

**CITY OF CHERRYVALE
MEETING OF THE CITY COUNCIL
REGULAR MEETING
November 21, 2016
7:00 PM**

Working for a better tomorrow... today.

ORDER OF BUSINESS

CALL MEETING TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC FORUM

No action will be taken relative to items presented during the public forum other than referral for information. Requests to appear will be placed on a “first-come, first-served” basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting.

Members of the public desiring to present matters to the Council during the public forum must submit a request in writing to the office of the city clerk prior to twelve noon on the date of the meeting. Matters pertaining to personnel, litigation, and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in city code will be observed.

GOVERNING BODY COMMENTS

Mayor John Wright
Council Member Chad Wickham
Council Member Don King
Council Member Randy Wagoner
Council Member Lew Forman, Jr.

NEW COUNCIL BUSINESS

A. ORDINANCE NO. 16-4677; REZONE REQUEST 516 S. WEST WALNUT R-1 to R-4

Presented by Joel Pile, City Administrator

RECOMMENDED ACTION: Motion to adopt Ordinance 16-4677; rezoning Lots 21,22,23 & 24, Block 3 of Park Place Addition commonly known as 516 S. West Walnut from R-1 Residential – Low Density to R-4 Mobile Home Park.

B. ORDINANCE NO. 16-4678; RIGHT-OF-WAY VACATION REQUEST

Presented by Joel Pile, City Administrator

RECOMMENDED ACTION: Motion to adopt Ordinance 16-4678; vacating the dedicated alleys within Blocks 4 & 5 of Commercial Club’s Addition and vacating the dedicated street right-of-way for Commercial Street located between Blocks 4 & 5 of Commercial Club’s Addition.

C. CITY CLERK APPOINTMENT

Presented by Joel Pile, City Administrator

RECOMMENDED ACTION: Appoint Karen Davis as City Clerk.

D. CONSENT AGENDA

Presented by John Wright, Mayor

RECOMMENDED ACTION: Approve the consent agenda as presented

- | | |
|---|-------------|
| 1. Appropriations and Payroll Ord. No. 16-11-18: | \$83,521.58 |
| a. Approval of Purchases over \$5,000 | |
| i. Transystems Corp | \$15,924.76 |
| ii. BCBS of Kansas | \$13,593.79 |
| iii. People's State Bank | \$7,915.02 |
| 2. Consideration of the minutes for November 7, 2016 Regular Meeting. | |

INFORMATIONAL ITEMS

1. City Offices will be closed November 24 & 25, 2016 in observance of Thanksgiving.
2. Next Council Meeting December 5, 2016.
3. Yard of the Month

ADJOURNMENT

This is an open meeting, open to the public, subject to the Kansas Open Meetings Act (KOMA). The City of Cherryvale is committed to providing reasonable accommodations for persons with disabilities upon request of the individual. Individuals with disabilities requiring an accommodation to attend the meeting should contact the City in a timely manner.

**CITY OF CHERRYVALE
ORDINANCE REZONING PROPERTY**

ORDINANCE NO. 16-4677

An Ordinance rezoning property described as Lots 21, 22, 23 & 24, Block 3, of Park Place Addition to the City of Cherryvale, Montgomery County, Kansas is rezoned from R-1 to R-4.

BE IT ORDAINED by the Governing Body of the City of Cherryvale:

Section 1. Upon recommendation of the Planning and Zoning Commission the property located at Lots 21,22,23 & 24, Block 3, of Park Place Addition to the City of Cherryvale, Montgomery County, Kansas (commonly known as 516 S. West Walnut) are rezoned from R-1 Residential – Low Density to R-4 Mobile Home Park..

REPEALED. All ordinances in conflict herewith are hereby repealed.

EFFECTIVE DATE. This ordinance shall be in full force and effect upon its publication in the official city newspaper.

PASSED AND APPROVED By the Governing Body of the City of Cherryvale, Kansas, this 21st day of November, 2016.

John M. Wright, Mayor

ATTEST:

Karen Davis, City Clerk

{SEAL}

CITY COUNCIL ACTION REPORT

Proposed Agenda Date: November 21, 2016

Subject: Ordinance 16-4677

Guest: None

Background: Applicant Jasmin Forman (815 W. 4th) has requested a zoning change from Residential –Low Density (R1) to Mobile Home Park Residential District (R4) to allow a mobile home for the property legally described as Lots 21,22,23 & 24, Block 3 of Park Place Addition commonly known as 516 S. West Walnut. The applicant plans to demolish the existing single-family dwelling and place a “single-wide” mobile home on the property. Under the current zoning code, a mobile home is defined as a transportable structure larger than 320 square feet in floor area, designed to be used as a year-round residential dwelling. Mobile homes are not a permitted land use in the R1 District, the R4 District allows mobile homes.



Financial Consideration: None.

Legal Consideration: None.

Policy Consideration: The Planning Commission conducted a public hearing on November 10, 2016 to hear objections, concerns or other matters regarding the rezoning request, no person appeared at the public hearing. The Planning Commission entered into the following findings of fact: (criteria considered in italics)

A. What is the character of the subject property and the surrounding neighborhood in relation to existing uses and their condition? This lot has a dilapidated single family home which has been vacant for many years. Many of the lots in the immediate vicinity are vacant or have abandoned single-family structures on them. It is on the southwestern edge of the city and is across from Logan Park, an area which has many abandoned single family homes and vacant lots.

B. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change? The current zoning is R-1 Residential –Low Density. The surrounding zoning and land uses are as follows:

- North: R-1 Residential –Low Density (abandoned single family structure)
- South: R-1 Residential –Low Density (vacant lot)
- East: R-1 Residential –Low Density (vacant lot)
- West: R-1 Residential –Low Density (vacant lot)

C. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property? Yes, all utilities are available in easements and street right of way and the public street access would be from S. West Walnut Street.

D. Is the subject property suitable for the uses in the current zoning to which it has been restricted? A single-family home could be built on the property.

E. To what extent would the removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood? Given the existing condition of the surrounding land and the length of time the lots have remained vacant, a mobile home should not be detrimental to most of the surrounding land uses.

F. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations? Yes, the rezoning would allow the applicant to place a mobile home on the lot.

G. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan? The Comprehensive Plan shows this property as low density residential, changing the zoning would meet the intent of the plan.

H. What is the nature of the support or opposition of the request? The city planning staff supports this rezoning. Notices were sent out to surrounding property owners but no one has contacted the City questioning the change. No person appeared at the public hearing to oppose the request.

I. By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in value or the hardship imposed upon the applicant by not approving the request? Yes, this is a good location for a mobile home and will generate new tax base on this presently vacant parcel.

Recommendation: Adopt Ordinance No. 07-4522

ORDINANCE NO. 16-4678

AN ORDINANCE VACATING PORTIONS OF PUBLIC STREET RIGHT-OF-WAY, PURSUANT TO K.S.A. 14-423 AND 12-515, WITHIN THE CITY OF CHERRYVALE, KANSAS.

WHEREAS, owners (the “Owners”) of abutting property have petitioned the City of Cherryvale to vacate portions of unimproved public right-of-way (hereinafter the “Vacated Street and Alleys”); and,

WHEREAS, the Vacated Street and Alleys are a portion of Commercial Street, and alleys described as follows:

All that portion of Commercial Street right-of-way lying adjacent to and between Blocks 4 & 5, COMMERCIAL CLUB ADDDTION, and all alleys lying adjacent to and within Blocks 4 & 5, COMMERCIAL CLUB ADDDTION.

WHEREAS, a notice of a hearing on said petition has been duly published, pursuant to K.S.A. 12-504; and,

WHEREAS, the Planning Commission of the City of Cherryvale has conducted a public hearing on said petition, at the date and time set forth in the notice; and,

WHEREAS, following the public hearing, the Planning Commission of the City of Cherryvale has determined that no private rights will be injured or endangered by such vacation, and that the public will suffer no loss or inconvenience thereby, and that in justice to the Owners the request of the Owners ought to be granted.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHERRYVALE, KANSAS:

SECTION ONE: That the Governing Body, pursuant to K.S.A. 14-423 and 12-515, hereby declares that Vacated Street and Alleys, as described below, are hereby vacated to-wit:

All that portion of Commercial Street right-of-way lying adjacent to and between Blocks 4 & 5, COMMERCIAL CLUB ADDDTION, and all alleys lying adjacent to and within Blocks 4 & 5, COMMERCIAL CLUB ADDDTION.

SECTION TWO: This ordinance shall be in force and effect upon its approval by the governing body of the City of Cherryvale and publication in the official city newspaper unless an interested party shall file a protest petition.

SECTION THREE: That there be reserved to the City and the owners of lesser property rights for public utilities, rights-of-way, and easements for public facilities in said right-of-way for present uses, if any.

SECTION FOUR: After publication of this ordinance, the City Clerk shall file a certified copy of such ordinance with the Register of Deeds Office of Montgomery County, Kansas and also with the office of the Montgomery County Clerk. The County Clerk shall enter the same in the transfer records of the County Clerk's office and the register of deeds shall record the same in the deed records of the County, all pursuant to K.S.A. 14-423.

PASSED AND APPROVED by the Governing Body of the City of Cherryvale, Kansas this 21st day of November, 2016.

John M. Wright, Mayor
City of Cherryvale

ATTEST:

Karen Davis, City Clerk
City of Cherryvale

(SEAL)

CITY COUNCIL ACTION REPORT

Proposed Agenda Date: November 21, 2016

Subject: Ordinance No. 16-4678: Right-of-Way Vacation

Guest: None

Background: Applicant Travis Cartwright (525 E. 6th) has requested the city vacate portions of Clark, Commercial & Oak Streets and associated alleys. The applicant owns Lots 6-10 & 16-20, Block 4 and Lots 8-10 & 16-20, Block 5 of Commercial Club's Addition. The purpose for the proposed vacation request is so the applicant may combine the 18 lots into a single parcel.



In compliance with Kansas State Law, a notice of hearing on said petition has been published in the official city newspaper and the Planning Commission conducted a public hearing on said petition prior to this ordinance. At the public hearing the Planning Commission determined no private rights would be injured or endangered by the vacation and the public would not suffer any loss or inconvenience.

Financial Consideration: None

Legal Consideration: None.

Policy Consideration: Based upon the Comprehensive Plan and under advisement of the city engineer, it is not recommended the city vacate any portion of Oak or Clark Street. The streets are classified as “collector streets” and the right-of-way should be retained for future growth and development.

Recommendation: Adopt Ordinance No. 16-4678.

BANK NO	BANK NAME	CHECK NO	DATE	VENDOR NO	VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
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1 COMM. NATIONAL BANK & TRUST

Thru 23100 Payroll Checks 5,549.91
23109

23110	11/18/2016	1440	CITY OF CHERRYVALE	352.50
23111	11/18/2016	7379	SURENCY LIFE AND HEALTH	125.92
23112	11/18/2016	9211	BCBS OF KANSAS	663.76
23113	11/18/2016	9212	BCBS OF KANSAS	1,406.36
23114	11/18/2016	9214	KANSAS PAYMENT CENTER	765.59

Thru 23115 Gap in Checks
23116

23117	11/18/2016	9223	AFLAC	400.44
23118	11/18/2016	9230	SECURITY BENEFIT	244.17
23119	11/18/2016	9303	W.H. GRIFFIN TRUSTEE	219.23
23120	11/18/2016	9325	GARRISON LAW OFFICE LLC	327.38
23121	11/18/2016	79	AIRGAS USA, LLC	187.08
23122	11/18/2016	600	BLUE CROSS-BLUE SHIELD	13,593.79
23123	11/18/2016	75	BOUND TREE MEDICAL LLC	279.50
23124	11/18/2016	790	BUMPER TO BUMPER AUTO PARTS	150.32
23125	11/18/2016	914	CARD SERVICES	44.57
23126	11/18/2016	9329	CATRON, RICHARD	87.35
23127	11/18/2016	9310	CHERRYVALE FAMILY MEDICINE	46.00
23128	11/18/2016	866	CJ'S THREADS EMBROIDERY, LLC	109.00
23129	11/18/2016	9059	COX COMMUNICATIONS	197.79
23130	11/18/2016	9073	CRYSTAL LAKE FISHERIES, INC	895.00
23131	11/18/2016	2256	EMERGENCY MEDICAL PRODUCTS INC	55.75
23132	11/18/2016	2260	EMERT, CHUBB & GETTLER, LLC	1,116.50
23133	11/18/2016	2450	FELD FIRE	348.00
23134	11/18/2016	3275	HUGO'S INDUSTRIAL SUPPLY, INC.	84.20
23135	11/18/2016	9060	KDHE-BUREAU OF WATER	25.00
23136	11/18/2016	1100	MONTGOMERY COUNTY CHRONICLE	178.50
23137	11/18/2016	5310	MONTGOMERY COUNTY D.O.C	910.00
23138	11/18/2016	5850	OK ELECTRIC WORKS	275.00
23139	11/18/2016	6176	PITNEY BOWES, INC.	61.19
23140	11/18/2016	6588	RICHARD L. HINES, P.A.	450.00
23141	11/18/2016	6808	SELLERS EQUIPMENT, INC.	529.77
23142	11/18/2016	9315	SHAW, MICHAEL W.	330.00
23143	11/18/2016	7379	SURENCY LIFE AND HEALTH	187.14
23144	11/18/2016	7382	TLC VETERINARY HOSPITAL, PA	39.14
23145	11/18/2016	7590	TRANSYSTEMS CORP.	15,924.76
23146	11/18/2016	9317	UNIFIRST CORPORATION	111.80
23147	11/18/2016	7669	UNUM LIFE INSURANCE COMPANY	222.92
23148	11/18/2016	7807	WAGeworks	100.00
23149	11/18/2016	2590	WEX BANK	2,587.05
23150	11/18/2016	8125	WOODS LUMBER OF INDEPENDENCE	37.61
23151	11/18/2016	8400	ZOLL MEDICAL CORPORATION	477.00

Thru 93201 Payroll Checks 19,948.92
95601

BANK NO CHECK NO	BANK NAME DATE	VENDOR NO	VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
16012188	11/18/2016	9200	PEOPLES STATE BANK	7,915.02			**E-PAY**
16012189	11/18/2016	9201	KANSAS WITHHOLDING TAX	1,008.47			**E-PAY**
16012190	11/18/2016	9203	KPERS	4,952.18			**E-PAY**
BANK TOTAL				58,022.75			
OUTSTANDING				58,022.75			
CLEARED				.00			
VOIDED				.00			
<i>Payroll</i>				<i>25,498.83</i>			
FUND	TOTAL	OUTSTANDING	CLEARED	VOIDED			
100	GENERAL OPERATING	33,654.06	33,654.06	.00	.00		
200	SPECIAL HIGHWAY	2,135.87	2,135.87	.00	.00		
215	SPECIAL PARK & RECREATION	895.00	895.00	.00	.00		
296	COPS GRANT	475.57	475.57	.00	.00		
298	2015 SIDEWALKS GRANT	15,924.76	15,924.76	.00	.00		
700	WATER O & M	2,478.34	2,478.34	.00	.00		
715	WWTP & S.S. O & M	2,459.15	2,459.15	.00	.00		

REPORT TOTAL 58,022.75
 OUTSTANDING 58,022.75
 CLEARED .00
 VOIDED .00

25,498.83
83,521.58

Mayor: _____

Attest: City Clerk _____

Passed this 21st day of November, 2016

Signed this 21st Day of November 2016

CITY OF CHERRYVALE
MEETING OF THE CITY COUNCIL
REGULAR MEETING
November 7, 2016
7:00 PM

Working for a better tomorrow... today.

ORDER OF BUSINESS

CALL MEETING TO ORDER

Mayor Wright called the meeting to order at 7:00 pm.

Present: Mayor John Wright, Council Member Chad Wickham, Council Member Lew Forman, Council Member Randy Wagoner, Council Member Don King, City Administrator Joel Pile, Interim City Clerk Karen Davis, Public Works Director Wade Webber, Fire Chief Jesse Reed, Jim Hogben, April Read, and Steve McBride (Independence Daily Reporter).

INVOCATION

Council Member Randy Wagoner led the invocation.

PLEDGE OF ALLEGIANCE

ROLL CALL

Interim City Clerk Karen Davis took roll:

Mayor Wright- present; Council Member Wickham- present; Council Member Forman- present; Council Member Wagoner- present; Council Member King- present

NEW COUNCIL BUSINESS

A. CONSIDERATION OF JOINT USE AGREEMENT FOR COMMUNITY CTR

Presented by Joel Pile, City Administrator

A motion was made by Council Member Wagoner, seconded by Council Member Forman to approve the agreement with clarification on damages, etc. Motion passed 3/2. Aye votes: Council Member Forman and Council Member Wagoner and Mayor Wright – Nay votes: Council Member Wickham and Council Member King

B. CONSENT AGENDA

Presented by John Wright, Mayor

- | | |
|--|--------------------|
| 1. Appropriations and Payroll Ord. No. 16-10-21: | \$84,244.23 |
| a. Approval of Purchases over \$5,000 | |
| i. Blue Cross Blue Shield | \$13,593.79 |
| ii. Republic Services | \$9,246.79 |

- | | |
|--|---------------------|
| iii. People's State Bank (FICA) | \$7,391.53 |
| 2. Appropriations and Payroll Ord. No. 16-11-04: | \$235,611.86 |
| a. Approval of purchases over \$5,000 | |
| i. Mission Construction Co., Inc. | \$150,127.40 |
| ii. Peoples State Bank (FICA) | \$7,457.57 |
| iii. Public Wholesale Water | \$24,333.33 |
| iv. Westar Energy | \$6,844.61 |
| 3. Approval of Third Quarter Treasurer's Report | |
| 4. Appointment of Mr. Jerry Wallace (708 W. Main) to Planning & Zoning Commission term expiring January 2019 | |
| 5. Appointment of Mr. John Mealey (327 W. 3 rd) to Planning & Zoning Commission term expiring January 2019 | |
| 6. Approval of minutes for October 17, 2016 Regular Meeting | |

A motion was made by Councilmember Wagoner, seconded by Councilmember Forman to approve the consent agenda as presented. Motion passed 4/0.

C. EXECUTIVE SESSION (NON-ELECTED PERSONNEL)

A motion was made by Councilmember Wagoner, seconded by Councilmember Forman to approve an executive session pursuant to the non-elected personnel matters exception in order to discuss employee matters related to non-elected personnel for the period of ten minutes (7:24 pm) and to include the City Administrator. Motion approved 4/0.

The mayor reconvened the meeting at 7:34 pm.

A motion was made by Councilmember Wagoner, seconded by Councilmember Forman to approve another executive session for non-elected personnel matters for another period of ten minutes (7:35 pm) and to include the City Administrator. Motion approved 4/0

The mayor reconvened the meeting at 7:45 pm.

A motion was made by Councilmember Wagoner, seconded by Councilmember Wickham to accept the resignation of City Administrator Joel Pile effective December 7, 2016. Mayor Wright requested a roll call vote.

Interim City Clerk Karen Davis took the roll call vote:

Councilmember Forman – Aye; Councilmember Wickham – Aye; Councilmember Wagoner – Aye; Councilmember King – Aye; Mayor Wright – Aye.

Motion passed 5/0

DEPARTMENT HEAD REPORTS

1. Public Works Director Wade Webber
 - City Leaf Pickup Schedule
2. Police Chief Perry Lambert
3. Fire Chief Jesse Reed
4. Interim City Clerk Karen Davis

INFORMATIONAL ITEMS

1. Planning & Zoning Commission Meeting 7:00 p.m., November 10, 2016
2. Next Regular City Council Meeting November 21, 2016
3. City Offices will be closed November 11, 2016 in observance of Veterans Day
4. Yard of the Month - October

ADJOURNMENT

A motion was made by Council Member Wickham, seconded by Council Member Forman to adjourn the meeting at 7:51 pm. Motion passed 4/0

Respectfully submitted by,

Karen Davis, Interim City Clerk