

The City Council of the City of Lexington, Missouri met in Special Session in the Council Chambers at the City Hall on Thursday, August 15, 2019 at 6:00 p.m. with the Mayor Pro-tem presiding.

The Mayor Pro-tem called the meeting to order and roll being called, the following members of the council answered as follows: Present: Donna Sims, Steve Terry, Rodney Wolken, Carolyn Houseworth, Frank Ashinhurst, Earl Parris, Jim Pohle and Scott Lynn. Absent: none. Also Present: City Clerk Carla Ghisalberty and City Attorney Jeremy Cover. Whereupon the Mayor Pro-tem declared a quorum present.

Thomas Garner Sidewalk Appeal: Thomas Garner was issued a building permit for the property located at 546 S. Business Hwy 13, there were a number of issues and was issued a stop order to correct those issues. Thomas Garner under Chapter 6 issued an appeal which resulted in a hearing before the Building Commissioner (Mayor) in June. Mayor Wiedner issued a determination however the code that was online showed a different appeal process before the Board of Appeals which does not exist. Garner thought that there was another layer of administrative appeals that they could avail themselves to so the hearing was set before City Council. Whatever decision the City makes will be the final decision as far as the City is concerned. Garner if not satisfied with the decision may file an appeal to the Circuit Court. Garner is appealing the stop work order for the construction of a sidewalk located at 546 S. Business Highway 13. Garner represented by Jim Rust and the City represented by Jeremy Cover. Petray presented the council with a packet of background information including a timeline. Building Inspector Justin Petray stopped the work due to the sidewalk installation having a running slope of 12.3% instead of a 2% and the curb should have been a straight back or barrier curb. The property is currently owned by Thomas and his brother Samuel. Petray had informed Samuel of the requirements to use the straight back curb to match the existing curb. There is a safety issue regarding ADA requirements. BI Petray placed t-post in front of the sidewalk to prevent traffic from driving on or over it. The permit is good for 6-months; Thomas wants to do the remaining sidewalk in phases. From the new curb to the stop sign there is to be a barrier curb and from the new curb to the end of the property at the car wash property is to be a barrier curb. A driveway has to be 220' from an intersection so the driveway permit was denied. Rust stated that Petray had distributed a packet to council; he did not get a copy of that information but would like to mark it as Exhibit A. A copy of the packet was given to Rust. Rust asked if BI Petray went past the site every day, asked if he saw the forms and asked if the project was completed. Petray answered "yes" to all questions, however BI Petray was on vacation when it was completed. A site visit was done on May 20<sup>th</sup> by BI Petray. Supervisor Smith communicated to BI Petray that the sidewalk was not what was communicated to Garner. Supervisor Smith and BI Petray met and talked with Garner. A site plan was submitted with the permit. BI Petray is familiar with the work quality of the contractor. Thomas obtained a permit on May 1<sup>st</sup> for a driveway that was denied. The forms and rebar were in place and inspected by the BI. Cover presented the entire packet including the site plan as Exhibit 1. Garner resides at 51 Lakeview with his wife and daughter; he works for Cerner in Lee's Summit as an engineer. Thomas and Samuel are currently using the building for storage and have owned it for approximately 3 years. The existing parking lot has been repaired and the building has been painted. Garner's original plan was to put in a driveway, BI Petray told him that was not allowed. Since the dirt was dug out Garner decided to put in the sidewalk. Garner sketched out the sidewalk plans; BI Petray approved the sidewalk plans. Supervisor Smith talked with Garner at his residents about another issue and advised he was not happy with the project and wanted a straight curb and that he had talked with Samuel. T. Garner was not told by Samuel about the discussion. Three days later there was a stop order. On May 14<sup>th</sup> he obtained a permit for the sidewalk with the work being completed within 3-4 days. Garner pulled the sidewalk requirements off of the website. A couple days later Garner received a letter from BI Petray stating that the cross slope needed to be fixed and the curb. The permit was obtained on May 14<sup>th</sup> and the BI Petray spoke with Samuel on May 15<sup>th</sup>. Garner did not know about the 2% slope requirement. Garner got the curb requirements from the website which stated that on a residential street you can either have a rollback or straight back curb. Garner thought that since there was no curb he could pick either type. BI Petray did not receive a call prior to the pouring of the concrete. Cover stated that when he became aware of codes not being current he advised that they be removed to prevent confusion. The access to the property is either through the car wash property or the steep hill off of Business 13. Petray will not sign off on a sidewalk that is not ADA compliant. If the sidewalk would be permitted to stay then Thomas would be liable for issues arising from the slope and if he knew there was an issue he would need to take responsibility and correct the issue. If Thomas is right then the sidewalk stays and if the City is right the sidewalk is removed or he can file with Circuit Court. Options: cut out the roll back curb and install the correct curb to code and correct the slope to make it safe for pedestrians. A written order to be delivered at the next council meeting to finalize the decision. The hearing will be continued to August 27<sup>th</sup> at 7:00 pm council meeting and continue to talk with Thomas and Rust to see if any type of compromise can be arrived. Hearing postponed at 7:50 pm.

KCP&L Franchise Agreement: This is a renewal of their franchise agreement with a term of 20 years. State offices are exempt from the franchise tax. This does include the recreational trail. Sims presented Ordinance No. 2019-38 AN ORDINANCE GRANTING KCP&L GREATER MISSOURI OPERATIONS COMPANY, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE AND AUTHORIZATION TO CONSTRUCT, OPERATE AND MAINTAIN ALL APPROPRIATE FACILITIES FOR CARRYING ON A LIGHT, HEAT AND POWER BUSINESS, GRANTING THE RIGHT TO USE THE STREETS, ALLEYS AND ALL OTHER PUBLIC PLACES OF THE CITY WITHIN THE PRESENT OR FUTURE CERTIFICATED SERVICE TERRITORY OF THE COMPANY THEREFORE, AND PRESCRIBING THE TERMS AND CONDITIONS OF SUCH AUTHORIZATION. Motion by Parris seconded by Wolken to read the ordinance the first time. Motion carried. Ordinance read the first time. Motion by Parris seconded by Wolken to read the ordinance the second time. Motion carried. Ordinance read the second time. Motion by Parris seconded by Houseworth to place the ordinance on it's final passage. Motion carried. ROLL CALL VOTE was answered as follows: Aye: Sims, Terry, Houseworth, Wolken, Ashinhurst, Parris, Pohle and Lynn. Nay: none. Absent: none. Whereupon the Mayor Pro-tem declared the ordinance duly passed.

Police Personnel Board Appointments: At the council meeting on August 13<sup>th</sup> there was 1 to many appointed to the PPB. Jill Calvert should have stayed on the Board because her term did not expire until 6/22/2021. The Mayor Pro-tem has contacted LaDonna Scott and she has agreed to being removed but would like to be on there in the future. The Board consists of 6 members, if a tie vote should happen then the vote is considered to have failed. The Board consists of: Connie Pohle and Paula Neer to 6/22/2020, Evelyn Trigg and Jill Calvert to 6/22/2021 and Charlie Guthrie and Karen Schachtele to 6/22/2022. Motion by Sims seconded by Parris to approve the appointments as presented. Motion carried. Pohle abstained.

Motion by Houseworth seconded by Sims to adjourn Special Session and reconvene in Executive Session and notice is given that a portion will be closed pursuant to Section 610.021 RSMo under the following specific exceptions: Sub-section (3) Personnel. Motion carried. ROLL CALL VOTE was answered as follows: Aye: Sims, Terry, Wolken, Houseworth, Ashinhurst, Parris, Lynn and Pohle. Nay: none. Absent: none.

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Personnel:

Council discussed a personnel issue with no motions taken.

Motion by Wolken seconded by Parris to adjourn. Motion carried. Council adjourned at 9:37 p.m.

Carla Ghisalberti  
City Clerk  
08/15/19

G. Scott Lynn  
Mayor Pro-tem