Attorney Ken Reynolds: Well I told John and on paragraph D that the sound projection he had that would deal with that. And he said well I agree with that. But I think he just feels more comfortable as the attorney for Conco to make sure that everything is exactly as he would like. And I can certainly understand that. But I think he did agree with me that paragraph D would, could be interpreted in the way that we interpret it which is you measure it at the boundary line. But I'm just telling you that I think as Conco's attorney I think he's just trying to put those extra precautions in there. I think it's already addressed in paragraph D. If you do want that in there measured at the boundary of any residential district I would be glad to put that in there. But I think we've covered it. It's just up to you guys.

Mayor Thomas J. Keltner: Comments?

Charles Whitehead: Got a motion on the floor?

Mayor Thomas J. Keltner: I haven't called for a motion yet.

Charles Whitehead: Oh o.k.

Aldermen Gordon O'Quinn: I got one. On the industrial we've got daytime 60 decibels and then for office and commercial it's 65. Is that what it's supposed to be or is that a misprint?

City Attorney Ken Reynolds: Oh no those numbers don't follow Springfield's any longer. It was discussed and changes were made. But those are not Springfield's numbers any longer. Is that what you're asking?

Aldermen Gordon O'Quinn: In industrial, it seems like you would allow more noise coming out of industrial than you would a shopping center where it's commercial or office space.

City Attorney Ken Reynolds: I submitted those numbers as I recall I think Fred has sent to you two sets of numbers, Springfield's and then also the change where we reduced it based on Planning and Zoning's review of this so.

City Administrator Fred Gress: And that review was based on a report submitted showing the results of the year long study done in another community, another state which determined at least I believe, I believe these numbers would be reasonable after that year long study. To be honest with you this is somewhat a guess to get started. I think a year long study gives you a certain amount of credence, and a certain amount of liability but that doesn't mean they are going to be exact for Willard either. We have to pick a beginning point. The only decibels that were changed is what you read at the residential boundaries there in the daytime and at night.

Mayor Thomas J. Keltner: They were dropped by 5 decibels.

City Administrator Fred Gress: 5 decibels.

Mayor Thomas J. Keltner: Other discussion, questions? Is there a motion?

Aldermen Richard Simpson: Motion made by Richard Simpson with second by Charles Whitehead to approve the first reading. Charles Whitehead-yes. Bill Caplinger-yes. Gordon O'Quinn-yes. Richard Simpson-yes. All votes yes. Motion carried.

Second reading by City Clerk, Kathy Snyder.

Motion made by Bill Caplinger with second by Richard Simpson to approve the second reading. Charles Whitehead-yes. Bill Caplinger-yes. Gordon O'Quinn-yes. Richard Simpson-yes. All votes yes. Motion carried.

Revision to 2006 Budget

BILL NO. 06-34

ORDINANCE NO. 061211B

**AN ORDINANCE TO AUTHORIZE PASSAGE, ENFORCEMENT AND
UTILIZATION OF THE 2006 BUDGET REVISION.**

Mayor asked if there were any questions or discussion. No one spoke. Mayor asked if there was a motion.

Motion made by Charles Whitehead with second by Bill Caplinger to approve the first reading. Charles Whitehead-yes. Bill Caplinger-yes. Gordon O'Quinn-yes. Richard Simpson-yes. All votes yes. Motion carried.

Second reading by City Clerk, Kathy Snyder.

Mayor asked if there was a motion.

Motion made by Bill Caplinger with second by Gordon O'Quinn to approve the second reading. Charles Whitehead-yes. Bill Caplinger-yes. Gordon O'Quinn-yes. Richard Simpson-yes. All votes yes. Motion carried.

Final repair for B-Lift Station

The city received two bids for repair on B-Lift Station, Letts, Van Kirk & Associates- Option #1-\$49,784.00, Option #2-\$51,434.00, Option #3-\$56,218.00, and Option #4-\$58,128.00, and JCI-\$24,783.57 and \$2,080.60 with 3 year contract, installation included. City of Springfield charge \$150.00 per hour for their trucks. Fred stated that the city would have to provide ductile iron pipe. Fred requested approval to get started on this project.

Motion made by Charles Whitehead with second by Bill Caplinger to approve to hire JCI for the repair for B-Lift Station. All votes yes. Motion carried.

Water System Improvements Engineering Services

City Administrator Fred Gress discussed water improvements for the city. The city received two (2) proposals for 5-Year Self Supervised Water Program, Water System Master Plan, Chlorination Facilities, New Water Tower, and Pitless Water Well. From Archer Engineering-5-year Self-Supervised Program in the amount of \$15,000, Water Master Plan in the amount of \$25,000, Water Well and Water Tower Design in the amount of \$45,000, and Chlorination System Design in the amount of \$8,500.00. From Great River Engineering-Water System Master Plan in the amount of \$9,700.00. Staff recommendation to go with Archer Engineering for the proposed Water System Improvements listed above. Fred stated that he recommended to go with Archer for five (5) reasons. Archer's response was complete. Archer provided clearing identified cost estimates for the items we asked for cost estimates on. Charlie and Randy are more comfortable with Archer staff.

Motion made by Richard Simpson with second by Bill Caplinger to approve Archer Engineering for the Water System Improvements. All votes yes. Motion carried.

Safe Routes to School Grant Application Authority

The intersection at Highway 160 and AB needs pedestrian lights and crosswalks. Sidewalks would also be built and would run down in front of the apartments on Highway AB if funds allow. In the next year we would propose to get more sidewalks down New Melville to Barwick. Also flashing pedestrian lights and vehicle speed

indicator signs on Miller Road. Crossways would be built to standards and sidewalks would be built down to connect with the trail. This is an infrastructure grant and no match requirement.

Motion made by Gordon O'Quinn with second by Charles Whitehead to approve the Safe Routes to School Grant Application. All votes yes. Motion carried.

Well Head Plan Update

City Administrator Fred Gress discussed Well Head Plan. Next meeting will be in January. Gary Weber and Randy Brown identified over forty (40) sites that are of concern. Most of those sites are private wells. One of the wells that was visited has gasoline stored in the immediate vicinity of an uncapped, unclosed well. One gallon of gasoline will contaminate one million gallons of water. The city believes that issue has been taken care of at this time.

Thank you to Conco for generator use

City Administrator Fred Gress stated that he wanted to make a public thank you to Conco for the generator. Mayor Thomas J. Keltner asked Jacci Gamble to relay the thank you to Conco.

Goundwater Study Financial Support

City Administrator Fred Gress stated the county is requesting help from the cities. The City of Nixa is contributing \$1.40 per utility customer. For the City of Willard that would be a little less than \$2500.00. Fred recommended that the city contribute to the Goundwater Study.

Motion made by Charles Whitehead with second by Bill Caplinger to approve the city to contribute to the Goundwater Study, \$1.40 per utility customer in the amount of \$2,420.00. All votes yes. Motion carried.

Old Business

None

Mayor Thomas J. Keltner stated that the board would be going into closed session to discussion legal and personnel matters.

Motion made by Gordon O'Quinn with second by Bill Caplinger to close the open meeting. All votes yes. Motion carried.

Meeting adjourned.

Kathy Snyder, City Clerk