

REGULAR CITY COUNCIL MEETING
NOVEMBER 3, 2014

The regular Sikeston City Council meeting of November 3, 2014 was called to order at 5:00 p.m. in the City Council Chambers, located at 105 East Center, Sikeston. Present at the meeting were: Mayor Jerry Pullen and Councilmen Steven Burch, Bob Depro, Jon Gilmore, John Graham, and Kathy Teachout. Councilman Maude Harris was absent. Staff in attendance were: City Manager Jonathan Douglass, City Counselor Chuck Leible, City Clerk Carroll Couch, City Treasurer Karen Bailey, Governmental Services Director Linda Lowes, Public Works Director Jay Lancaster, Street Superintendent Brian Dial, and Public Safety Captains Mike Williams and James McMillen.

APPROVAL OF CITY COUNCIL MINUTES

City Council minutes of October 6, October 16 and October 27, 2014 were presented for approval. Councilman Depro moved to approve the minutes as presented. Councilman Teachout seconded the motion and the following roll call vote was recorded:

Burch Aye, Depro Aye, Gilmore Aye, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

ACCEPTANCE OF BOARD AND COMMISSION MINUTES

Minutes from various board and commission meetings were presented to the City Council. Councilman Gilmore moved to approve the minutes as presented. The motion was seconded by Councilman Teachout and voted as follows:

Burch Aye, Depro Aye, Gilmore Aye, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

ITEMS OF BUSINESS

Authorization to Proceed with TAP Application & Determine Priority

Director Lancaster reviewed the Transportation Alternative Program (TAP) whereby MoDOT offers funding to cities and counties for the development of infrastructure for bicycles and pedestrians. MoDOT has released new guidelines and issued a call for applications. Staff presented two projects for consideration: 1) a Safe Route to Schools Project for West Street from Salcedo Road to Wakefield and 2) various ADA Improvements on existing sidewalks. The City's cost on the projects are estimated to be \$14,000 and \$19,400 respectively.

Councilman Burch moved to authorize the necessary funding for the two projects, with the ADA improvements on existing sidewalks being the priority of the two. The motion was seconded by Councilman Graham and the following vote recorded:

Burch Aye, Depro Aye, Gilmore Aye, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

Councilman Gilmore excused himself from the city council meeting.

TIF Infrastructure Improvements

City Clerk Carroll Couch reported legal consultant Mark Grimm of Gilmore and Bell provided language to include in a memo to the TIF Commission advising them there may not be enough TIF revenue to pay the \$667,850 in infrastructure costs to be assumed by the City and the developer's TIF eligible expenses.

Councilman Depro moved for staff to draft the memo to the TIF Commission as directed by Mark Grimm. The motion was seconded by Councilman Graham and the following vote recorded:

Burch Aye, Depro Aye, Gilmore Absent, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

Bill Number 5969, Repealing Ordinance 5250 and Updating the City's Relocation Policy in Association with Tax Increment Financing (TIF) Projects

Councilman Depro moved for the second reading of Bill Number 5969. The motion was seconded by Councilman Teachout and the following vote recorded:

Burch Aye, Depro Aye, Gilmore Absent, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

BILL NO. 5969

ORDINANCE NO. 5969

AN ORDINANCE REPEALING ORDINANCE NO. 5250 AND ESTABLISHING A NEW POLICY FOR THE RELOCATION OF BUSINESSES AND RESIDENCES DUE TO REDEVELOPMENT PLANS ADOPTED PURSUANT TO CHAPTERS 99, 100 AND 353 OF THE REVISED STATUTES OF MISSOURI.

WHEREAS, on February 22, 1999, the City Council adopted Ordinance No. 5250 establishing a relocation policy applicable to any plan, project, or area for redevelopment under the operation of Chapter 99, Chapter 100, or Chapter 353 of the Revised Statutes of Missouri, in accordance with the requirements of Sections 523.200 and 523.205 of the Revised Statutes of Missouri; and

WHEREAS, the Missouri General Assembly subsequently amended Sections 523.200 and 523.205 of the Revised Statutes of Missouri, and the City Council finds it necessary and desirable to repeal Ordinance No. 5250 and adopt a new ordinance establishing a relocation policy that conforms to the revised provisions of Missouri law;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SIKESTON, MISSOURI, AS FOLLOWS:

Section 1. Ordinance No. 5250 is hereby repealed in its entirety.

Section 2. The provisions of Sections 523.200 to 523.205 of the Revised Statutes of Missouri, as amended, are hereby incorporated herein as if expressly set forth and are adopted as the Relocation Policy of the City with respect to any plan, project or area for redevelopment under the operation of Chapter 99, Chapter 100 and/or Chapter 353 of the Revised Statutes of Missouri, as amended.

Section 3. The sections of this Ordinance shall be severable. If any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections shall remain valid, unless the court finds that the valid sections are so essential to and inseparably connected with and dependent upon the void section that it cannot be presumed that the City Council has or would have enacted the valid sections without the void ones, unless the court finds that the valid sections, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 4. Record of Passage:

A. Bill number 5969 was introduced to the City Council and read the first time on this 27th day of October, 2014.

B. Bill number 5969 was read for the second and final time and discussed on this 3rd day of November, 2014. Councilman Teachout moved to approve Bill Number 5969. The motion was seconded by Councilman Burch and the following roll call vote recorded:

Burch Aye, Depro Aye, Gilmore Absent, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

C. Upon passage by the City Council, this bill shall become Ordinance 5969 and shall be in full force and effect from 30 days after its passage.

Emergency Bill Number 5970, Authorizing Participation in Class-Action Settlement with CenturyLink

Councilman Gilmore returned to the meeting.

Councilman Teachout moved for the first reading of Bill Number 5970. The motion was seconded by Councilman Burch and the following vote recorded:

Burch Aye, Depro Aye, Gilmore Aye, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

Counselor Leible presented Bill Number 5970 for reading, an emergency ordinance approving a settlement agreement with CenturyLink (and assigning a percentage of the settlement proceeds to the Missouri Municipal League).

Councilman Depro moved for the second reading of Bill Number 5970. The motion was seconded by Councilman Teachout and the following vote recorded:

Burch Aye, Depro Aye, Gilmore Aye, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

Counselor Leible presented the bill for reading.

BILL NUMBER 5970

ORDINANCE NUMBER 5970

AN EMERGENCY ORDINANCE APPROVING A SETTLEMENT AGREEMENT WITH CENTURYLINK (AND ASSIGNING A PERCENTAGE OF THE SETTLEMENT PROCEEDS TO THE MISSOURI MUNICIPAL LEAGUE).

WHEREAS, the City of Sikeston, Missouri (the "Plaintiff") is either a named plaintiff or a putative class member in a lawsuit to recover unpaid Business License Taxes (as defined in the Settlement Agreement described below), which lawsuit is styled *City of O'Fallon, Missouri, at al. v. CenturyLink Inc., et al.*, Case No. 12SL-CC01723, and is pending in the Circuit Court of St. Louis County, Missouri (the "Lawsuit"); and

WHEREAS, the Plaintiff and Defendants (as defined in the Settlement Agreement) wish to avoid the expense and uncertainty of continued litigation and desire to settle their dispute(s) without further litigation; and

WHEREAS, a settlement agreement settling the Lawsuit was signed by the named plaintiffs (as class representatives) and Defendants, and was filed with and preliminarily approved by the Circuit Court of St. Louis County on August 22, 2014 (the "Settlement Agreement"); and

WHEREAS, the Plaintiff and CenturyLink have conducted an investigation and evaluation of the facts and the law relating to the claims in the Lawsuit and believe that the Settlement Agreement is fair, reasonable, adequate and in the best interest of all of the parties; and

WHEREAS, pursuant to the Settlement Agreement, the Plaintiff has received a Notice of CenturyLink Class Action Settlement and Approval Hearing, incorporated herein by reference, and a CenturyLink Landline Municipal Tax Settlement Claim Form, incorporated herein by reference, which identify the estimated Back Tax Payment (as defined in the Settlement Agreement) that will be paid and released to the Plaintiff pursuant to the Settlement Agreement after the Settlement Agreement becomes Final (as defined in the Settlement Agreement); and

WHEREAS, the Plaintiff desires to approve and accept the Settlement Agreement and the estimated Back Tax Payment (and further desires to assign a portion of the proceeds to the Missouri Municipal League as provided therein).

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI, AS FOLLOWS:

SECTION I: This ordinance shall not be codified in the City Municipal Code.

SECTION II: The City of Sikeston, Missouri hereby approves, accepts and adopts all terms and provisions of the Settlement Agreement as a binding and enforceable agreement between the City of Sikeston, Missouri and Defendants, as if the City of Sikeston, Missouri was an original signatory thereto.

SECTION III: The City of Sikeston, Missouri further approves the estimated Back Tax Payment of \$12,685.93 as shown on the CenturyLink Landline Municipal Tax Settlement Claim Form (subject to adjustment as provided by the Settlement Agreement), along with the other relief provided in the Settlement Agreement, as adequate consideration for the release of claims by the City of Sikeston, Missouri against Defendants.

SECTION IV: The City of Sikeston, Missouri further assigns to the Missouri Municipal League \$600.00 of its Back Tax Payment, which amount shall be used for the public purpose of reimbursing the League for revenues expended in its legislative and settlement efforts relating

to the Lawsuit and/or to fund future services performed on behalf of the League's member municipalities.

SECTION V: The Mayor of the City of Sikeston, Missouri, on behalf of the Plaintiff, is hereby authorized and directed to execute the CenturyLink Landline Municipal Tax Settlement Claim Form and any other documents necessary under the Settlement Agreement.

SECTION VI: General Repealer Section. Any ordinance or parts thereof inconsistent herewith are hereby repealed.

SECTION VII: Severability. Should any part or parts of this Ordinance be found or held to be invalid by any court of competent jurisdiction, then the remaining part or parts shall be severable and shall continue in full force and effect.

SECTION VIII. Emergency Clause: Due to the terms of the settlement agreement, the Council declares an emergency in order to file the claim for reimbursement in a timely manner.

SECTION IX: Record of Passage:

A. Bill Number 5970 was introduced and read the first time this 3rd day of November 2014.

B. Bill Number 5970 was read the second time and discussed on this 3rd day of November 2014. Councilman Graham moved to approve Bill Number 5970. The motion was seconded by Councilman Burch and the following roll call vote recorded:

Burch Aye, Depro Aye, Gilmore Aye, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed,
and becoming Ordinance 5970.

C. Ordinance 5970 shall be in full force and effect after passage and approval as required by law.

Holiday Office Hours

The Holiday schedule was reviewed by City Manager Douglass. Councilman Gilmore moved to change Christmas Eve from a one-half day to a full-day holiday, this year only. The motion was seconded by Councilman Graham and the following vote recorded:

Burch Aye, Depro Aye, Gilmore Aye, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

ADJOURNMENT INTO EXECUTIVE SESSION

Councilman Gilmore moved to adjourn into executive session for the discussion of litigation, property and personnel [RSMO 610.021 (1, 2 & 3)]. The motion was seconded by Councilman Burch and the following roll call vote recorded:

Burch Aye, Depro Aye, Gilmore Aye, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

Present at the meeting were: Mayor Jerry Pullen and Councilmen Steven Burch, Bob Depro, Jon Gilmore, John Graham, and Kathy Teachout. Councilman Maude Harris was absent. Staff in attendance were: City Manager Jonathan Douglass, City Counselor Chuck Leible, City Clerk Carroll Couch, City Treasurer Karen Bailey, Governmental Services Director Linda Lowes, Public Works Director Jay Lancaster, and Public Safety Captain Mike Williams.

No action was taken in executive session.

ADJOURNMENT OUT OF EXECUTIVE SESSION

Councilman Burch moved to adjourn from executive session. The motion was seconded by Councilman Teachout and the following roll call vote recorded:

Burch Aye, Depro Aye, Gilmore Aye, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

ADJOURNMENT

There being no further business before the City Council, Councilman Burch moved to adjourn. The motion was seconded by Councilman Teachout and the following roll call vote was recorded:

Burch Aye, Depro Aye, Gilmore Aye, Graham Aye,
Teachout Aye, and Pullen Aye, thereby being passed.

APPROVED:

JERRY PULLEN, MAYOR

ATTEST:

CARROLL L. COUCH, CITY CLERK

SEAL: