

# REGULAR MEETING OF THE COUNCIL MEMBERS OF THE CITY OF NIXA, MISSOURI

**NIXA CITY HALL**

**February 13<sup>th</sup>, 2023 7:00 P.M.**

The regular meeting of the Nixa City Council was called to order by Mayor Brian Steele. Attending were Council Members Seth Balogh, Shawn Lucas, Jarad Giddens, Aron Peterson, Darlene Graham, and Matt Ogden.

The Pledge of Allegiance was given.

## **Service Award:**

Mayor Steele recognized BJ Sartin for his 20 years of service to the City. Joe Campbell, Police Chief, stated that Sartin started with the Police Department as an animal control officer. Campbell said that Sartin has a good work ethic, is a quick learner, is willing to help anyone, and is self-motivated and detail-oriented. Campbell stated that Sartin has a great relationship with vendors. Campbell said that Sartin is a supervisor who manages equipment, uniforms, and the department's fleet.

## **Proclamations:**

Mayor Steele read a proclamation proclaiming February 13<sup>th</sup> – 19<sup>th</sup>, 2023, as Ronald McDonald House Week.

Mayor Steele read a proclamation commending Wonders of Wildlife for their efforts in rescuing loggerhead turtles. Chris Russell, Chamber of Commerce Director, spoke on behalf of the Nixa Arts Council. The Nixa Arts Council accepted the proclamation.

## **Presentations:**

### **Chamber of Commerce Update:**

Russell provided information to Council about the assessed values of commercial and residential property in Nixa and Ozark. Russell discussed Sucker Days 2023 and the 14 Mill Market project. Russell said the Nixa Chamber had 556 members and is a 501C6 non-profit organization. Russell stated that the Chamber is a four (4) person team funded by dues, with a \$450,000 budget. Russell provided an update on the Chamber's Welcome Center and the upcoming year's events.

### **Better Block:**

Scott Godbey, Planning and Development Director, reviewed the Better Block survey results. Godbey provided a background on Better Block and the Better Block project that occurred in Downtown Springfield. Godbey discussed the Downtown Nixa Better Block project. Godbey said there were two (2) plans/ideas; however, the second (2<sup>nd</sup>) option was not implemented due to time delays. Godbey stated there were 92 responses to the survey open to citizens to give their options for the project and provided information on the responses. Godbey discussed the next steps for Downtown Nixa.

## **Visitors:**

Taylor Gaspin, Downtown Revitalization Committee, said she was a downtown restaurant owner. Gaspin thanked the City for collaborating with Better Block on the project. Gaspin discussed the Committee's takeaways from the Better Block survey results. Council asked Gaspin what the Committee considered Downtown, with Gaspin saying that Downtown is not just South of Highway 14 and there needs to be a more defined Downtown area.

Mark Anderson, Downtown Revitalization Committee, said he would like to see Downtown include South Street to North Street and Ridgecrest to Autozone. Anderson discussed future commercial growth and the downtown zoning district.

Council asked additional questions of Gaspin and Anderson with both responding.

Derek Lee, 1200 E. Woodhurst, stated he owned property that was being rezoned. Lee discussed the lift station on the west side of Nixa and his experience with trying to develop in Nixa. Jimmy Liles, City Administrator, Mayor Steele, Brian Denney, Electric Superintendent, and Ogden responded to Lee's comments.

Ron Sanders, 976 Glen Oaks Dr., stated he could see Nixa's growing pains but sees resistance to change. Sanders discussed Downtown.

## **Ordinances (First Reading and Public Hearing; Comments Limited to 5 Minutes; No Council Vote Anticipated):**

**Council Bill #2023-06** Amending Chapter 22, Article IV, Division 1, Section 22-284 to Modify Provisions Related to Vegetation Management of the City's Electric Distribution System. Denney stated that this bill was to modify the City's vegetation management code section. Denney said the changes would bring the City up to national standards. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed.

**Council Bill #2023-07** Amending Sections 101-102, 117-101, and 117-99 of the Nixa City Code to Accommodate the State's Approval of Adult Use Marijuana. Nick Woodman, City Attorney, stated that the changes presented relate to the adoption of Amendment 3 to the State Constitution. Woodman provided background information on Amendment 3 and discussed the City's land use regulations. Woodman gave a summary and discussed the definition changes in section 101-102, regulatory changes in section 117-102, and zoning changes in section 117-99. Woodman said that the City is taking provisions of Amendment 3 and placing them into the City code. Council asked questions, with Woodman responding. Council held discussion. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed.

**Council Bill #2023-08** Amending the 2023 Annual Budget to Appropriate Funds for an Inclusive Playground at McCauley Park. Matt Crouse, Parks Director, stated that the project began in 2022 with the hope that it would be completed in 2022; however, due to slow construction, the project is still ongoing. Crouse stated that, hopefully, the project would be completed in March. Crouse said the \$530,189 to pay for the project needs to be transferred to

the 2023 budget. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed.

**Council Bill #2023-09** Authorizing the City Administrator to Execute a Contract with Hall Ansley P.C. for Professional Legal Services and Amending the 2023 Annual Budget to Appropriate Funds for Said Contract. Woodman stated that this contract is related to a Federal lawsuit against the City. Woodman said Hall Ansley would be supporting in defense of the City. Woodman told Council that Tim Ricker, who had served as the previous City Attorney, worked for Hall Ansley and would be one of the attorneys assisting with the lawsuit. Mayor Steele opened the public hearing for comments, with no comments made the public hearing was closed.

**Council Bill #2023-10** Rezoning the Real Property Generally Located at the 1400 Block of West Mount Vernon Street From a General Commercial (GC) District to a High-Density Multi-Family Residential (R-3) District. Godbey stated that the property was platted at a part of the Auburn Heights Subdivision and discussed the easements on the property. Godbey provided an overview of the zoning around the property. Godbey stated that the property is 1.87 acres and was annexed in 2018 as GC. Godbey said there is Highway 14 access that MoDOT controls. Godbey told Council the future land use map shows high-density multi-family use in the area. Godbey discussed the lift station that will service the property. Godbey said at the Planning and Zoning Commission meeting concerned neighbors discussed their issues with the rezoning. Godbey said the Planning and Zoning Commission voted 4-1 to recommend approval, and staff also recommended approval. Mayor Steele opened the public hearing for comments.

Charity Fitzgerald, 1309 Woodcastle, asked about the Highway 14 access and MoDOT, with Godbey responding.

With no further comments, the public hearing was closed.

Mayor Steele called for a 5-minute break at 8:31 p.m. The meeting was called to order at 8:43 p.m.

### **Resolutions (Public Hearing; Comments Limited to 5 Minutes: Council Vote Anticipated):**

**Resolution #2023-02** Authorizing the City Administrator to Execute a Sponsorship Agreement with Land O'Frost. Crouse stated this was an annual sponsorship the City has with Land O'Frost. Crouse said this helps sponsor numerous sports teams and free sports clinics. Crouse told Council, this would be a 1-year agreement. Mayor Steele opened the public hearing for comments, with no comments made the public hearing was closed. Mayor Steele called for a motion to approve the resolution. Graham made a motion to approve Resolution #2023-02, with Giddens seconding and all Council Members voting aye.

**Resolution #2023-03** Authorizing the City Administrator to Execute a Contract with Missouri State University for Certain Stormwater Monitoring Services. Jeff Roussell, Street Superintendent, said this contract was needed to conduct stormwater sampling. Roussell stated

that the City had nine (9) sites that require monitoring and that Christian County monitors six (6), and the City monitors the remaining three (3). Roussell said this contract is being awarded under a sole source provider as Missouri State University has permanently installed equipment, and no bids have been received since 2013 except from Missouri State University. Roussell told Council that staff recommends approval. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed. Mayor Steele called for a motion to approve the resolution. Giddens made a motion to approve Resolution #2023-03 with Peterson seconding and all Council Members voting aye.

**Resolution #2023-04** Accepting the Bid of Ark Construction Group, LLC for Certain Improvements to the Restroom Facilities Located at City Office's at 1010 Eaglecrest Street and Authorizing the City Administrator to Execute a Contract for Same. Roussell told Council in August of 2019 that the final draft of the Americans with Disabilities Act (ADA) Transition Plan for the City was received. Roussell stated that staff had budgeted monies to correct some deficiencies and bring facilities up to standard based on the ADA Plan. Roussell said \$150,000 had been budgeted as a 2023 CIP project for restroom improvements. Roussell stated two (2) bids were received and Ark Construction Group LLC was the lowest bidder. Roussell said staff recommends approval. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed. Mayor Steele called for a motion to approve the resolution. Balogh made a motion to approve Resolution #2023-04, with Ogden seconding and all Council Members voting aye.

**Resolution #2023-05** Authorizing the City Administrator to Execute a Contract with Ozark Coca-Cola Bottling Company for Single Bottle Beverages and Related Services. Crouse stated that Ozark Coca-Cola Bottling Company had been the City's vendor for several years. Crouse said that Ozark Coca-Cola Bottling was the only respondent to the bid. Crouse told Council that Ozark Coca-Cola Bottling Company would provide all concession items, coolers, and vending machines. Crouse said staff recommends approval. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed. Mayor Steele called for a motion to approve the resolution. Peterson made a motion to approve Resolution #2023-05, with Graham seconding and all Council Members voting aye.

**Resolution #2023-06** Authorizing the City Administrator to Apply for and Accept Grant Funding Provided by the Missouri Department of Transportation for Certain Traffic Safety Programs. Campbell told Council that the Police Department applies for these grants annually. Campbell said the grants are \$8,350 for HMV enforcement and \$8,500 for DWI enforcement. Campbell stated that this resolution would allow the department to apply for mini-grants throughout the year. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed. Mayor Steele called for a motion to approve the resolution. Lucas made a motion to approve Resolution #2023-06 with Giddens seconding and all Council Members voting aye.

**Resolution #2023-07** Authorizing the City Administrator to Execute a Contract with Wright Tree Services, Inc. for Tree Trimming Services. Denney told Council the City received five (5) bids for this service. Denney stated that the City didn't select the lowest bid due to past issues with that company. Denney said that the City didn't select the second (2nd) lowest bid because the

company did not bid on all the items within the bid documents. Denney told Council that many other surrounding areas use Wright Tree Service. Council asked questions, with Denney and Woodman responding. Liles told Council the type of bid used for this contract was different and changed how the company would be paid. Mayor Steele called for a motion to approve the resolution. Balogh made a motion to approve Resolution #2023-07, with Ogden seconding and all Council Members voting aye.

Graham recused herself from the following item.

**Resolution #2023-08** Consenting to the Mayor's Appointment of Charity Fitzgerald to the Planning and Zoning Commission. Godbey stated that Planning and Zoning Commissioner Bader resigned in December of 2022 and that Mayor Steele was recommending that Fitzgerald take over the remainder of Bader's term which would end in November of 2025. Mayor Steele and Giddens provided their reasons for selecting Fitzgerald for the Planning and Zoning Commission. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed. Mayor Steele called for a motion to approve the resolution. Giddens made a motion to approve Resolution #2023-08, with Lucas seconding and all Council Members voting aye.

Graham rejoined the meeting.

**Resolution #2023-09** Amending the City's Personnel Code by Modifying Certain Policies to Accommodate Recent Amendments to the Missouri Constitution Related to Marijuana and Updating the City's Smoking Policy. Woodman provided background on Missouri Constitutional Amendment 3. Woodman stated the modification to the policy would begin with Policy 6.5 making the City a drug-free workplace. Woodman said policy 6.5.1 would be a new policy for marijuana use, with the substantive changes coming directly from the Constitutional amendments. Woodman stated that policy 6.5.2 would update the City's drug testing policies. Woodman told Council policy 6.5.3 handles controlled substance and alcohol use and codifies the CDL users testing policy. Woodman said policy 6.6 updates the smoke and vape-free workplace policy. Council asked questions about CDL and general City vehicle use by staff, with Woodman responding. A discussion followed regarding safety-sensitive jobs and how to know and test for marijuana impairment. Council asked for specific numbers on how many employees would be considered safety sensitive. An additional discussion followed. Mayor Steele opened the public hearing for comments.

Ron Sanders, 976 Glen Oaks Dr., discussed the different types of marijuana and their strengths and consumption guidance.

With no further comments, the public hearing was closed. An additional discussion followed. Balogh made a motion to table Resolution #2023-09 until the February 27th meeting with Lucas seconding and Balogh, Lucas, Peterson, Graham, and Ogden voting aye. Giddens voting nay.

### **Mayor and Council Member Reports:**

Mayor Steele reminded Council that the Chamber of Commerce's Nixies Awards were Friday 17th.

**Adjournment to Closed Session:**

Peterson made a motion to adjourn to closed session pursuant to section 610.021(1) RSMo in which the Council will discuss legal actions, causes of action, and confidential and privileged communications with their attorney with Giddens seconding and Lucas, Giddens, Peterson, Graham, Ogden, and Balogh voting aye.

The meeting will be considered adjourned at the conclusion of the closed session.

---

Mayor

---

City Clerk

# REGULAR MEETING OF THE COUNCIL MEMBERS OF THE CITY OF NIXA, MISSOURI

**NIXA CITY HALL**

**February 27<sup>th</sup> 2023 7:00 P.M.**

The regular meeting of the Nixa City Council was called to order by Mayor Brian Steele. Attending were Council Members Seth Balogh, Shawn Lucas, Aron Peterson, and Darlene Graham. Jarad Giddens and Matt Ogden were absent.

The Pledge of Allegiance was given.

## **Consent Agenda:**

Mayor Steele called for a motion to approve the consent agenda. Peterson made a motion to approve the consent agenda as presented, items a through b, with Balogh seconding and Lucas, Peterson, Graham, and Balogh voting aye on roll call vote.

## **Visitors:**

None.

## **Ordinances (First Reading and Public Hearing; Comments Limited to 5 Minutes; No Council Vote Anticipated):**

**Council Bill #2023-11** Amending the 2023 Annual Budget to Appropriate Funds for Outdoor Lighting. Cindy Robbins, Assistant City Administrator, told Council that in July of 2022, a contract with Lynn's Electric was approved for outdoor lighting improvements. Robbins said the project wasn't started until December due to supply chain delays and was not completed in 2022. Robbins stated that the funds needed to be transferred to the 2023 budget so that the final payment could be made when the project was completed. Mayor Steele opened the public hearing for comments, with no comments made the public hearing was closed.

**Council Bill #2023-12** Amending Chapter 4 of the Nixa City Code to Update the City's Liquor Control Codes. Nick Woodman, City Attorney, provided background information on the proposed bill. Woodman stated that the current liquor code is outdated, and the proposed amendments would make the code more useful. Woodman told Council the code modifications would bring the City's code in line with State statutes, allow for temporary liquor permits, and the fees for all the licenses and permits would be contained within the code. Woodman said staff recommends approval. Council asked questions, with Woodman responding. Mayor Steele opened the public hearing for comments, with no comments made the public hearing was closed.

**Council Bill #2023-13** Amending the 2023 Annual Budget to Appropriate Funds for the City's Portion of the Regional Broadband Initiative Feasibility Study. Jimmy Liles, City Administrator, told Council in April of 2022 that the City entered into an RBI contract, and in September of 2022, a cost share agreement was approved for the feasibility study. Liles stated that the City's

portion of the study at that time was \$31,000. Liles said the request for payment for the study came after the first of the year, and the funds need to be moved to the 2023 budget to cover that payment. Liles stated that travel expenses for the study group had been added to the agreement via an amendment. Liles told Council the City's updated cost is \$33,650.53. Liles said staff recommends approval. Council asked questions, with Liles responding. Liles reminded Council that the funds for this project would be coming from ARPA funds. Mayor Steele opened the public hearing for comments, with no comments made the public hearing was closed.

### **Ordinances (Second Reading and Public Hearing; Comments Limited to 5 Minutes; Council Vote Anticipated):**

**Council Bill #2023-01** Amending Chapter 12, Article V, of the Nixa City Code by Amending Section 12-103 and 12-104 to Modify Provisions Related to Mobile Vending. Scott Godbey, Planning and Development Director, stated staff was looking to amend the mobile vending section of the City code and asked Council to deny the bill so staff could relook at the changes being proposed. Mayor Steele opened the public hearing for comments, with no comments made the public hearing was closed. Mayor Steele called for a motion to approve the council bill. No motion was made, and the bill died on the floor.

**Council Bill #2023-06** Amending Chapter 22, Article IV, Division 1, Section 122-284 to Modify Provisions Related to Vegetation Management of the City's Electric Distribution System. Brian Denney, Electric Superintendent, stated that this bill was to update the City's existing vegetation management policy. Denney said staff recommends approval. Mayor Steele opened the public hearing for comments, with no comments made the public hearing was closed. Mayor Steele called for a motion to approve the council bill. Graham made a motion to approve Council Bill #2023-06 with Balogh seconding and Peterson, Graham, Balogh, and Lucas voting aye on roll call vote.

**Council Bill #2023-07** Amending Section 101-102, 117-101, and 117-99 of the Nixa City Code to Accommodate the State's Approval of Adult Use Marijuana. Woodman stated the first reading of the council bill was first read at the February 13th meeting, and staff was recommending approval. Woodman provided information on the three (3) changes that would be made to the code. Council asked questions, with Woodman responding. Liles provided additional information. Council and staff held a discussion. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed. Lucas made a motion to postpone Council Bill #2023-07 to the March 13th Council meeting, with Graham seconding and all Council Members voting aye.

**Council Bill #2023-08** Amending the 2023 Annual Budget to Appropriate Funds for an Inclusive Playground at McCauley Park. Matt Crouse, Parks Director, stated that the funds needed to pay for the McCauley Playground updates needed to be moved to the 2023 budget. Crouse said the renovations were almost complete. Crouse reminded Council that the funds for this project were coming from the Parks Savings Fund. Council asked questions, with Crouse responding. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed. Mayor Steele called for a motion to approve the council bill. Graham



made a motion to approve Council Bill #2023-08, with Lucas seconding and Balogh, Lucas, Peterson, and Graham voting aye.

**Council Bill #2023-09** Authorizing the City Administrator to Execute a Contract with Hall Ansley P.C. for Professional Legal Services and Amending the 2023 Annual Budget to Appropriate Funds for Said Contract. Woodman told Council this bill is for a contract with Hall Ansley P.C. for legal services and the subsequent budget amendment for that contract. Woodman said the first reading of this bill was at the February 13th meeting. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed. Mayor Steele called for a motion to approve the council bill. Lucas made a motion to approve Council Bill #2023-09 with Peterson seconding and Balogh, Lucas, Peterson, and Graham voting aye.

**Council Bill #2023-10** Rezoning the Real Property Generally Located at the 1400 Block of West Mount Vernon Street From a General Commercial (GC) District to a High-Density Multi-Family Residential (R-3) District. Godbey stated that the property being considered for rezoning is 1.87 acres that were annexed in 2018 as a part of a larger annexation with GC zoning. Godbey said that in 2020 the entire annexation was split into 14 lots, with the majority of the lots being zoned R-1, but the subject property (Lot 12) remained GC. Godbey told Council the property is surrounded by single-family homes to the south, legal non-conforming single-family homes to the west, Highway 14 to the north, and Nixa Public Schools S.C.O.R.E building to the east. Godbey stated that the proposed land use is consistent with the adopted future land use map. Godbey discussed the property's access off Highway 14, the Oakmont lift station, and transformer lead times. Godbey said the Planning and Zoning Commission voted 4-1 to recommend approval and staff is recommending approval. Mayor Steele opened the public hearing for comments.

Terry Garber, Cherry Street, stated that his father owns property across the street from the subject property. Garber said he and his father were concerned about stormwater run-off. Godbey responded to Garber's comments. Garber's father provided additional comments.

With no further comments, the public hearing was closed. Council asked additional questions, with Godbey responding. Mayor Steele called for a motion to approve the council bill. Peterson made a motion to approve Council Bill #2023-10 with Graham seconding and Lucas, Peterson, and Graham voting aye. Balogh voted nay. Council Bill #2023-10 failed.

### **Resolutions (Public Hearing; Comments Limited to 5 Minutes: Council Vote Anticipated):**

**Resolution #2023-09** Amending the City's Personnel Code by Modifying Certain Policies to Accommodate Recent Amendments to the Missouri Constitution Related to Marijuana and Updating the City's Smoking Policy. Woodman provided background on the resolution. Woodman stated that the resolution would modify the employee handbook to accommodate changes made by Amendment 3. Woodman provided details on proposed amendments to the resolution. Woodman said Amendment 1 would add a definition for safety-sensitive positions. Woodman stated that Amendment 2 would add safety-sensitive positions and guidance on the off-duty consumption of marijuana. Liles provided additional information on safety-sensitive

employee positions and the intoxication dissipation of marijuana within the body. Mayor Steele asked for Amanda Hunsucker, Director of Human Resources, opinion on marijuana and employee recruitment, with Hunsucker responding. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed. Council held a discussion. Lucas made a motion to adopt Amendment 2 to Resolution #2023-09, with Peterson seconding and all Council Members voting aye. Mayor Steele called for a motion to approve the resolution as amended. Peterson made a motion to adopt Resolution #2023-09 as amended, with Lucas seconding and all Council Members voting aye.

**Resolution #2023-10** Accepting the Bid of Mongan Painting Company, Inc. for the Pool Basin Painting Project and Authorizing the City Administrator to Execute a Contract for Same. Crouse stated the bid request for this project was sent to six (6) different companies. Crouse said the City received four (4) responses and one (1) late response. Crouse said Mongan was the lowest bid at \$35,000. Mayor Steele opened the public hearing for comments, with no comments made, the public hearing was closed. Mayor Steele called for a motion to approve the resolution. Graham made a motion to approve Resolution #2023-10, with Balogh seconding and all Council Members voting aye.

### **Mayor and Council Member Reports:**

Liles asked Council to check their calendars for speaking engagements to discuss the April Election.

Lucas stated he thought the speaking engagements regarding the April Election had already gone well. Lucas also said the Downtown businesses are excited about the Downtown Master Plan.

### **Adjournment:**

Mayor Steele called for a motion to adjourn. Lucas made a motion to adjourn at 8:04 p.m., with Graham seconding and all Council Members voting aye.

---

Mayor

---

City Clerk