

## CITY COUNCIL MEETING OF AUGUST 8, 2022

A meeting of the Warrensburg City Council was held on August 8, 2022, at 7:00 p.m., at 200 S. Holden and via Zoom, with Mayor Jim Kushner presiding. Mayor Kushner called the meeting to order and led in the Pledge of Allegiance. Roll was called as follows, Present: Osborne, Bentley, Lund, Uhler, Kushner. Absent: none.

The minutes of the July 25, 2022 meeting were considered. Bentley moved to approve the minutes. Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none.

The adoption of the agenda was considered. Bentley moved to adopt the agenda. Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none.

Assistant City Manager/Public Works Director Villegas and Elango Thevar, Neer Platform and Tools LLC gave an update on stormwater risk management. Villegas thanked City Manager Dulin, Project Manager Jason McCarty and Street Superintendent Dave McCannon for the implementation and GIS data mapping field work for the sanitary and stormwater infrastructure asset inventory program. Mr. Thevar said the city staff worked for the last couple of years beginning with the sanitary system and then stormwater system to identify an asset inventory of 2,000 pipes and 35 miles of stormwater lead pipe, area inlets, curb and break inlets and junction boxes. Mr. Thevar said the data can now be used to rank which pipes, bridges, and culverts are at the highest risk by using tools like a machine learning model, soil-type data sets, proximity of pipes close to trees, what kind of street is under the pipe, and traffic load. Data driven decisions are based on two parameters of the *likelihood of failure* and *consequence of failure if an asset fails* yields a business risk exposure ("BRE") rating. Mr. Thevar provided a BRE rating on the city's assets and said overall the stormwater inlets were fine but the inflow gravity in the pipes scored in the range of moderate-to-high and should be focused on as a higher risk in the system.

Mr. Thevar said Neer offered real-time flood forecasting and had been helping a big community in Kansas City and Villegas wanted to bring it to Warrensburg. The real-time flood forecasting predicts what will happen in the next 24-48 hours by rainfall data obtained through the National Weather Service. The forecast model runs every three hours and provides information on how many roads will flood, needed road closures, flood information to the public, and flag those structures based on elevation. The forecast prediction delineates a flood plain map in real time as to how wide a flood will be for the next 24 hours, water surface elevation, floodwater depth and flood severity (fast moving water or standing water). Villegas envisioned a public facing so developers can make decisions based on structures in a floodplain or floodway. In addition to forecasting, the installation of local rain gauges and flow detectors can help measure the depth and flow at city wastewater plants for determining I&I. Mr. Thevar confirmed that corrugated metal pipe in corrosive marshy soil and clay pipe infiltrated with tree roots are identified as high risk.

Mayor Kushner opened a Public Hearing for an Ordinance Authorizing a Conditional Use Permit for Land Use 18.200 Community Utility Facility in a GB: General Business District Located at 505 E. Young Street in the City of Warrensburg, Missouri. Community Development Director Carroll said Ozark Fiber LLC was requesting a conditional use permit to use the existing building and parking lot at 505 E. Young Avenue located in a general business district. The building had been vacant for several years and had lost its grandfathered status. Ozark Fiber is

a utility and not required to have off-street parking to operate under a conditional use permit. There were four front parking spaces but none in the rear or side of the property and the applicant stated that it did not need additional parking at this time. The Planning & Zoning Commission recommended approval with three conditions as listed. One of those conditions was that any utilization of the rear parking area or east drive aisle in the future will require an amendment to the conditional use permit for hard-surface parking. City staff incorporated a fourth condition in the ordinance granting staff the authority to approve the final site plan as part of the building permit process.

A public comment was received from Diane Hendrix, 507 E. Young St., stating that she was aware of the easement and had no issues.

William Wargham, 220 S. Ridgeview Dr., Warrensburg, asked for clarification on applicant's name.

There were no further comments, Mayor Kushner closed the public hearing.

Bill No. 08-01-2022 being for An Ordinance Authorizing a Conditional Use Permit for Land Use 18.200 Community Utility Facility in a GB: General Business District Located at 505 E. Young Street in the City of Warrensburg, Missouri, was read a first time by title. There being no questions, Bentley moved said bill be passed to a second reading by title. Carried unanimously. Said bill was read a second time. Roll was called for the adoption or rejection of said bill as follows: Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none. Said bill was declared duly adopted and given Ordinance No. 5734.

Bill No. 08-02-2022 being for An Ordinance Approving and Accepting the Final Plat of Winterset Villas – 1<sup>st</sup> Plat, a Subdivision in the City of Warrensburg, Missouri, Located Along Park Avenue, was read a first time by title. Community Development Director Carroll said the preliminary plat was submitted several years ago and the subdivision was located on the north side of Highway 50, east of Arwood's Furniture. The first phase is on the west side of Enterprise Drive and consists of twenty-six lots, zoned R-2 for single and two-family houses. There are no special conditions that require exception to the subdivision regulations. The Planning & Zoning Commission and city staff recommend approval of the plat with four conditions as listed in the ordinance. There being no questions, Lund moved said bill be passed to a second reading by title. Carried unanimously. Said bill was read a second time. Roll was called for the adoption or rejection of said bill as follows: Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none. Said bill was declared duly adopted and given Ordinance No. 5735.

Bill No. 08-03-2022 being for An Ordinance Authorizing the City Manager and City Clerk to execute a Contract with Vance Brothers, Inc. for the 2022 Street Maintenance Program, Polymer Overcoat & Sealcoat in the City of Warrensburg, Missouri, was read a first time by title. Project Manager McCarty said after an extensive deliberation on street maintenance for this year, public works came up with a comprehensive list of streets to continue a polymer overcoat and sealcoat procedure used since 2017. The procedure initially received a little consternation from the public but once it was applied, the procedure provided 5-7 years wear course for improved rideability and bought time on maintenance issues that did not need a full-blown overlay. The two procedures were combined within one project to complete in one budget cycle and the city received a bid from Vance Brothers, with interest by another company who did not submit a bid. Mayor Kushner noted a reduction in the number of streets on the list and McCarty said the estimates were off a little bit due to the price of diesel and asphalt and a change order was issued to leave a cushion for patching and crack sealing to prepare for the project. The

public works department was deferring a mill and overlay project to next fiscal year in addition to a substantial sidewalk project. Villegas said the original list was amended as some of the monies were used to pay for Zoll street in lining of the storm sewer. McCarty said on a side note, two smaller storm lines draining into a big pipe underneath Zoll street were being lined as part of the sanitary sewer project and will be finished in the next couple of weeks. There being no further questions, Bentley moved said bill be passed to a second reading by title. Carried unanimously. Said bill was read a second time. Roll was called for the adoption or rejection of said bill as follows: Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none. Said bill was declared duly adopted and given Ordinance No. 5736.

Bill No. 08-04-2022 being for An Ordinance Re-Adopting Section 2-1 to Establish a Procedure to Disclose Potential Conflicts of Interest and Substantial Interests of Certain Municipal Officials, was read a first time by title. City Clerk Schneider said the State of Missouri requires the city to establish and file with the Missouri Ethics Commission a procedure to disclose potential conflicts of interest and substantial financial interests of municipal officials every two years. There being no questions, Bentley moved said bill be passed to a second reading by title. Carried unanimously. Said bill was read a second time. Roll was called for the adoption or rejection of said bill as follows: Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none. Said bill was declared duly adopted and given Ordinance No. 5737.

Bill No. 08-05-2022 being for An Ordinance Authorizing the City Manager and City Clerk to execute a contract with Tim Dykman d/b/a Concrete Ink for the restoration, re-staining and sealing of the City's public art, "Downtown Vibrations" in the City of Warrensburg, Missouri, was read a first time by title. Finance Director McCoy said the Arts Commission identified the need for immediate attention to maintain the artwork and solicited bids to complete the project. The agreement was in the amount of \$2,800 and included a two-year guarantee of the work. There being no questions, Lund moved said bill be passed to a second reading by title. Carried unanimously. Said bill was read a second time. Roll was called for the adoption or rejection of said bill as follows: Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none. Said bill was declared duly adopted and given Ordinance No. 5738.

Bill No. 08-06-2022 being for an Ordinance Adopting Article IV of Chapter 28, Wildlife Management, of the Code of Ordinances of the City of Warrensburg, was read for the second time by title. City Manager Dulin reiterated the proposed ordinance was for a managed deer hunt and was presented at this reading with minimal changes by the Missouri Department of Conservation. There was no feedback received by City staff on this proposed ordinance. There being no questions, Bentley moved to adopt said bill. Roll was called for adoption as follows: Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none. Said bill was declared duly adopted and given Ordinance No. 5739.

Bill No. 08-07-2022 being for an Ordinance Amending Section 14-119 for discharge of firearms and projectile weapons prohibited, of the Code of Ordinances of the City of Warrensburg, was read for the second time by title. There being no questions, Osborne moved to adopt said bill. Roll was called for adoption as follows: Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none. Said bill was declared duly adopted and given Ordinance No. 5740.

Mayor Kushner read a Resolution Adopting the final Johnson County Multi-Jurisdictional Hazard Mitigation Plan upon approval of the Federal Emergency Management Agency. Fire Chief Jennings said the plan is updated every five years since the passage of the Disaster Mitigation Act of 2000. There were no questions. Bentley moved to adopt the Resolution. Roll was called

for adoption as follows: Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none. Said resolution was declared duly adopted and given Resolution No. 2223.

Assistant City Manager/Public Works Director Villegas said that he planned to revamp both the traditional curb and sidewalk program and street maintenance program. At this time, applications are submitted to the sidewalk program and the property owner is assessed \$1.50 per square foot of sidewalk replaced in addition to the City replacing the ADA ramps and curb. In evaluating both programs, city staff found inefficiencies wherein often the street was touched twice, first at the curb and then the surface of the street. Villegas proposed to revamp the program by including ramps/curbs within the street maintenance portion of a mill and overlay street project. Villegas proposed that sidewalks be sectioned off into zones and the city would take inventory of the sidewalk in a zone for gaps and deterioration and improve the sidewalk at no cost to the homeowners or landlords. There are economies of scale for all involved since the city would be doing it in bulk. As an additional efficiency, the road crew used to set up the traffic control for contractors when performing surface treatment projects and are not doing that any longer. Villegas said that traffic control has been added as a line item instead in the bid proposal and puts the liability back on the contractor. The proposed changes would give the city latitude to be more strategic regarding sidewalk inventory and sidewalk zones would enable an evaluation for a "safe routes to school" CDBG opportunity. City Manager Dulin said no action would be taken this evening but asked city council to consider this different approach and give opinions to staff. There was a lot of time for consideration until implementation in January. Villegas added that in October or November of each year, a street crew would go out and inspect zones for real-time quantities.

William Wargham, 220 S. Ridgeview Drive, Warrensburg, said he had been sending emails to city council regarding the fiber optic companies in town over the past eighteen months, tearing up yards and not fixing what they were tearing up. He had to re-level, re-dig and reseed the first hole on the east side of his yard and now has six holes on the south corner. On the previous hole, the company ruptured a 6" main. Mr. Wargham said he has an 8" main on the south side of his property line and it is just a matter of time before it gets hit. He has two pilot boxes already, ruts in his yard and now American Broadband came to his door and said they will be coming through his property. Mr. Wargham said he had been dealing with paint and flags in his yard for eighteen months and asked how many companies will keep coming through. He wanted council to understand his concerns and that it cost a lot of money to repair all the damage. Villegas said the city had no true jurisdictional authority to not approve right of way permits without cause. Villegas continued that there is a certain grace period the company should be given to cure the problem so if not a health, safety or welfare issue, the city does not have as much authority. He said the city does not have a say where a telecom company chooses to install its equipment unless it is perhaps an environmentally sensitive land. Villegas said the city does have a field inspector to monitor the activity if a utility is hit and the city has acted on it. The city is actively monitoring now and several of the contractors have improved their excavating techniques such as the use of hydrovac which has lessened the amount of hits but there is always the possibility that a hit is going to happen in construction with utilities buried in the ground. The city's field inspector does monitor the restoration of seed and sod and Villegas will send the inspector out tomorrow and verify whether a proper restoration occurred. Mayor Kushner asked the city attorney whether the city has a say over who can or cannot come through and City Attorney Harris answered the city had no say. Harris said that the State of Missouri requires all municipalities to consent to any state or federally authorized utility to use our right of way without our permission. Council Member Uhler asked who is responsible to restore Mr. Wargham's property the way it was and Harris answered the contractor with the right of way excavation permit has the requirement to restore the right of way and if that is not done,

then that permit can be affected going forward but the city does not have any authority to do anything retrospectively for what they have done other than pull their permit. Harris said the property owner has the right to register a complaint with the public service commission but some of these telecoms are not regulated at the state level but at the federal level. Mr. Wargham said that he wanted to start with the city council. He said the company did not do anything to repair the first hole and it cost him money to fix it. Mr. Wargham was concerned that the companies were digging too shallow and if using hydrovacating under sidewalks and driveways that cracks will develop from the flushing. He said he understood the right of way and knew where his easements were located but these companies were not being regulated or repairing what they destroy. Mayor Kushner said the city will do what it can through the public works department and as Mr. Harris said you may contact the public service commission. Mr. Wargham said there were steps he wanted to go beyond this but wanted to start at local level first.

Chuck Appleton, 1410 Kimberly Drive, Warrensburg, said William Wargham filled council in on things but he wanted council to know that he is seeing lots of different things out there. Mr. Appleton was not made aware until two days before the company arrived with signs in his yard that Socket was coming. Mr. Appleton said that was okay but he got out in the yard and marked his irrigation system for them as he was a little concerned because someone's irrigation system down the road got hit and was replaced and fixed it. There were four holes in his yard on the landowners' side of the sidewalk that were filled in but have not been addressed and he thought sod would be the easiest thing but they said it would be with seed and straw but that was four weeks ago and not back since. Mr. Appleton said the first crew were hard workers but just disappeared and the next day there was a crew digging a hole on the streetside of the sidewalk and said they got fired and we will do a better job. A boring machine was used in his yard on the resident's side and he spoke with Terry from Public Works who said they can do all of this and Mr. Appleton asked if they will put it back and Terry said yes. Mr. Appleton has a three-foot hole on the street side of the sidewalk for four weeks now and all the crews are gone out of Brookside right now with orange and yellow fences and it was assumed they will be coming back. Mr. Appleton would appreciate some interaction and knows that they have to tear it up to put it in but would like it to be put back. He said the neighbor across the street works for Spire and said Spire had already fixed two gas lines they hit and the power was out and the first crew said they just didn't mark stuff right. Mr. Appleton said that he kept all of his flags in the yard and so far his irrigation system was intact. Mr. Appleton said when he talked to Terry that Ozark Fiber and five of them were coming in and not going to go away soon.

Council Member Uhler asked what advance notice is given when they target Warrensburg and Villegas said they do approach the city of their intention to expand their footprint into Warrensburg but do not disclose initially where until they apply for right of way permits. In regard to open pits in neighborhoods, Villegas offered an order of operations that the company would first locate the utilities by either hand-digging or hydrovacating, then once the utilities are exposed, the next part would be to install the underground but that does not happen on the same day so the pit would be exposed with the safety fencing surrounding it and once conduit is in the ground then a crew would come in to blow the line and make the splicing, then another crew would install pedestal or cabinet, and it all does not happen at once. There are also supply chain issues which are causing delays in construction even for city projects right now. Council Member Uhler asked why there was a gold rush in expansion now and Villegas explained that utility and general business growth expansion was occurring in part due to the Infrastructure Act and grant money.

Chairman Pro Tem Bentley asked whether communications can be had to relay some of these citizen concerns. City Attorney Harris said that stop work orders were issued and punitive actions taken against contractors for violating permits. Villegas said Terry, the city's utility inspector, relayed that a lot of the restorative efforts have been going well especially since punitive actions had been taken. Villegas said this Thursday is the first mandatory utility coordination meeting with the utilities and their subcontractors to discuss things as presented tonight.

Mayor Kushner made recommendation to Appoint Devan Steel, Member, Planning & Zoning Commission, to fill a vacancy for a four-year term expiring April 30, 2025. Bentley moved to approve the recommendation. Roll was called for appointment as follows: Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none.

Mayor Kushner and Chairman Pro Tem Bentley met an artist at the Farmers' Market last Saturday named Raymond Phillips from Little Rock, Arkansas. Mr. Phillips is living at the shelter and paints at the gazebo at the park across from the police department and other places around town. Mr. Phillips gave a choice of his artwork to the city and was offered a position on the Arts Commission. The artwork will be on display at City Hall.

Mayor Kushner enjoyed the Farmers' Market on Saturday and applauded its growth and success. Mayor Kushner attended an award ceremony at Whiteman AFB for the Omaha Trophy presented to the 509<sup>th</sup> Operations Squadron. The Omaha Trophy is one of four awards given annually for the best strategic group in the United States.

Finance Director McCoy was happy to report that August sales tax revenues met and have exceeded expectations for the year. McCoy said that as everything costs more the city receives more in sales tax receipts as well. McCoy pointed out that the sales tax receipts were above what was received last year with one month to go in the fiscal year. The budgeted revenue was at \$2.7 million for general sales tax and the city will be close to \$4 million. The sales tax is reported two months after it is collected so August revenues were collections from June. McCoy said the proforma information was finally received from the state auditor's office and the city will hold a public hearing and ordinance setting the property tax levy for approval at the next council's meeting on August 22<sup>nd</sup>. Council Member Uhler asked how the new Infrastructure Investment and Jobs Act will impact the city for monies available and its uses and McCoy answered that public works was working on identifying infrastructure projects for its use. The city would pursue grant opportunities and use matching funds with the \$17 million of general obligation ("GO") bonds. McCoy said that the city will hopefully receive word soon on results from the RAISE grant application and those funds can be used for a match. Further, McCoy said the final draw on the ARPA money is due in September may also be used for matching funds.

Tourism Director Barnhart relayed important events happening in August for WCVB. The Missouri State Fair starts on Thursday and the WCVB will be at the fair several times promoting Warrensburg. On Sunday, the WCVB will be at the Visit MO booth and Council Member Osborne will be joining Barnhart and Thursday at the MO Leisure Travel Show Barnhart will be joined by Parks Director Foster then arrive back on the 19<sup>th</sup> at the Visit MO booth. WCVB will have a booth at the Farmers' Market on August 27<sup>th</sup> and the theme for that day is "In the Burg." This Thursday, August 11<sup>th</sup> is the WCVB Board meeting and will be available via Zoom regarding community appointments and budget as well. Barnhart just received word that "Old Drum" was featured on the cover of the Show-Me Missouri magazine this month.

Fire Chief Jennings said that council may have heard that an incident occurred last Saturday at the hospital. An ambulance crew showed at the hospital with acute onset of illness with a suspected exposure to a chemical material. The hospital issued a decontamination plan and our crew responded and set up procedures/tent. Jennings said everything ended up okay and noted that communication had improved since the last incident at hospital. The captain vacancy has now been filled and Jennings announced that Kegan Wilson was promoted to the position. Wilson had thirteen years with the department as a parttime firefighter. Wilson's position was filled by a parttime firefighter named Breanna Yates. Jennings was happy to report that of their 25 full time positions that all 25 were filled, 3 student positions are open and one part-time position was open.

Villegas said public works staff were actively pursuing community development block grant ("CDBG") monies to fix failing infrastructure and identified the project area of West Market Street between Chestnut and Maynard. Villegas said that public works used pavement condition index ("PCI") scoring, sanitary sewer and storm water data collected to identify this project. The scope of the project was to completely gut the road, install new subgrade, and install new asphalt. Villegas pointed out that sections of Market Street were wavy and alligator cracking more than a simple mill and overlay can cure and the PCI score was a 16 stated that best practice was that anything below a 30 should be total street reconstruction. In addition, the scope would include geometric improvements so the water can flow easier, storm sewer, sanitary sewer improvements, and ADA sidewalk improvements. Villegas further relayed improvements to the streetscape with underground utilities, street lighting and adding street trees. Villegas has partnered with the Regional Planning Commission ("RPC") to help draft the grant and he will bring a proposed memorandum of understanding for council's consideration of this project. The RPC will be looking at the low-to-moderate income levels ("LMI") in the area for the grant application and noted its close proximity to a school for sidewalk improvements would be viewed favorably.

Council Member Lund moved to close part of this meeting pursuant to Section 610.021 of the Revised Statutes of Missouri, relating to: (1) Legal actions, causes of action or litigation; and (2) Leasing, purchase or sale of real estate; and (3) Hiring, firing, disciplining or promoting of particular employees when personal information about the employee is discussed. Roll was called for approval. Yes: Osborne, Bentley, Lund, Uhler, Kushner. No: none.

As there was no further business, the meeting adjourned at 9:13 p.m.

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Jim Kushner, Mayor

Attest:

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Jodi L. Schneider, City Clerk