

CITY OF FENTON
625 NEW SMIZER MILL ROAD, FENTON, MO 63026
MINUTES OF THE BOARD OF ALDERMEN COMMITTEE MEETING
THURSDAY, OCTOBER 14, 2021
7:00 P.M.

Mayor Brasses stated in light of the current public health crisis, including specifically the high community transmission in St. Louis County, and related CDC health guidelines, the Board recognizes that it would be dangerous and impractical to have public indoor group gatherings and recognizes that some members of the public may not feel comfortable attending such in-person meetings. The Board also recognizes the need for the public's business to be attended to in order to protect the public health, safety, and welfare. To balance both, and in accordance with Sec. 610.020, RSMo. and R-20-01, this meeting will not be open to in-person public attendance but rather accessible by the public in real time ONLY by a video/teleconference call via "Zoom".

CALL TO ORDER

Mayor Bob Brasses called the Board of Aldermen meeting to order at 7:00 p.m. via Zoom Videoconference (RSMO 610.015) and explained the reasons for conducting the meeting via videoconference, i.e., due to the State of Emergency (as specified in the notice above) on Thursday, October 14, 2021.

PLEDGE OF ALLEGIANCE

Mayor Brasses led the Pledge of Allegiance.

ROLL CALL

City Clerk Jane Hungler called the roll:

Alderman Ralph Cruts - *Present*

Alderman Kevin Yarbrough - *Present*

Alderman Brian Wisbrock - *Present*

Alderman Joe Maurath - *Present*

Alderman Chris Clauss - *Present*

Alderman Robin Huels - *Present*

Alderman Tom Heard - *Present*

Alderman Susan Jokerst - *Present*

Eight Aldermen were present at the opening of the meeting all via video conference.

CITY OFFICIALS PRESENT:

Mayor Bob Brasses - *via video conference*

City Attorney Erin Seele, Esq. - *via video conference*

City Administrator Andrea N. Finkbiner - *via video conference*

City Clerk Jane Hungler - *via video conference*

City Planner Amy Starck - *via video conference*

Public Works Director Dan Howard - *via video conference*

St. Louis County Police Precinct Captain Kevin Lawson - *via video conference*

Financial Consultant Tammy Alsop - *via video conference*

City Prosecuting Attorney Tim Engelmeyer - *via video conference*

MAYOR'S COMMENTS

Mayor Brasses reminded Board to gather thoughts for discussion regarding PTO and pay increases that will be coming up later this month.

PUBLIC COMMENTS

Deb Abbott requested to speak during Park and Recreation portion of the meeting.

FINANCE – *Ald. Heard, Chairman (Cruts, Maurath, Huels)*

- **August 31, 2021, Monthly Financial Report.**

Alderman Heard summarized the monthly financial report.

- **Consideration of an extension to an agreement with Sikich, LLP (formerly Hochschild, Bloom & Company, LLP) to continue to provide the City Financial Services.**

Following competitive bidding for the City's financial services via a Request for Proposal (RFP) in 2013, the City approved an agreement with the City's current financial service provider, Sikich, LLP (formerly Hochschild, Bloom & Company, LLP), via Ordinance 3347. Since such time, the City has extended the agreement to continue services with Sikich, LLP. The most recent extension was in October of 2020, via Ordinance 4076.

As the existing agreement is set to expire on December 31, 2021, an extension to the agreement will need to be approved by the Board of Aldermen to continue services in 2022 (through December 31st). The City's current 2021 agreement also approved a monthly fee of \$7,350 (for 16 hours per week); however, the proposed monthly fee for 2022 is \$7,500. It is noted that this is the first rate increase since 2019.

Alderman Jokerst inquired if consideration to rebid after ten (10) years for best practice should be done. City Administrator Nikki Finkbiner replied a Request For Proposal (RFP) can be completed if the Board would choose.

Upon discussion, Alderman Heard made a motion to place consideration for RFP for City Financial Services on the May agenda. The motion was seconded by Alderman Maurath. Upon a vote being taken, the motion passed unanimously by the Committee.

After further discussion, Alderman Heard made a motion to forward to the October Board of Aldermen meeting consideration of an extension to an agreement with Sikich, LLP (formerly Hochschild, Bloom & Company, LLP) to continue to provide the City Financial Services. The motion was seconded by Alderman Cruts. Upon a vote being taken, the motion passed unanimously by the Committee.

- **Consideration of proposals for the City's Professional Audit Service Services for fiscal years 2021-2023.**

We received 2 proposals for audit services for the years ending December 31, 2021, 2022, and 2023. The bid results were available for review.

The lowest bidder is Botz, Deal & Company, P.C. After reviewing the proposals, Staff is recommending to contract with Botz, Deal & Company, P.C. for the annual audit services.

Upon discussion, Alderman Heard made a motion to forward to the October Board of Aldermen meeting consideration of approval of Botz, Deal & Company for the City's Professional Audit Service Services for fiscal years 2021-2023. The motion was seconded by Alderman Maurath. Upon a vote being taken, the motion passed unanimously by the Committee.

- **Request by Commerce Bank to execute a Treasury Agreement.**

Commerce Bank is requesting that the City execute a Treasury Agreement. A preliminary draft was provided to the Board in December of 2019 for consideration; however, the final draft based on legal review by both parties was not finalized until late September of 2021.

At this time, Staff is requesting that the Finance Committee consider forwarding the agreement to the October Board Meeting for final approval via an Ordinance.

City Attorney Erin Seele shared Commerce has requested this agreement since 2014, prior Boards have refused agreement as Commerce refused to negotiate City terms. An addendum to address some of the terms that violate applicable law are now contained in the Agreement. It was further noted this agreement is written to protect Commerce and not the City and Commerce was not willing to negotiate on certain terms such as annual appropriation clause and retaining right within the agreement to unilaterally change the terms of the agreement.

Alderman Heard suggested to have City's IT provider, ENT, to review agreement for compliance issues due to the obligations the agreement puts on the City to preserve Commerce's data.

Alderman Maurath voiced if agreement goes against state statutes it may be time to consider new vendor. Alderman Jokerst agreed.

Upon discussion, Alderman Heard made a motion to forward to next month's committee agenda for further consideration of request by Commerce Bank to execute a Treasury Agreement. The motion was seconded by Alderman Cruts. Upon a vote being taken, the motion passed unanimously by the Committee.

- **Review and discussion of the Personnel budget.**

Alderman Heard shared presentation (attached as part of the minutes). Alderman Heard stated he wanted to schedule a Finance Committee meeting next Thursday to explore the topic and requested committee members to request any information or documents wanted for the October 21st meeting at 7:00 p.m. to be submitted at least three (3) days in advance, so that Staff has sufficient time to gather requests.

PARK & RECREATION COMMITTEE MEETING OCTOBER 4, 2021 – UPDATE/ DISCUSSION

Deb Abbott, 156 Bent Oak Ridge Drive, Fenton MO 63026, shared her views of the Music/Food Truck event on October 10th. Deb Abbott stated the weather was good, overall, the event was successful. The band was not bad but was not good, there could have been more food trucks. She felt the event was under advertised and stated people do not look at social media or the newsletter, no signage at the entrance to the park for the event, poor signage for beer, and no picnic tables were placed in grassy areas.

Deb Abbott inquired on upcoming events like Santa at RiverChase being allowed when events such as the Lighting Ceremony have been cancelled by the Board.

Alderman Jokerst shared the Lighting Ceremony was scheduled for November and with Covid numbers still high, the Board voted to cancel the ceremony. The Santa at RiverChase is scheduled for December and the Covid numbers will be monitored.

Ald. Huels, Liaison

All recommendations from the Park and Recreation Committee will be forwarded to the next Board Meeting for approval unless otherwise noted.

- **Announcements from the Park and Recreation Committee Meeting:**
 - The Park and Recreation Committee was given an update regarding upcoming events that will be taking place at RiverChase as well as the Fenton City Park in the coming months. Events include:
 - Virtual Pumpkin Carving Contest, October 1st – 31st
 - Music/Food Trucks at Fenton City Park: 10/10 3-6 pm
 - Holiday Craft Fair at RiverChase: 12/4 9:00 am – 2:00 pm
 - Santa at RiverChase: 12/11
 - The Park and Recreation Committee was given an update regarding the outdoor leisure pool and upcoming events.

Public Works Director Dan Howard shared Westport Pools expressed that they found the major leak that was causing the system to lose 2 1/2” of water when running. The leak was sealed and epoxied. Next, the pool will be partially filled to test to ensure there are not additional leaks elsewhere. Based on these pressure testing results it appears that the leak has been found and can now look at making the repairs to the plumbing and get the concrete repairs underway.
 - The Park and Recreation Committee continued discussion regarding an Eagle Scout Project presented by Jacob Koger.

Alderman Huels updated Board that Jacob Koger stated he will have signage attached to a metal post included in his project.
 - The next Park and Recreation Committee Meeting is November 1st at 6:30 p.m.

PLANNING & ZONING COMMISSION MEETING OCTOBER 5, 2021 – UPDATE/DISCUSSION

Ald. Maurath, Liaison

All recommendations from the Planning and Zoning Commission will be forwarded to the next Board Meeting for approval unless otherwise noted.

- **The Planning and Zoning Commission recommended the following:**
 - **Approval of CASE 2021-TXT-07:** Consideration of amendments to the Zoning Code related to the General Code Codification Analysis, as presented to the Commission on September 7th and October 5th.

Draft Zoning Code with the following changes:

 - Revised reference to words denoting the masculine gender to include “every person and all genders.”
 - Including tattoo artist in the definition of “Artisan, Craftsman, and Photograph Studio.”
 - Modifying the definition of Director to add “City Planner in the absence of a Community Development Director.”
 - Adding “volleyball” to the definition of Indoor Unlimited Recreational Facility.
 - Authorizing building sizes smaller than the required minimum in the “BP-1”, “BP-2”, “CP-1”, and “HP-1” Districts when approved under Site Plan Review.
 - Adding Business Service Shop as a Permitted Use in BP-3.
 - In Section 430.390 relating to changes and modification of non-conforming signs, Staff recommends removing the consideration that a substantial alteration is one that affects more than 50% of the value of the Sign and/or Support Structure. As there are no means of assessing the value of signs in the same way real property is assessed, this may be impossible for Staff to determine.

Alderman Maurath noted a letter from Alderman Susan Jokerst regarding proposed changes to landscape buffer areas in the “BP-3” District was read and discussed at the Commission meeting.

City Planner Amy Starck shared an analysis of the BP-3 district was performed. That analysis revealed that 74% of the lots currently have an encroachment and are non-conforming. The BP-3 district is comprised of the three (3) older districts: the “J”, “J-1” and “MXD”, and they had different setbacks prior to the current zoning code being adopted. If current zoning code is creating non-conformities in ¾ of the lots in the districts, amendments need to be considered.

Alderman Maurath noted the Commission was concerned with elimination of grassy areas and further noted weather events and patterns have changed worldwide.

Alderman Jokerst stated for the record she is not in favor of reducing land buffers and the aesthetics, and she believes this is a mistake.

Alderman Maurath made a final motion to approve consideration of amendments to the Zoning Code related to the General Code Codification Analysis, as presented to the Commission on September 7th and October 5th. The motion was seconded by Alderman Claus. Upon a vote being taken, the motion passed by the Board of Aldermen with Alderman Jokerst voting nay.

- **Approval, with amendments, of CASE 2021-TXT-08:** A Petition by Michael Tierney for a Text Amendment to amend the Zoning Code to allow Camping as a use allowed by Special Use Permit in the “OT-5” Olde Towne District.

The approval included a definition for Temporary Recreational Vehicle Use, as follows:

TEMPORARY RECREATIONAL VEHICLE USE - Non-commercial, temporary overnight stays on private property in a mobile Recreational Vehicle, as defined in Chapter 515 of the Municipal Code, on lots abutting the Meramec River for no longer than 70 cumulative days in any 180-day period within a calendar year. Only one Recreational Vehicle is permitted per lot. Temporary Recreational Vehicle Use does not include the overnight parking or storage of an unoccupied Recreational Vehicle for more than 5 consecutive days. No Recreational Vehicle may be used as a residence.

Alderman Maurath noted the Commission’s vote on this item was 4 ayes/3 nays/2 absent on an amended definition and text amendment. Lots of discussion on this item. It was noted all properties are within the floodway or floodplain of the OT-5 district, and restricted the use to Recreational Vehicle camping only along the Meramec River as well as permitting an allotted time for overnight stays. Staff also took into consideration concerns that the Commission had with unused, unauthorized vehicles in the district, which had the potential to create situations which could allow storage of unused RVs. Also, the definition must also be within the allowances of the Floodplain Code 512.020.

Alderman Claus inquired how will the use be enforced. City Planner Amy Starck replied, it will be difficult, and it may require daily inspections. Alderman Claus voiced “you should not make rules you cannot enforce.”

Alderman Maurath stated he believes the river is a natural resource that was utilized prior, and it should and could be utilized now and does not foresee a problem for this utilization. Alderman Yarbrough agreed with Alderman Maurath.

Alderman Claus inquired if other municipalities with river frontage allow this usage. City Planner Amy Starck stated she was not able to find any in St. Louis County that allow camping or temporary RV use in areas as being proposed other than in a designated campground and Sunset Hills stated they prohibit overnight stays in any type of camper within their municipality.

Alderman Clauss noted for the record the petitioner's prior compliance to code was not very good. Alderman Clauss further inquired on how this differs from our code not allowing a hotel owner to live in their hotel. Alderman Maurath replied he did not see the connection and codes can be amended.

Alderman Heard stated he was not opposed to utilize property for recreation but he does have concerns on enforcing regulations if put in place.

Jake Tierney, 4553 Valmeyer Drive, St. Louis MO 63128, shared he does not have intentions on living at the property, his intentions are to use it for his boat, dock and the enjoy the river.

Mike Tierney, 2583 Baltusrol Drive, St. Louis MO 63129, shared they do not intend to use for storage. Mr. Tierney stated they would use as discussed and agreed on proposed days in the definition and want to use for recreation only.

Jake Tierney stated the whole reason he bought the property was for recreational use. Alderman Wisbrock asked the Tierney's if they researched or reviewed code for allowable usage before purchasing the property. Jacob Tierney replied he went with assumption as there were campers across the river and the property was in the former marina district so he assumed it was for recreational use.

- **Approval, with conditions, of CASE 2021-SUP-12:** A Petition by Jake Tierney for a Special Use Permit for Camping at 86-88 Opps Lane. The properties are zoned "OT-5" Olde Towne District.

Conditions of Approval:

This Special Use Permit is solely for Temporary Recreational Vehicle Use at 86 and 88 Opps Lane, with the following conditions:

1. The Petitioner will need to submit the necessary Floodplain Development Permit for the installation of the existing pad and sidewalk before this SUP will be deemed valid.
2. A revised site plan indicating the location of the Recreational Vehicle shall be submitted for review for approval by the City Planner.
3. Any Recreational Vehicle located on the properties must be located on a paved surface, under a valid Floodplain Development Permit, and must be fully licensed and ready for highway use.
4. No Recreational Vehicle will be permitted on the properties for more than 70 cumulative days in any 180-day period within a calendar year. Unoccupied Recreational Vehicles may not be parked onsite when not in use for more than five (5) consecutive days and no storage of Recreational Vehicles is permitted.
5. The properties shall not be utilized for any other use other than private/personal recreation related to Temporary Recreational Vehicle Use and Dock for Watercraft. Any additional use of or structures on the property will require separate review and approval by the City.
6. This Special Use Permit shall be automatically deemed null and void when a Building Permit is approved for any Single-Family Residential Dwelling on the properties.
7. Compliance with all other applicable Code and Ordinance requirements.

City Planner Amy Starck shared in 2021, the Petitioner received a Notice of Violation from the City for 1) the storage of a Recreational Vehicle, which is prohibited in this District, and 2) the pouring of a pad and sidewalk on 88 Opps Lane without the necessary Floodplain Development Permit and No-Rise Certificate. The vehicle was removed from the property. To date, the City has received the required No-Rise Certificate, but the required Floodplain Development Permit is in review. Any proposed new pavement will need to be reviewed by the Floodplain Development Manager for the issuance of a Floodplain Development Permit as well.

- **Approval of CASE 2021-REZ-01:** A Petition by Fenton Land Investors to amend Ordinance 4002, as amended by Ordinance 4017, for changes related to bulk requirements, uses, and the approved Concept Plan for “Area A” and “Area B” of the development. The properties are addressed as 650-1001 Assembly Parkway and 2045-2110 Fenton Logistics Park Boulevard and are zoned “PID” Planned Industrial Park.

Scott Haley, Fenton Land Investors, shared presentation (attached as part of the minutes). They are proposing amendments to reduce the required lot areas in Area A of the Concept Plan from 2 acres to not less than one-half (0.5) acre and to reduce the minimum lot frontage in Area A to not less than seventy-five (75) feet under Item 8. Additionally, the Petitioner is proposing to add Day Care Facility, Health Club, and Warehouse Showroom Sales as Permitted Uses in Area A. It is noted that no Permitted Uses are proposed to be removed from Area B as the Petitioner is adding item B.9 which allows “Any Permitted Use identified and approved for Area A except Hotels and Extended Stay Hotels” and the duplicated uses have been deleted for clarity and consolidation.

Finally, the Petitioner is proposing to amend the approved Concept Plan to include an area west of Fenton Logistics Park Boulevard and south of Assembly Parkway in Area B due to nearly zero visibility of that area. Additionally, the proposed Concept Plan reflects more accurately the developed parcels in Area B and the location of Assembly Parkway.

Michael Rubenstein, President and CEO of Wally’s, shared their excitement to be progressing on their build, gave Board update on status and presented overview of services and goods of the new travel concept destination, “Home of the Great American Road Trip”. When it is complete in the fall, it will feature sixty-eight (68) gas pumps, five (5) high-speed electric vehicle charging stations, more than 35,000 square-feet of food and retail space and over 3,000 square feet of bathrooms.

HEALTH/SAFETY – *Ald. Jokerst, Chairman (Yarbrough, Wisbrock, Clauss)*

- **Discussion regarding noise Ordinances/banning recreational vehicles for recreational use.**

Alderman Jokerst suggested the Board consider amending code to ban recreational vehicle, such as dirt bikes and ATV’s in the City limits for recreational use or decibel level. Alderman Jokerst stated this is in reference to one resident that has a large parcel of property. Alderman Jokerst reference Fenton Code 205.230 Excessive Noise and 205.205 Peace Disturbance for amendment.

City Prosecuting Attorney Tim Engelmeyer shared he has been involved with this situation for approximately 1 ½ years, he has met with the property owner stating they are affected by this situation. He stated he has to be able to show the burden of proof to successfully prosecute a case, to win requires a unanimous vote of the jury. He has also met with Officers that have responded to calls at this property and they state upon arrival they did not observe any noise or peace disturbance. There have also been complaints of people parking on streets to attend bible study at this residence. He has suggested a civil cause of action may be more appropriate.

City Administrator Nikki Finkbiner shared the City has had multiple conversations regarding this property over the past six (6) years. Community Development was working with the homeowners, they were asked to call when incident was occurring. When the few calls were placed, before the Code Enforcement Officer could leave the office, they would receive call stating the noise had stopped. The Police have stated they did not find any violations.

Alderman Jokerst suggested that City Prosecuting Attorney Tim Engelmeyer talk to both property owners first.

City Attorney Erin Seele advised that if the Board is interested in amendment, research would need to be conducted if City has the authority to specifically prohibit certain vehicle types and usage. Before requesting that the prosecutor meet with the property owners, City Administrator Nikki Finkbiner and City Attorney Erin Seele reminded the Board that so far, the police and code enforcement have looked into the complaints and have not found enough evidence to support code violations in court.

After further discussion, it was suggested to have the neighbor call the Police when incident occurs.

Mayor Brasses recognized Boy Scout-Austin Burns who was in attendance via Zoom. Austin shared he was working on his Citizenship badge and toward his Eagle. Austin shared that his question of what was being done with the former Chrysler property had been covered early with a presentation.

MISCELLANEOUS

- **Presentation of Trane's Year 1 (2020-2021) Measurement and Verification (M&V) Report and consideration of a Year 2 M&V Report.**

Jennifer Geen made presentation of Year 1 M&V report (attached as part of the minutes).

Following discussion, Alderman Heard made a motion to have Trane submit a press release to showcase the Energy Upgrades that were performed. The motion was seconded by Alderman Huels. Upon a vote being taken, the motion passed unanimously by the Board of Aldermen.

After discussion, it was requested to bring consideration to perform Year 2 M&V report on the June agenda.

- **Consideration of a request by St. Paul to close certain public streets for a walk-a-thon on October 29th.**

St. Paul Catholic School is requesting, as they have in past years, Police assistance and road closure of Forest Knoll Drive, New Smizer Mill Road, Woodway Drive to Woodway Circle for the duration of the walk-a-thon on Friday, October 29, 2021 from 12:45 p.m. – 1:30 p.m. It was noted this is for a short time and police would be there for assistance so if emergency services are needed, the police could guide them through safely.

Alderman Cruts made a final motion to approve request by St. Paul to close certain public streets for a walk-a-thon on October 29th. The motion was seconded by Alderman Clauss. Upon a vote being taken, the motion passed unanimously by the Board of Aldermen.

- **Consideration of a draft Second Amendment to Communications Site Sublease Agreement related to a telecommunication tower site at 700 Rudder Road.**

City Attorney Erin Seele highlighted amendments made in agreement:

- Removed Public Facilities Authority;
- Interference amended;
- Sublessees are responsible to make any repairs caused by them;
- Amended their right of first refusal;
- Extends the term with rent increases;

City Attorney Erin Seele noted the redlines have not yet been approved by SBA and further noted that she hoped the amendment would be ready by October but it could be November if it is not fully ready. Alderman Huels made a motion to forward to the October Board of Aldermen meeting the consideration of a draft Second Amendment to Communications Site Sublease Agreement related to a telecommunication tower site at 700 Rudder Road. The motion was seconded by Alderman Jokerst. Upon a vote being taken, the motion passed unanimously by the Board of Aldermen.

- **Consideration of amendments to the Municipal Code related to the General Code Codification Analysis.**

Staff is forwarding a copy of the finalized amendments to the Municipal Code related to the General Code Codification Analysis, with the exclusion of Title IV (Chapter 400) Zoning Code. Many of the amendments are related to changes within the (state/federal) laws, while other amendments have been presented to the Board over the last year for consideration.

Final items of interest within the final draft include:

- An amendment to Section 220.120 under Chapter 200 Public Parks to create a designated area(s) in a public park for public speakers in order to comply with Federal law.
- Amendments to the surplus policy under Section 100.170 to coincide with the City's procedures.
- Amendments to the Liquor License under Section 600.030 to allow for caterers, including food trucks, to sell liquor by the drink at events without a separate Liquor License from the City.

Alderman Maurath made a final motion to approve consideration of amendments to the Municipal Code related to the General Code Codification Analysis. The motion was seconded by Alderman Jokerst. Upon a vote being taken, the motion passed unanimously by the Board of Aldermen.

- **Consideration of a request to reduce or waive the City's fee for a Sunshine Request.**

City Attorney Erin Seele shared waiver of fees is allowed, but not mandated, by the Sunshine Law when "the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester." City Attorney Erin Seele went over the request to waive or reduce the fees in responding to four (4) sunshine requests.

Following discussion, including not wanting to set a precedent, Alderman Clauss made a final motion to reject the request to reduce or waive the City's fee for a Sunshine Request. The motion was seconded by Alderman Huels. Upon a vote being taken, the motion passed unanimously by the Board of Aldermen.

EXECUTIVE SESSION

There was no executive session held.

ADJOURNMENT

At 10:24 p.m. with no other business before the Board, Alderman Clauss made a motion to adjourn. The motion was seconded by Alderman Heard. Upon a vote being taken, it was announced that the motion was passed unanimously by the Board of Aldermen.

Respectfully submitted,

Jane Hungler
City Clerk
City of Fenton