

MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF ALDERMEN  
OF THE CITY OF SUNSET HILLS MISSOURI  
HELD ON MAY 10, 2016

BE IT REMEMBERED that the Board of Aldermen of the City of Sunset Hills, Missouri met in regular session at City Hall, 3939 S. Lindbergh Blvd., in said City on Tuesday, May 10, 2016. The meeting convened at 7:00 p.m.

The meeting began with those present standing to recite the Pledge of Allegiance.

**Roll Call**

Present:	Mayor Fribis	
	Denetra Baebler	-Alderman – Ward I
	Richard Gau	-Alderman – Ward I
	Steve Bersche	-Alderman – WARD II
	Thomas Musich	-Alderman – WARD II
	Kurt Krueger	-Alderman – WARD III
	Keith Kostial	-Alderman – WARD III
	Thompson Price	-Alderman – WARD IV
	Bill Lehmann	-Accounting Manager
	William LaGrand	-Chief of Police
	Bryson Baker	-City Engineer
	Gerald Brown	-Director of Parks and Recreation
	Robert E. Jones	-City Attorney
	Michael Sawicki	-City Collector
	Lori Stone	-Deputy City Clerk
Absent:		

**APPROVAL OF THE MINUTES**

Copies of the Minutes of the April 26, 2016, Board of Aldermen meeting were distributed to the members for their review. Alderman Krueger made a motion to accept the minutes of April 26, 2016 as approved. Alderman Baebler seconded the motion, and it was unanimously approved.

**Recognition of Service**

Chief LaGrand recognized Lt. Mike Swofford on his 43 years of service, and stated he will be retiring on May 31, 2016. Chief LaGrand gave a brief background on his achievements and his dedication during his time with the City of Sunset Hills. Chief LaGrand presented Lt. Swofford with a shadow box.

## Requests to be heard

- a) **Request from Johnny Mac's, request for annual tent sale on May 27-29, 2016.**

Kevin, store manager, of Johnny Mac's was present and requested a permit for the annual tent sale on May 27-29, 2016.

Alderman Bersche made a motion to approve the tent sale. Alderman Gau seconded the motion, and it was unanimously approved.

### **PUBLIC HEARING: Conditional Use Permit submitted by Stephan Saladin, to construct and operate a drive-thru restaurant at 3751 South Lindbergh Blvd.**

Mr. Mark Doering, President of Doering Engineering, was present and also introduced Stephan Saladin, owner of Jimmy John's. Mr. Doering commended the Board regarding their kindness in this situation. Mr. Saladin stated he has been in business in Sunset Hills for 11 years and would like to be here for another 10 plus years. Mr. Saladin stated he owns four Jimmy John's in the area, and the Fenton store just finished its second week as a drive thru restaurant. Mr. Doering gave a brief power point presentation explaining the plan. Mr. Doering noted changes have been made to the plan, the buildings have been reversed, and this was done to have the menu boards away from the homeowners. All requirements from the city have been met and a traffic safety study has been done. This plan changes the loading spaces back to four spaces which elevates the variance that was previously requested. Mr. Doering explained that Jimmy John's is not like other drive-thru restaurants where the food is already prepared. Jimmy John's prepares the order at the time the customer orders, so the traffic flow is slower than at a hamburger place.

Note: questions from the Board were addressed and answered by Mr. Doering and Mr. Saladin regarding traffic study, parking lot, entrance way off of Lindbergh, urgent care, and sidewalks.

 Attorney Stan Wallach of Wallach Law Firm was present and he represents some of the property owners who live directly behind this plan. Residents are Susan and Gary Wideman, Mike and Connie Courtois property owner. Attorney Wallach stated he has notarized protest from every property owner on Sunset Chase. Attorney Wallach explained that this is a conditional use permit request and not a permitted use. Attorney Wallach stated when you buy property you know you can use it for the permitted uses. But if you think you need it for rezoning or conditional use or a variance you put it in a zoning contingency. Attorney Wallach understanding is this owner didn't; so he feels he can make money with a permitted use. They don't automatically get a conditional use. The Board has to make sure that its fits with the community. This Board needs to look at what other restaurants they approved for drive thru. The access is controlled and no residential areas nearby. The newer ones are located by controlled intersections. Attorney Wallach stated again the residents of Marat Drive and Court Drive and every residential area around this development is against this plan. Attorney Wallach stated that this all revolves around the backyards of these residents including the drive thru. Attorney Wallach concern is a lot of noise, cars stereos and intercom speakers as the cars stack up on the wrap around drive. Attorney Wallach stated that the traffic impact study of MoDot

would require a right turn lane and we know that people do drive on the shoulder of the highway. The traffic study relies on that, and assumes that. Attorney Wallach stated the traffic study didn't address the delivery drivers who are motivated to get there on time. The residents don't see this as a good fit for the City. Attorney Wallach suggested that this should not be approved.

Note: questions from the Board were addressed regarding noise and noise levels. Mr. Baker stated the City has a noise ordinance. Mr. Wallach referred to section 7.2.2 in the traffic impact study. Mr. Baker stated there was no noise study done and does not state that a study is not required just the estimated impact.

Mr. George Lodes of 12519 Maret Drive was present and stated now that there are two new restaurants in the same area, the traffic will be doubled.

Mr. Jim Keller of 12502 Maret Drive, also an attorney, was present and stated he did his own study of this situation and came to the same conclusion that Attorney Wallach did. Mr. Keller addressed a question to Alderman Gau regarding the traffic study done. Mr. Keller referenced a page from the developer plans regarding the right turn lane. Mr. Keller stated the traffic is the problem.

Mr. Doug McGuire of 12501 Maret Drive was present and stated the City needs more screens when there is a presentation on the overhead. People in the room cannot see everything that is explained. Mr. McGuire stated that the residents are most certainly against this plan. The homeowners' properties are very valuable and so much new development has been constructed all around them.

Mr. Jim Hessburg of 12515 Maret Drive was present and stated he was also against this plan. He feels some due diligence is needed at the planning and zoning level just to make sure that the volunteers on the planning and zoning are fully informed of the impact.

**PUBLIC HEARING: Petition for change of zoning submitted by George Despotis for the Olga Despotis Trust to change the zoning from R-2 Single Family Residential 20,000 square foot minimum lot size to PD-LC (B) Planned Development-Limited Commercial for the purpose of redeveloping the properties located at 12405, 12411, and 12417 West Weston Road.**

 Mr. Rick Randall Senior VP of Pace Properties was present and recapped on what type of development plan would be suitable for this area. Mr. Randall stated he was there to discuss the corner piece of West Watson. Mr. Randall stated that through many conversations with citizens and members of the planning board that this should remain residential. Mr. Randall stated this area will be difficult to build as residential. It has commercial to the north, across the street and Police Department to the south. Mr. Randall is presenting photos using the overhead screen explaining the buffers that would be used.

 Mr. Jim Hall of Hall & Halsey Associates was present and spoke on the design elements for the First Community Credit Union. This will be a single story building much like the police department building. The building is 4,234 square feet and with two drive-up teller windows and ATM. The setback from the property line is 90 feet and western side property line is 135 feet and with a 50 foot landscape buffer with a 6 foot high vinyl sight proof fence. Mr. Hall

indicated on the overhead pictures of the bi directional curb cut, off of Lindbergh and off of West Watson. The plan has 55 parking places but can reduce parking places if needed. Mr. Hall noted in the packets the traffic review memorandum from CBB who prepared the traffic review. A full traffic report will be conducted with MoDot, the planning and zoning staff and will be available before the final vote at next month's meeting. Mr. Hall pointed out two specific areas from the traffic memorandum. The amount of traffic is so low that it barely triggers MoDot's requirements for a traffic study due to the improvements made on Lindbergh and West Watson. Mr. Hall stated the plan is to have some type of fountain or signage on the corner and additional landscaping will be provided as required by the City along with sidewalks and curbs.

**PUBLIC HEARING: Petition for preliminary Development Plan submitted by George Despotis for the Olga Despotis Trust for commercial development of the properties located at 12405, 12411, and 12417 West Watson Road to allow construction of a bank.**

Ms. Ann McMunn of 12431 Court Drive was present and stated she is frustrated with Despotis Group stating that this is a Lindbergh fronted property and it's not. This is a West Watson fronted property the addresses are all West Watson. Ms. McMunn stated that is residential and that we are oversaturated with commercial. Ms. McMunn asked where are our rights. If residents wanted another bank, or restaurant or whatever, they would be here. Our street is coming to life, with a new home already built and another in the process of being built. She asked the board to stand by the residents and deny this petition.

Mr. David Witbrodt of 12443 W. Watson Road was present and stated he agreed with Ms. McMunn to keep this residential. Mr. Witbrodt stated there has been interest in building homes in this area.

Mr. Gerald Kovach of 12432 Court Drive was present and recapped his previous statements regarding the buying and selling of homes on this street. Mr. Kovach counted all the types of commercial ideas that were suggested for this area.

Ms. Jackie Tyra of 12440 Court Drive was present and thanked everyone for their support on this plan. Ms. Tyra would like the Aldermen to back the planning and zoning recommendation to deny this petition.

Mr. Michael Whalen, President of Whalen Custom Homes was present and stated Whalen Custom Homes is the second builder to work on the home at 12423 West Watson. Mr. Whalen is a property owner in Sunset Hills and has built 4/5 homes in this area the last ten years. Mr. Whalen stated development in Sunset Hills is robust people are tearing down homes to build bigger ones. He has never spoken out about a development before and has been a developer for 20 years and sees no reason to change the zoning to commercial.

Note: questions from the Board were addressed regarding this corner parcel becoming developed as a residential lot. Mr. Whalen's reply was the lot facing Lindbergh would be the most challenging and the West Watson lots are very viable lots.

**PUBLIC HEARING: Petition for Amended Conditional Use Permit submitted by Missouri American Water Company to construct a walkway to the lagoon and**

**tornado shelter for the distributive building at 12710 Weber Hill Road (aka 12956 Mauer Industrial Drive)**

Mr. Mark Radecke of Missouri American Water was present and stated that these are only safety projects for the employees and contractors on sight. The tornado shelter will be placed next to the modular building. The walkway construction has 5 steps leading into a walkway in which there is a steep embankment with loose rock and could cause a trip and fall hazard. Mr. Radecke emphasized again that these projects are for the safety of the employees.

Mayor Fribis has closed the public hearing.

**OLD BUSINESS:**

**Bill No. 2- An ordinance approving a Final Development Plan for Don Jacobsmeyer to redevelop the site at 10300 Watson Road.  
MOTION FOR RECONSIDERATION**

Alderman Price read Bill No. 2.

Mayor Fribis stated she asked for this Bill to put on the agenda, due to some controversy from last month's meeting. Attorney Jones stated that this decision was to stand. He researched this and spoke to other City Attorneys and it was clear that a majority of elected officials is 5.

Mayor Fribis asked if any Aldermen are reconsidering or changing their vote, no answer. Attorney Jones stated that if someone wants to make a motion to reconsider they can do so, but does not need to be on the agenda. Attorney Jones stated the Bill itself will need to be read twice before being voted on.

**CITY OFFICIAL AND COMMITTEE REPORTS**

- A. Deputy City Clerk- Lori Stone stated nothing to report.
- B. Accounting Manager- Bill Lehmann stated nothing to report.
- C. Chief of Police - William LaGrand stated nothing other than the monthly report.
- D. City Attorney - Robert E. Jones reported on May 4, the St. Louis County Circuit Court issued a Judgment invalidating the police takeover bill and declaring it unconstitutional and not authorized by the St. Louis County Charter. A Case Management Conference is scheduled on May 18. At that time it should be determined if an appeal will be filed and will report back at that time. Attorney Jones addressed a concern regarding lewdness with establishments that sell liquor. The issue was brought to light in University City Social House and Bar where waitresses used body paint to conceal certain body parts. This resulted in litigation and legislation in a number of different communities to revise there liquor codes. Attorney Jones stated if this is something the City would like to review he could prepare some legislation and bring it back to the board.

Mayor Fribis stated the board will think about this and have an answer at the next meeting.

- E. City Engineer - Bryson Baker clarified an issue regarding snow removal. The City staff does not treat a private street differently than a public street we have routes, we don't skip streets and we go in order.
- F. Director of Parks & Recreation - Gerald Brown reported the pool is ready and opens on May 27.
- G. Treasurer/Collector – Michael Sawicki stated reports have been circulated and have been reviewed at the finance committee level. Mr. Sawicki recognized Mr. Lehmann for all of his hard work.

## **COMMITTEE REPORTS**

FINANCE COMMITTEE – Alderman Gau stated nothing at this time, a meeting is scheduled for later this month.

ECONOMIC DEVELOPMENT COMMITTEE – Alderman Gau stated there was nothing to report.

PARKS & RECREATION COMMITTEE – Alderman Kostial spoke on the reconfiguring of the lobby entrance. Alderman Kostial stated this will help with the security and customer service for the citizens of Sunset Hills. The same company who built this building, Paric Company was the lowest bid at \$31,000.00. Alderman Kostial invited everyone's families to get involved in their parks and community.

PERSONNEL COMMITTEE – Alderman Baebler stated nothing to report.

POLICE ADVISORY BOARD - Alderman Bersche stated nothing to report.

PUBLIC WORKS COMMITTEE – Alderman Musich stated nothing to report.

WEBSITE COMMITTEE – Alderman Baebler stated nothing to report.

## **New Business**

**Bill No. 5- An ordinance granting a Conditional Use Permit to Stephen Saladin to construct and operate a drive-thru restaurant at 3751 South Lindbergh. FIRST READING**

Alderman Musich read Bill No. 5 for a first reading.

**Bill No. 6- An ordinance approving a change of zoning submitted by George Despotis for the Olga Despotis Trust to change the zoning from R-2 Single Family residential 20,000 square foot minimum lot size to PD-LC (B) Planned Development-Limited Commercial for the purpose of redeveloping the properties located at 12405, 12411, and 12417 West Watson Road. FIRST READING**

Alderman Krueger read Bill No. 6 for a first reading.

**Bill No. 7- An ordinance approving the preliminary Development Plan submitted by George Despotis for the Olga Despotis Trust for commercial development of the properties located at 12405, 12411 and 12417 West Watson Road to allow construction of a bank. FIRST READING**

Alderman Price read Bill No. 7 for a first reading.

**Bill No. 8- An ordinance approving the Amended Conditional Use Permit submitted by Missouri American Water Company to construct a walkway to the lagoon and tornado shelter for the distributive building at 12710 Weber Hill Road (aka 12956 Mauer Industrial Drive). FIRST READING**

Alderman Bersche read Bill No. 8 for a first reading. Alderman Krueger made a motion to suspend the rules and read the bill a second time. Alderman Gau seconded the motion.

**Roll Call Vote:**

Alderman Price	Aye
Alderman Kostial	Aye
Alderman Krueger	Aye
Alderman Musich	Aye
Alderman Bersche	Aye
Alderman Baebler	Aye
Alderman Gau	Aye

There being 7 Aye votes and 0 Nay votes, the motion passed.

Alderman Bersche read Bill No. 8 for a second time. Alderman Gau made a motion to approve Bill No. 8. Alderman Baebler seconded the motion.

**Roll Call Vote:**

Alderman Price	Aye
Alderman Kostial	Aye
Alderman Krueger	Aye
Alderman Musich	Aye
Alderman Bersche	Aye
Alderman Baebler	Aye
Alderman Gau	Aye

There being 7 Aye votes and 0 Nay votes, the motion passed.

Mayor Fribis declared Bill No. 8 to become ordinance #2009.

**Bill No. 9 – An Ordinance of the City of Sunset Hills Missouri, authorizing and directing the Department of Revenue to continue application and collection of the local sales tax on the titling of motor vehicles, trailers, boats, and outboard motors that were purchased from a source other than a licensed Missouri dealer. FIRST READING**

Alderman Kostial read Bill No. 9 for a first reading. Alderman Gau made a motion to suspend the rules and read the bill a second time. Alderman Kostial seconded the motion.

**Roll Call Vote:**

Alderman Price	Aye
Alderman Kostial	Aye
Alderman Krueger	Aye
Alderman Musich	Aye
Alderman Bersche	Aye
Alderman Baebler	Aye
Alderman Gau	Aye

There being 7 Aye votes and 0 Nay votes, the motion passed.

Alderman Kostial read Bill No. 9 for a second time. Alderman Krueger made a motion to approve Bill No. 9. Alderman Gau seconded the motion.

**Roll Call Vote:**

Alderman Musich	Aye
Alderman Kostial	Aye
Alderman Baebler	Aye
Alderman Bersche	Aye
Alderman Krueger	Aye
Alderman Fribis	Aye
Alderman Gau	Aye

There being 7 Aye votes and 0 Nay votes, the motion passed.

Mayor Fribis declared Bill No. 9 to become ordinance #2010.

**Resolution No. 385-A resolution approving a contract with Paric Corporation and authorizing the Mayor to execute the same on behalf of the City of Sunset Hills.**

Alderman Baebler read Resolution No. 385. Motion to approve Resolution No. 385 made by Alderman Baebler and seconded by Alderman Bersche and motion unanimously approved.

**Resolution No. 386- A resolution approving a contract with Delta Dental and authorizing the Mayor to execute the same on behalf of the City of Sunset Hills.**

Alderman Musich read Resolution No. 386. Motion to Approve Resolution No. 386 made by Alderman Gau and seconded it by Alderman Musich and motion unanimously approved.

**REQUESTS TO BE HEARD (NON-AGENDA)**

Clifford B. Underwood of 9342 Hazel Ridge asked about whether actions by the board where valid while an election lawsuit was pending with regards to Ward I Aldermanic race.

 Sandra Jo Ankney stated the City approved bow hunting deer in 2014 from Oct 1 thru Jan 15, 2014, but that she now feels that there is no need to continue since the deer numbers have decreased.

Mr. Sawicki and Mr. Jones explained that the ordinance past, and does not need to be renewed annually. Archery deer hunting is lawful each fall.

After some discussion Mayor Fribis requested Mr. Sawicki chairman of the deer committee to review the issue and report back to the Board at a future meeting.

Mr. Jones answered Mr. Underwood's question and assured him that Alderman Gau was certified as the victorious candidate and would serve until any successor was elected and qualified. Mr. Jones stated there is no doubt about the Board's authority to act in the interim.

Ms. Pam Spiros stated that neighbors near the Color Art property at 10300 Watson Road are hopeful that something can be worked out for the property.

**INVOICES TO BE APPROVED**

Alderman Gau made a motion to approve payment of the invoices. Alderman Bersche seconded the motion, and it was unanimously approved.

Mayor Fribis stated several committees have vacancies and encouraged the residents to fill out the interest form at City Hall.

**APPOINTMENTS**

a) **Kurt Krueger-Economic Development Committee.** Alderman Gau made a motion to approve the above appointment. Alderman Baebler seconded the motion, and it was unanimously approved.

**RE-APPOINTMENTS**

a) **Denetra Baebler-Economic Development Committee, Chairman.** Alderman Gau made a motion to approve the above appointment. Alderman Price seconded the motion, and it was unanimously approved.

b) **Terry Beiter-Economic Development Committee.** Alderman Krueger made a motion to approve the above appointment. Alderman Bersche seconded the motion, and it was unanimously approved.

c) **Thompson Price – Public Works Committee.** Alderman Musich made a motion to approve the above appointment. Alderman Gau seconded the motion, and it was unanimously approved.

**A MOTION TO HOLD A CLOSED MEETING**

Alderman Musich made a motion to hold a closed meeting with closed votes and records immediately after adjournment of the June 14, 2016, and June 28, 2016 meetings. Alderman Musich made a motion to approve and Alderman Price seconded the motion, and the members voted:

**Roll Call Vote:**

Alderman Musich	Aye
Alderman Kostial	Aye
Alderman Baebler	Aye
Alderman Bersche	Aye
Alderman Krueger	Aye
Alderman Price	Aye
Alderman Gau	Aye

There being 7 AYE votes and 0 NAY votes, the motion passed.

**Request to meet in closed session pursuant to 610.21.3 and 610.21.1 RSMo to discuss personnel matters and litigation.**

Alderman Krueger made a motion to adjourn to private session and Alderman Gau seconded the motion.

**Roll Call Vote:**

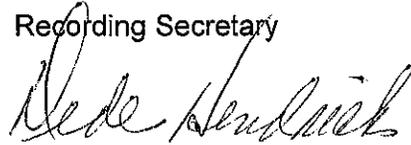
Alderman Musich	Aye
Alderman Kostial	Aye
Alderman Baebler	Aye
Alderman Bersche	Aye
Alderman Krueger	Aye
Alderman Price	Aye
Alderman Gau	Aye

There being 7 AYE votes and 0 NAY votes, the motion passed.

**ADJOURNMENT**

Alderman Baebler made a motion to adjourn at 10:48 PM. Alderman Bersche seconded the motion, and it was unanimously approved.

Recording Secretary

A handwritten signature in cursive script that reads "Dede Hendricks". The signature is written in black ink and is positioned above the printed name.

Dede Hendricks