

CITY COUNCIL
MARCH 20, 2023
7:00 P.M.

The Council of the City of Augusta, Kansas met in regular session on March 20, 2023, with Mayor Mike Rawlings presiding. Council present were Mike Martin, Bob Bailey, Eric Birk, Mike Huddleston, Tom Leffler, Kip Richardson, Jeff Brown and Ron Reavis. Also present: City Attorney Andrew Marino, City Manager Josh Shaw, and City Clerk/Director of Finance Erica Jones. Staff Present: Rob Cooper, Shawna Cortez, and Susan Smith. Visitors: Pastor Loy Hoskins, Ryan Murray, Jayme Chapin, Kim Austin, Connie Thurman, Anthony Amine, Chad Phillips, Mike Ecton, Erin Ecton, Cindy Train, Shawn Davis, Mark Vernon, Alyssa Vernon, Vincent Vernon, and Bob Chance.

Pledge of Allegiance

Prayer: Pastor Loy Hoskins, First Christian Church, gave the invocation.

Minutes: Richardson made a motion to approve the minutes from the March 6, 2023 City Council meeting with corrections to page two changing the word “Willowbrook” to “Arnold Drive” and “houses” to “hoses”. Martin seconded the motion. Motion carried without opposition.

Ordinance: Richardson made a motion to approve Ordinance #3A dated 3/15/2023. Huddleston seconded the motion. Motion carried without opposition.

Visitors:

Vincent Vernon, 2203 Moyle St, made a presentation to the governing body regarding the benefits to allowing backyard chickens and fowl.

Business:

Request from Augusta Public Library for Pool Passes: Huddleston made a motion to approve the request from Augusta Public Library for 200 daily passes to the Municipal Swimming Pool to be awarded as part of the Summer Reading Program. Brown seconded the motion. Motion carried without opposition.

2023 Insurance Renewal: Leffler made a motion to approve the bid proposal from ICI for the renewal of the City’s 2023 Insurance Policy in the amount of \$539,590 excluding the Airport Liability and the Flood Insurance policies and review of the Shryock Park removal. Richardson seconded the motion. Motion carried without opposition.

Ordinance No. 2215 Authorizing a Conditional Use Permit for a Wireless Communication Tower: Cindy Train, 9791 SW Santa Fe Lake Road, addressed the governing body to express her concerns regarding the impact on health of the residents over a long period of time.

Anthony Amine, representing American towers LLC, addressed the governing body to answer any questions they might have. Huddleston inquired about the EMF’s that will be present. Amine said you can conduct a study or EMF measurement but there is not a tower at that location currently. He stated that if you deny a tower location based on health concerns you violate the Telecom Act of 1996. Huddleston stated he is not seeing where this is deemed safe. Amine stated that in the eyes of the federal guidelines they are deemed safe and they will be operated within those guidelines. Leffler inquired about the vote of the Planning Commission. Rob Cooper stated it was

a unanimous vote to recommend approval of the conditional use permit. Reavis asked who would be the person to determine if the landscaping or fence needs to be replaced. Cooper stated that city staff would contact them if there were issues and repairs or replacement is needed.

Leffler made a motion to approve the recommendation of the Augusta Planning Commission and approve Ordinance No. 2215 approving a Conditional Use Permit, to allow the relocation of an existing communication tower which is currently situated at 9275 SW Diamond Drive to a new site at the NE corner of Santa Fe Lake Road and Highway 54, approximately 2,0000 lineal feet north of the intersection, currently zoned C-3 District and within the City's planned growth area. Bailey seconded the motion. Roll Call: Huddleston No, Birk Yes, Reavis Yes, Richardson Yes, Bailey Yes, Leffler Yes, Brown Yes, Martin No. Motion carried.

Ordinance No. 2216 Amending Zoning Regulations Pertaining to Detached Residential Carports or Garages: Leffler made a motion to approve Ordinance No. 2216 Amending Article 10.13 "Detached Residential Carport or Garage" and Article 4.6 "General Provisions". Brown seconded the motion. Roll Call: Huddleston Yes, Birk Yes, Reavis Yes, Richardson No, Bailey Yes, Leffler Yes, Brown Yes, Martin Yes. Motion carried.

Council consensus was for staff to look into the appearance and material and see if other cities regulate that differently and provide that information to the Planning Commission for consideration and recommendation.

Ordinance No. 2217 Amending Zoning Regulations Pertaining to Tattoo or Body Piercing Studios: The governing body invited Chad Phillips, 503 ½ State Street, to address the governing body and answer questions regarding his business.

Mayor Rawlings stated that if the ordinance was passed he would not be signing the ordinance. Shaw and City Attorney Andrew Marino stated that if the Mayor does not approve the ordinance if passed by the City it would become effective at the following council meeting without the Mayor's signature.

Leffler made a motion to approve Ordinance No. 2217 Amending Article 10.40 "Tattoo or Body Piercing Studio" and Article 5.3 "Table of Primary Uses by Zoning District". Huddleston seconded the motion. Roll Call: Huddleston Yes, Birk Yes, Reavis Yes, Richardson Yes, Bailey Yes, Leffler Yes, Brown Yes, Martin Yes. Motion carried.

Grant of Electric Utility Easement to Evergy Kansas South in Support of Infrastructure Enhancements at the Mobile Substation: Kim Austin, representing AARTI, asked the governing body if a fence has to be put up either side of the trail there if they would still have the ability to do that after the easement expansion.

Frank Miller addressed the governing body. He stated that the landowner is the only one that can grant an easement for the property. Miller stated that the City only has a right of way and a quit claim deed and cannot give an easement for the property because they are not the underlying property owner. Miller referenced the court case Cow Pasture River vs. U.S.

Huddleston made a motion to approve a settlement in the amount of \$3,200, and other good and valuable considerations to grant a utility easement to Evergy Kansas South, Inc., a Kansas corporation, its successors, assigns and lessees, the right and easement to alter, conduct surveys, construct, erect, inspect, install, maintain, operate, rebuild, reconstruct, relocate, remove, renew,

repair, and replace electric and communication transmission and distribution lines and their appurtenances. Leffler seconded the motion. Huddleston withdrew his motion. Leffler withdrew his second.

Reavis made a motion to table this item for further review. Leffler seconded the motion. Motion carried without opposition.

First Addendum to Moderate Income Housing Grant Agreement; Shadow Ridge Fund Distribution Agreement: Reavis made a motion to approve the First Addendum to the Moderate Income Housing Grant Agreement between the City of Augusta and Kansas Housing Resources Corporation which increases grant funds from \$400,000 to \$568,000. Huddleston seconded the motion. Motion carried without opposition.

Reavis made a motion to approve the Shadow Ridge MIH Grant Fund Distribution Agreement. Brown seconded the motion. Motion carried without opposition.

Annual Request to Exchange Federal Funds: Richardson made a motion to approve the request to exchange federal funds for 2023, authorize the Mayor to sign request form, and authorize utilization of the funds pursuant to the Redbud Rail trail Project Development Plan. Brown seconded the motion. Motion carried with Reavis, Leffler and Martin voting in opposition.

At 9:33 p.m. Richardson made a motion to take a 10 minute recess and resume the meeting at 9:43 p.m. Leffler seconded the motion. Motion carried without opposition.

At 9:43 p.m. Richardson made a motion to reconvene the meeting. Leffler seconded the motion. Motion carried without opposition,

Resolution Authorizing KDOT Cost-Share Application: Leffler made a motion to approve Resolutions No. 2023-06 Authorizing Submittal of an application to the KDOT Cost Share Program for the Augusta Municipal Airport Runway Reconstruction and Extension Project. Brown seconded the motion. Motion carried without opposition.

Park Advisory Board Appointments: Richardson made a motion appoint Eric Birk to the Park Advisory Board. Brown seconded the motion. Motion carried without opposition.

Richardson made a motion to reappoint Jeff Brown and Jayme Chapin to the Park Advisory Board. Huddleston seconded the motion. Motion carried without opposition.

Matters From/For Council and Informational Memorandum:

Huddleston: Huddleston asked when we will be able to start streaming the meetings. Shaw stated he is looking for the install later in May and then we will be able to start streaming. Shaw stated there are other enhancements beyond the streaming that will also be taking place.

Huddleston stated that in our previously proposed Animal Ordinance it only allowed 3 chickens. He stated that other communities allow 4 and the young man making the presentation tonight also mentioned 4. Shaw stated that the Council has the authority to set that number when they are ready to review it again.

Reavis: Reavis stated he followed up on chicken thing again and he feels bad when someone comes to make a presentation and we sit here and don't say anything and they wait for another hour to see if we say anything about it. Reavis stated he isn't sure whose responsibility is it to tell them that it is being considered and provide some type of feedback so it doesn't look like we are sitting up here with deaf ears. Rawlings stated they were advised beforehand that a decision would not be made tonight on the chicken issue. Reavis asked if Mr. Weaver who has spoken to the Council on numerous occasions knows that the FAA has approved these plans. Leffler stated it was explained to him at the joint meeting between the Council and the Airport Advisory Committee and that he has been told several times that the FAA will not approve the tunnel. Huddleston stated he has given up on the tunnel but he still has questions about the realignment. Shaw stated the questions regarding the realignment have been discussed with the FAA. Ray Seif stated Weaver has been informed that a decision has been made. Seif stated that our long term plan for the runway is to reach 5,500 feet and it will not reach Indianola and the FAA will not fund a realignment. Seif informed the Council that the 10,000 tank and old truck are both gone and the City received roughly \$11,000 from the sale of them.

Reavis stated he was very disappointed today that our City crews were out starting to clean off the trails. Shaw stated the City crew was working on the barricades, but it is volunteers from AARTI that are doing the work. Reavis stated Shaw said that clean-up crews would not be going into that area and that it is the worst place to start next to McClure's property. Shaw stated they were instructed to not go west of River Valley Road. Shaw stated they are clearing so that we can get access to the area in support of our Memorandum of Understanding with AARTI, work on our engineering of the second bridge, and so we can get eyes on it to see what things we have to work with. Shaw stated he notified the Council on March 10th of the opportunity of volunteers had popped up but he didn't have an exact date except they were planning on the end of March. He stated AARTI went door to door and let people know what they are doing today and they are preparing letters to notify property owners, including the McClure's, for when they are going on the west side of the river. Not on the west side of River Valley Road in the area that is City NITU that is being used as a private driveway. Shaw stated that is what they have explicitly been given direction not to go on to, but to send them letters notifying them of when the volunteers will be out there. He stated they hand delivered notices to property owners, spoke to some personally including Walter Burress about the part that they were working in today. Shaw stated that in order for it to be possible to work in that other area, city crews were removing boulders used as barricades and replacing them with removable barricades on the trail adjacent to the McClure property, but that there were not any volunteers working in that area today.

Kim Austin stated that AARTI volunteers this morning were working on the trail and made it about ¼ of a mile in that area. She stated she spoke to APAC about tree clearing behind them and delivered letters to the neighborhood behind the area they were working this past weekend. She stated the City has heard from one angry property owner that has been upset about the project from the beginning, but that the majority of the property owners that AARTI has spoken to are excited if not curious about the project. She stated Mr. Burress has given them permission to use his access road to park their vehicles. Austin stated AARTI is going to keep the visual shield along the trail because we want there to be shade for cyclists and pedestrians. Leffler asked if we want to make sure we put it out there that AARTI is working with the City on this. Shaw stated his preference would be to have the MOU completed but that Austin had a concern about misrepresenting that they were working under a MOU when there is not currently a signed agreement. Huddleston asked who the boulders belong to. Shaw stated he believes the County put them there. Huddleston asked if we could use those elsewhere in the City. Huddleston stated maybe the Park Board would know where those could be used.

Richardson: Richardson stated there will be a Pancake Feed from 8 a.m. to 11a.m. at the Department of Public Safety benefitting the Volunteer Fire Division.

Bailey: Bailey asked if we are ready to bring the Animal Ordinance back before the Council. Shaw stated if the Council is ready to adopt an ordinance we could bring it back for approval, but if they want to discuss it further he would recommend it be discussed in a work session.

Leffler made a motion to schedule a work session April 10th at 6 p.m. at City Hall to discuss the Animal Control ordinance. Brown seconded the motion. Motion carried without opposition.

Bailey inquired about the Assistant City Manager position. Shaw stated he is still taking applications.

Leffler: Leffler stated we need to work on communication with this whole Redbud Trail project because it will make things go much smoother. Leffler stated that another example of that is the work going on to the south of my house to the sewer lift station. He stated he knew what was going on because he is on the Council, but we should let the landowners next to the project know what is going on. He stated he had to go point out to them where the property lines were because they were driving in his yard. Leffler stated when they were plowing in the erosion barriers they took out an electric cable and if it had been anyone else besides him we could have had problems and could have been years down the road before we realized we didn't have electricity out there anymore. He stated there is a lot of things going on down there that would upset a lot of people if they did not know what was going on. He stated we need to do a lot better job because we have done a piss poor job with communicating over time. He stated we need to make sure everyone knows who is running the projects and emphasized that we do a much better job at communicating out there on the trail project so people know what to expect before the projects start.

Martin: Martin inquired about the deal happening at The Point tomorrow, and asked how is that going to work. Shaw asked the council members who would be attending. Huddleston, Birk, Bailey and Rawlings stated they would be attending. Leffler stated he didn't know that we were going to have a table so he will not be able to attend. Leffler stated we knew it was coming up but it was a last minute notification to the Council that the City got a table.

Brown: Brown stated that we knew on March 10th that the Redbud Trail cleanup opportunity was coming up and that they would be out there clearing the boulders out the following week, so it should not have been a surprise to the governing body.

Executive Session:

At 10:27 p.m. Richardson made a motion to recess into executive session for 10 minutes for preliminary discussions of the acquisition of real property for airport pursuant to the preliminary discussion of the acquisition of real property exception, K.S.A. 75-4319(b)(6). Richardson asked that City Manager Josh Shaw, Airport Manager Ray Seif, and City Attorney join the Council in executive session. The open meeting of the governing body will reconvene in the Council Chambers at 10:37 p.m. Leffler seconded the motion. Motion carried without opposition.

At 10:37 p.m. Richardson made a motion to exit executive session where no action was taken. Leffler Seconded the motion. Motion carried without opposition.

At 10:38 p.m. Richardson made a motion to go into executive session for 30 minutes to discuss landlord-tenant issues and lease performance at the municipal airport, and legal response to easement claim pursuant to the “consultation with an attorney for the public body or agency which would be deemed privileged in the attorney-client relationship” justification for executive sessions under the Kansas Open Meetings Act, K.S.A. 75-4319(b)(2), and to invite City Manager Josh Shaw, Airport Manager Ray Seif, and City Attorney Andrew Marino to join the Council in executive session. The open meeting will resume in the City Council chambers at 11:08 p.m. Leffler seconded the motion. Motion carried without opposition.

At 11:07 p.m. Richardson made a motion to exit executive session where no action was taken. Leffler seconded the motion. Motion carried without opposition.

Adjourn: At 11:08 p.m., Richardson made a motion to adjourn. Martin seconded the motion. Motion carried without opposition.

City Clerk