

MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF ALDERMEN  
OF THE CITY OF SUNSET HILLS MISSOURI  
HELD ON JULY 12, 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, July 12, 2016. The meeting convened at 7:08 p.m.

 The meeting began with those present standing for the reciting of the Pledge of Allegiance.

Mayor Fribis asked for a moment of silence for all police officers who protect us. Mayor Fribis stated Blue Ribbons will be passed out after tonight's meeting.

**Roll Call**

Present:

Patricia Fribis	-Mayor
Denetra Baebler	-Alderman – Ward I
Richard Gau	-Alderman – Ward I
Steve Bersche	-Alderman – WARD II
Thomas Musich	-Alderman – WARD II via facetime
Kurt Krueger	-Alderman – WARD III
Keith Kostial	-Alderman – WARD III
Thompson Price	-Alderman – WARD IV
Mark Colombo	-Alderman-Ward IV
Bill Lehmann	-Accounting Manager
Lori Stone	-Deputy City Clerk
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

Absent:

**APPROVAL OF THE MINUTES**

Copies of the Minutes of the May 24, 2016 work session and June 14, 2016 Board of Aldermen meetings were distributed to the members for their review. Alderman

Gau made a motion to accept the minutes of May 24, 2016 meeting as read. Alderman Price seconded the motion, and it was unanimously approved.

Alderman Gau made a motion to accept the minutes of June 14, 2016 meeting as read. Alderman Baebler seconded the motion, and it was unanimously approved.



### **Employee Service Recognition**

Chief LaGrand recognized Police Officer, Greg Schnittker, for his 10 years of service.

Bryson Baker recognized Jerry Eime, of Public Works for his 5 years of service.



### **Recognition of Community Service-** Aidan Sengupta, Lend a Book Program

Alderman Baebler gave a brief statement regarding Aidan on his outstanding accomplishment.



### **Proclamation**

Mayor Fribis proclaimed July 1, 2016 as Laumeier Sculpture Park Day, commemorating their 40<sup>th</sup> Birthday Celebration. Festivities will be held on July 16, 2016.



### **Requests to be heard**

- a) St. Justin Martyr Church Annual Fall Festival on September 23-24, 2016 located at 11910 Eddie & Park Road. Alderman Gau made a motion to approve the fall festival and seconded by Alderman Bersche, and it was unanimously approved.
- b) Full Throttle Magazine, 8<sup>th</sup> Annual Grease, Gears and Grooves event September 10, 2016 at 11872 Gravois Road-Sunset Ford. Alderman Gau made a motion to approve the Grease, Gears and Grooves event and seconded by Alderman Price and it was unanimously approved.
- c) Request for temporary liquor license from St. Justin Martyr Church to serve alcohol at their annual Fall Festival on September 23-24, 2016. Alderman Gau made a motion to approve the temporary liquor license at the fall festival and seconded by Alderman Bersche and it was unanimously approved.

- d) Request for temporary liquor license from Halfway Haus to serve alcohol at the special event Grease, Gears and Grooves on September 10, 2016. Alderman Gau made a motion to approve the temporary liquor license from Halfway Haus on September 10, 2016 and seconded by Alderman Bersche and it was unanimously approved.
- e) Request from Vanderbilt Homes to have a variance granted for a proposed septic system at 12871 Weber Hill Road.

Mr. Scott Paul of Vanderbilt Homes was present and requested a variance for a septic system. Mr. Paul explained they already have applied and received a variance for this property for the setbacks to pull the house closer to the road. He stated that MSD and St. Louis County have already approved the septic design.

Alderman Price made a motion to approve the variance for a septic system and seconded by Alderman Baebler. There were 6 Ayes and 2 Nays, motion passed.

Mayor Fribis announced that no comments are going to be heard regarding Jimmy John's at this time. It's not on the agenda for tonight, if anyone would like to discuss Jimmy John's please call the City Hall and request to speak at the August meeting.

 **PUBLIC HEARING: Final Development Plan, submitted by Don Jacobsmeyer, to re-develop the site at 10300 Watson Road (aka Color Art Building) was read by Alderman Kostial.**

Attorney John King was present and would like to have this final development plan approved and asked the Board of Aldermen to pass this plan.

Ms. Pam Spiros of 10725 Julius Northway was present and stated that she is in favor of this development plan.

 **PUBLIC HEARING: Amended Development Plan submitted by Sunbelt Rentals for the installation of above ground fuel tanks at 13084 Gravois Road was read by Alderman Price.**

Mr. Kent Nurnberger a civil engineer, representing Sunbelt Rentals on this project was present. He stated during this process they realized they did not include the exterior above ground fuel storage tanks. Mr. Nurnberger stated Sunbelt Rentals are now asking for approval of the plan for these above ground fuel tanks. Alderman Price asked if the tanks are above the height of the flood the city had this year. Mr. Nurnberger stated no, the planning commission asked if they could be secured. Mr.

Nurnberger stated that the above ground tanks need a permit in St. Louis County with a seismic design to insure that the tanks don't get jarred. He stated this design is in the process right now. Question was asked if there is a way to liquidate the fuel or close them off in an event of a flood. Mr. Nurnberger believes that there would be enough time to drain the tanks in a flood situation.

Mayor Fribis closed the public hearing.

### **Old Business**

#### **Bill No. 10 – An ordinance regarding open meetings and records policy. SECOND READING**

Alderman Gau read Bill No. 10 for a second time.

Mr. Cliff Underwood stated the upcoming changes at polling places. He stated times are changing and going to video conferencing and suggested tabling this bill.

Ms. Ann Ludlow of 12430 Matthews Lane stated video conferencing should be allowed in our city. She stated Alderman Kostial was elected by the residents in his ward and if the Board of Aldermen decided to remove him, the residents have no voice in the matter and who would represent the residents. She praised Mr. Kostial for representing the residents and he has been very informative and should not be replaced.

Mr. Doug McGuire of 12501 Maret Drive stated he supports Mr. Kostial. Mr. McGuire stated Mr. Kostial is not like some of the people here who sit here and collect dust. He stated Mr. Kostial brings up issues even when he is tele conferencing. He states times are changing and even the dress attire has changed in this meeting.

Mr. Casey Wong of 10246 E. Watson stated he would be in favor of a frequency limit, but that's doesn't mean that it's not contrary to the state law. Mr. Wong raised a concern regarding Bill # 14 being absent from the agenda regarding the city administrator's contract. He applauded the board for moving this along, but noticed the contract was on the agenda for June 28, 2016 meeting and was included in the board packets but not posted on line. He stated according to Ordinance 2004 which was passed at the last session that all attachments and exhibits which will be passed as ordinances are to be posted on line. He stated he is not sure what the contents of the contract are but he believes a vote was taken and he thinks there should be a public discourse. Mr. Wong stated he would like to see these contracts posted so that the residents could voice their concerns including the severance issue. He stated he didn't know if this was discussed because he was not aware this potential vote.

Ms. Ester Geer of 9420 Sappington Estates Drive stated she is against limiting the use of video conferencing. She feels that The City of Sunset Hills should abide by the Missouri Senate Bill #170. She asked why the City of Sunset Hills aldermen would

want to limit video conferencing if it would allow an alderman to be present; whether it would be a vote or just video appearance. She asked is this a way to get rid of a very good alderman. Ms. Geer again referenced Senate Bill #170 and strongly opposes Bill No. 10- Sections 234 and 235 which limits voting rights.

Mayor Fribis asked Mr. Jones to clarified Senate Bill # 170. Mr. Jones stated it actually added only 6 words in a portion of the Sunshine Law; that a roll call vote could include members participating by video conferencing. He stated that this is the only addition to the existing section of the Sunshine Law.

Mr. Jones explained that there is no language that requires such participation be unlimited or no language that makes it mandatory to allow video conferencing. I previously rendered an opinion that the city cannot prohibit something that law allows, but the city could restrict or regulate video conferencing but not strictly prohibit it. This bill on tonight's agenda does not prohibit video conferencing in fact it limits it or defines it. It allows the board on a case to case basis to determine if video conferencing should be allowed and a roll call vote counted even if it exceeds the three times in a rolling twelve month period. There are safe guards in this bill to consider which certainly would fall short of strict prohibition.

Mayor Fribis asked if other communities are following the same. Mr. Jones said yes, Richmond Heights. Mr. Jones stated not a lot of communities have even talked about video conferencing.

Mayor Fribis clarified that the City is in accordance with the Municipal League and are in complete agreement with the Missouri State law. Mr. Jones answered as that law exists at this time, yes.

Alderman Bersche stated that since Senator Schmitt has asked Attorney General Koster to look in this what are your thoughts Mr. Jones what his formal request for the opinion of the law is. Mr. Jones replied that with all due respect the Attorney General is just another lawyer. His opinion does not hold the force of law that a court opinion would, nor does it hold the force of law that a statute would. The Attorney General opinion would be helpful.

Alderman Kostial explained the three branches of government and the municipal league is not included any of these three branches. Mr. Kostial made a reference to the statement Mr. Jones made that the Attorney General is just another lawyer and opinion. He referenced the letter from Governor Nixon stating Senate Bill #170 purpose is to increase the opportunity for full participation by elected officials through video conferencing. The second point is no limit is placed on the number of meetings a member could attend by video conference, and technology bridges gaps connecting citizens throughout all corners of the state to accomplish great work.

Alderman Kostial stated Bill #10 is not being sensitive to represented government by limiting and restricting.

Mr. Jones stated there is nothing in Senator Schmitt's letter taking any position whatsoever on Sunset Hill's legislation. Mr. Kostial referenced language in the letter stating no limit on the number of meetings. Mayor Fribis answered that is a question; there is a question mark at the end. Mr. Kostial explained Senator Schmitt is a lawmaker, he represents District 15 and he questions what Sunset Hills is doing. He is now asking for a higher level of opinion.

Alderman Gau inquired about the purchase of additional equipment in the Bill #10. Mr. Jones stated no additional costs.

Alderman Kostial stated there are other types of video programs available some as low as \$49.00 per month.

Alderman Bersche asked if this could be tabled, and stated he is also interested in the formal opinion handed down.

Alderman Bersche made a motion to table Bill #10 and seconded by Alderman Kostial.

Mayor Fribis asked for a voice vote.

There being 7 Aye votes and 1 Nay vote, the bill was tabled.

Alderman Bersche asked how long a formal request for an opinion would take. Mr. Jones answered sometimes it takes months, but since this is a senator maybe it will be faster.

Mayor Fribis has requested that Bill #10 be left on the agenda each month.

Alderman Gau asked if the Bill gets passed, can the ordinance be amended. Mr. Jones said yes. Alderman Gau stated even if the bill passes as it is written could it still be amended at a future date, 2-3-4 months down the road. Mr. Jones recommends that; if a new statute was passed or a court decision impacts any of the ordinances Mr. Jones brings them to the city's attention.

Alderman Kostial asked Mr. Jones for clarification on Alderman Gau's question. Mr. Jones explained that if an ordinance is passed by this board it could be amended at a later date. Mr. Jones answered yes it can. Alderman Kostial stated to take action into a matter that is still a grey matter and then amend it after the fact could have ill fate.

Alderman Colombo commented that there is no rush to get this done. When the opinion comes back the board can take a look and get it right the first time and not have to amend it.

Alderman Baebler had a concern about the interpretation of the letter from Senator Schmitt. She contacted him and read his response. Alderman Baebler stated Senator Schmitt is not criticizing this ordinance, but just answering a question and/or clarification.

 **Bill No. 11 – An ordinance amending the procedures for the second reading of a Bill at the same meeting. SECOND READING**

Alderman Price read Bill No. 11 for a second time. Alderman Gau made a motion to approve Bill No. 11. Alderman Colombo seconded the motion.

**Roll Call Vote:**

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

There being 8 Aye votes and 0 Nay votes, the motion passed.

Mayor Fribis declared Bill No. 11 to become Ordinance #2012.

 **Bill No. 12 – An ordinance providing for the approval of a subdivision plat for a lot split of the property at 13 Roosevelt Drive as provided in Appendix A, section 4 of the code of ordinances of the City of Sunset Hills, Missouri SECOND READING**

Alderman Krueger read Bill No. 12 for a second time.

Mr. Bryson Baker gave some clarification on some issues from residents who attended last month's meeting. The issues were the impact of wildlife, some creek issues regarding septic system and trees. Mr. Baker stated that Ms. Thias will address the wildlife (bats). Mr. Baker also stated that MSD has allowed the septic systems on this property. This property is a little over two acres and the city's tree preservation plan (tree code) will require the owner to create a tree preservation plan based on the size of the property. The owner will have to indicate on the map the size of tree, the species, the value, the height of the trees. The plan will be submitted to the staff and Mr. Baker stated he will review the plan and consider what trees that will be removed based on the

construction plan. Mr. Baker stated that when property is over two acres the tree code plan kicks in and the trees will be taken care of on this property.

Ms. Nancy Thias of 1660 Ivy Chase Lane, Fenton was present, Ms. Linda Sachs of 117 Central, Webster Groves was present with St. Louis County Surveying. Ms. Thias stated that a bat removal and bat relocation contract has been issued with Missouri Bat and two bat houses will be placed on the property. This is will begin in the fall when the house is demolished and the bats will be replaced at that time. The County Surveying representative asked for the plan to be on the overhead screen and stated he and Ms. Thias walked through the property and discussed the trees.

Mr. Nathan Wilber of 24 Black Oak Dr. was present and read an email he sent to the aldermen stating he is against the demolition of this home. He feels this is a piece of Sunset Hills history and should be preserved. Mr. Wilber would like to hear from the preservation office before any decision is made. Mr. Wilber stated that this is a good opportunity for the city to establish a preservation ordinance, land mark, demolition review to help protect properties in our neighborhoods.

Ms. Lori Scarlett of 11 Roosevelt Drive was present and stated she would like Bill #12 to be voted down or tabled. She feels this will change the character of the neighborhood and the wooded area.

Mr. Charlie Scarlett of 11 Roosevelt Drive was present and asked for this ordinance be tabled until more information is available.

Mr. Don Eldon of 11 Roosevelt Drive was present and also asked for this ordinance be tabled.

Mr. Eric Thias spoke and was very appreciative of the comments made from the neighbors. Mr. Thias does not want this home to be demolished.

Mayor Fribis asked Mr. Baker what condition the house was in. Mr. Baker stated the house is in disrepair. It will take a large amount of time and money to bring it up to code. If the lot split failed, the property owner would have to improve the house or demolish the house. A comment was made that the house could easily be brought back to its original condition based on a realtor's experience.

A question was asked what the proposed lot sizes are. Mr. Baker said .7 acres and the other 1.3. Alderman Gau asked why the lot is not split into 2-1 acre lots. Mr. Baker replied don't believe there was a reason was given but they could be split into 2-1 acre lots. He believes Ms. Thias stated she would live on the smaller lot and sell the larger lot. A question was raised about the septic tanks. Mr. Baker replied there is currently one on the property now and with two separate houses a second one will be needed. Mr. Baker stated the city relies on the MSD and the county to make sure the septic systems are installed, work and design properly.

Alderman Krueger had a concern regarding the land being level for the septic system and proper drainage. He referenced a previous Weber Hill Road variance regarding the topography of the site. Mr. Krueger stated that the county and MSD required a flat level area for proper drainage. Alderman Krueger asked if this area was going to need an expensive private septic system. He stated won't this change the character of the neighborhood and that the city doesn't over utilize the current public utilities in which this property doesn't have public utilities. Alderman Krueger stated he doesn't see how the city can move forward with a lot split on this property.

Mr. Baker stated some the concerns are difficult to answer. The character is an opinion, so that would be up to the board to determine the character. The utilities are not public utilities they are private utilities; so no, and that's why the city contracts with the county. Mr. Baker believes some preliminary designs on the septic systems have been done.

Alderman Krueger asked about the studio proposal on the smaller lot. He asked if this studio was for public access or private studio and is it allowed through the city's ordinances.

Mr. Baker stated this is a lot split issue and until they come in and ask for a permit, they are not required to show any proposed structure.

Alderman Baebler asked Mr. Baker about driveway requirements. Mr. Baker stated this lot is zoned differently than the other neighboring property. This lot is R-2 and they are fine.

Alderman Kostial asked about the aging roadway and how two new constructions would affect Roosevelt Street. Mr. Baker replied if there is any major damage to the property resulting from construction, the property owner is required to assist in the repair or do the repair. Mr. Baker stated if the road has enough damage and can prove it was the construction then the property owner would repair the damage.

Alderman Price stated his understanding is the way the property sits, it has to be brought up to code or torn down. Mr. Baker replied yes. Alderman Price stated are the property owners in a position to bring it up to code, or wanting to invest that kind of money.

Alderman Baebler stated in light of the information the city has received this evening I would like to make a motion to table this Bill for 30 days. After a discussion with Mr. Jones he suggested that this bill can be brought back next month under old business, Alderman Baebler withdrew her motion.

Ms. Thias stated Mr. Hadley has tried to save this house, after the estimates that was received it became costly. The home is not marketable; it's not a popular style home. The property is more valuable than the home. Two other homes in this area will

also be torn down, so this is part of a movement or trend. This is a family decision and the family wants to move forward.

Mayor Fribis said this bill will appear as old business next month.

 **Bill No. 13 – An ordinance creating the Capital Improvement Committee SECOND READING**

Alderman Bersche read Bill No. 13 for a second time. Alderman Gau made a motion to approve Bill No. 13. Alderman Colombo seconded the motion.

**Roll Call Vote:**

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

There being 8 AYE votes and 0 NAY votes, the motion passed.

Mayor Fribis declared Bill #13 to become Ordinance 2013.

**CITY OFFICIAL AND COMMITTEE REPORTS**

- A. Deputy City Clerk – Lori Stone stated nothing to report.
  
- B. Accounting Manager- Bill Lehmann report our city's audit for 2015 conducted by Botz Deal was classified as an unmodified which is recognized as good.
  
- C. Chief of Police - William LaGrand stated besides the monthly reports; he thanked everyone for their support since the Dallas shootings. Residents have dropped off goodies, notes and messages of support and the department appreciates it very much.
  
- D. City Attorney - Robert E. Jones stated enclosed in the packet is a draft ordinance which is a reaction to new legislation that was just talked about

earlier. This bill was sponsored by Senator Schmitt. Senate Bill 572 was a reaction to litigation and other items concerning prior Senate Bill 5. The requirement in the new Senate Bill 572 is that the Municipal Court makes use of Community Service alternatives for which no associated costs are charge to the defendant. Mr. Jones answered in the court system there are agencies, which oversee alternative community service, check to see if defendants attended classes and did what they were supposed to do. This bill seems to suggest making some alternatives available at no costs. Which means the defendant could go to churches, food pantries, etc. and use that to satisfy the community service portion of sentence. Mr. Jones stated he made two changes to the existing ordinance. One alternative is at no cost to the defendant and removed the section that allowed the defendant to perform community service on city property. Mr. Jones stated he would like to bring this back to the board as an actual bill and will have it on next month's agenda.

Mr. Jones gave an update on the Clearwire and Sprint business licenses for their antenna and a public hearing was going to be scheduled. The city received \$28,000 of the \$39,000 that was due and now looking into the other 11 sites to see if they were decommissioned. Mr. Jones will Inform the collector of this.

**E.** City Engineer - Bryson Baker stated the West Watson improvement project bids were opened today and will be submitted to MODot for their review and approved. The bridge documents for possible design improvements of the chambers, lobby and public works are due on the 15<sup>th</sup>.

**F.** Director of Parks & Recreation- Gerald Brown stated the ribbon cutting for the outdoor gym was conducted. This is the first in the St. Louis region. The playground equipment will be installed late August and two resolutions are on the agenda, both are for municipal parks grant commission. The park board decided to try for two; for Kitun Park and Truman walkway and the school and a new slide for pool.

**G.** Treasurer/Collector – Michael Sawicki stated that the reports are circulated and he thanked Mr. Lehmann and his staff for being up to speed.

## **COMMITTEE REPORTS**

**FINANCE COMMITTEE-** Alderman Gau stated the finance committee met and reviewed the investment policy and also reviewed the Tyler timeline. That project is extending out farther than the committee anticipated and is looking for completion around April 2017.

ECONOMIC DEVELOPMENT COMMITTEE- Alderman Baebler stated next meeting is July 14 at 6pm.

PARKS & RECREATION COMMITTEE- Alderman Kostial stated the pool revenue is up \$30,000 year to date. The front desk at the community center is under construction and completion is scheduled by August 26. Due to some rain outs at the pool a family dinner night is planned for Thursday July 14.

PERSONNEL COMMITTEE- Alderman Baebler stated nothing to report.

POLICE ADVISORY BOARD- Alderman Bersche stated nothing to report.

PUBLIC WORKS COMMITTEE- Alderman Musich stated at the last public works meeting no votes were taken and no requests for any funds. A number of discussions were sanitary sewer issues, Tapawingo streets, city hall enhancements, sidewalk projects and drainage improvement on Weber Hill road. The next meeting is August 4, but some scheduling issues arose because Mr. Baker could not attend. Alderman Musich stated the next public works meeting is possibly August 11, at 6pm.

WEBSITE COMMITTEE- Alderman Baebler stated nothing to report.

### **New Business**

 **Bill No. 15 – An ordinance approving a final development plan for Don Jacobsmeyer to redevelop the site at 10300 Watson Road. FIRST READING (Petitioner has requested a second reading)**

Alderman Musich read Bill No. 15 for a first reading.

Alderman Musich made a motion to suspend the rules. Alderman Bersche seconded the motion.

### **Roll Call Vote:**

Alderman Baebler	-Nay
Alderman Gau	-Aye
Alderman Bersche	-Aye
Alderman Musich	-Aye
Alderman Krueger	-Nay
Alderman Kostial	-Aye
Alderman Price	-Aye
Alderman Colombo	-Aye

There being 6 Aye and 2 Nay votes, the motion passed.

Alderman Musich read the Bill No. 15 for a second reading.

Alderman Bersche made a motion to approve Bill No. 15. Alderman Price seconded the motion.

**Roll Call Vote:**

Alderman Baebler	-Nay
Alderman Gau	-Nay
Alderman Bersche	-Aye
Alderman Musich	-Aye
Alderman Krueger	-Nay
Alderman Kostial	-Aye
Alderman Price	-Aye
Alderman Colombo	-Aye

There being 5 Aye and 3 Nay votes Bill No. 15 passed and becomes ordinance #2014.

 **Bill No. 16 – An ordinance providing for the approval of a subdivision plat for a lot consolidation of the property at 424 Handy Street, 415 Spears Street and 421 Spears Street as provided in Appendix A of the Code of Ordinances of the City of Sunset Hills, Missouri. FIRST READING (petitioner has requested a second reading)**

Alderman Colombo read Bill No. 16 for a first reading.

Alderman Krueger made a motion to suspend the rules. Alderman Musich seconded the motion.

**Roll Call Vote:**

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

Alderman Colombo -Aye

There being 7 Ayes and 1 Nay votes the motion passed.

Alderman Colombo read Bill No. 16 for a second time.

Alderman Krueger made a motion to approve and seconded Alderman Price.

**Roll Call Vote:**

Alderman Baebler	-Nay
Alderman Gau	-Aye
Alderman Bersche	-Aye
Alderman Musich	-Aye
Alderman Krueger	-Aye
Alderman Kostial	-Aye
Alderman Price	-Aye
Alderman Colombo	-Aye

There being 7 Ayes and 1 Nay votes, the motion passed.

Mayor Fribis declared Bill No.16 passed and becomes Ordinance #2015.

 **Bill No. 17- An ordinance approving an amended development plan for Sunbelt Rentals, Inc. to add two above ground fuel tanks on the property at 13084 Gravois Road. FIRST READING**

Alderman Kostial read Bill No. 17 for a first reading.

 **Bill No. 18 – An ordinance amending sections 4-51 and 4-52 of the Sunset Hills City Code relating to prohibited conduct of licensees authorized to dispense alcoholic beverages. FIRST READING**

Alderman Price read Bill No. 18 for a first reading.

 **Resolution No. 389 – A resolution deeming it necessary to construct a slide at the aquatic facility.**

Alderman Gau read Resolution No. 389. Motion to approve Resolution #389 made by Alderman Gau and seconded by Alderman Bersche and motion was unanimously approved.

 **Resolution No. 390 – A resolution deeming it necessary to construct a fitness trail and restroom that will serve its citizens as well as the traveling public.**

Alderman Baebler read Resolution No. 390. Motion to approve Resolution #390 made by Alderman Baebler and seconded by Alderman Price and motion was unanimously approved.

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

Mr. Kevin Jakovbek of 12418 ChrisAnn stated his concerns regarding Mellow Mushroom. He referenced this restaurant as an adult Disneyland. He stated he lives across the street from this area which includes outside seating, big screens TV's, bocce courts and music. Mr. Jakovbek stated he has had issues in the past with noise with prior businesses up to 10 pm and now it will be subject to noise again.

Mr. Chas McMillion of 12455 ChrisAnn stated his concern was the usage of the street of ChrisAnn and the condition in which it was left before, during and after construction. Mr. McMillion referenced pictures on the overhead showing how bad the condition of the road is now and is very disappointed with the condition of the road.

A discussion was held between Mr. Baker, Mr. Jones, Mr. McMillion and others regarding how this will be fixed and who is responsible and the possibility of withholding their occupancy permit. Mr. Jones will review the easement document with the recorder of deeds.

Alderman Bersche asked will Mr. Baker or Mr. Jones ask Mellow Mushroom for the \$2500.00 escrow. He asked if the city will write a formal letter stating the road is not in an acceptable condition. Alderman Bersche stated as a board how is the occupancy withheld. Mr. Jones stated clarification is needed from the easement document to see what the legal obligation is. Mr. Baker stated he believes Mellow Mushroom is looking to open in the next week. Alderman Gau stated so if they open there is zero leverage other than revoking the conditional use permit.

Mr. Baker stated if the city gets the \$2500.00 escrow money, where will it be held. Mr. McMillian suggested a title company or asphalt contractor could hold the money. Alderman Gau stated the amount may need to be larger due to the potholes. Mr. McMillian stated the permit specifically states it is for straightening up the road. He stated Mellow Mushroom should put the road back to its original condition. Alderman Gau reiterated that the permit stated the road is to be put back to its original condition.

Mr. Heacock asked for some clarification one is when using an escrow on a private street does the city has the ability to that. How to affect the repairs directly from the company, the city holds the money and they use it and get it to reimburse and pay. The issue is if the city spends money on a street the city does not own. Mr. Jones stated this was his concern when speaking with Mr. Baker. Mr. Heacock's other issue is could Mr. Baker issue a temporary occupancy permit for say 30 days to allow the board to further investigate this road issue. Mr. Jones stated the city has done this before and that is a good idea.

Mayor Fribis stated that if they don't comply, they will be shut down. Mr. Heacock stated you have two options; the city could withhold the occupancy permit or any other requirement like following the condition of the conditional use permit and could withdraw that at that time. Mellow Mushroom could still open and they are trying to be a good community partner, but to let them know how they treated the area and bring conclusion to this discussion in a positive way for all parties.

Alderman Kostial stated it would be difficult to define what expectations would be based on previous standards and this might be hard to have a common ground on this situation.

Mr. Baker stated his concern going beyond the \$2500.00 escrow. Mayor Fribis stated repairs should go back to the original state before they used it (fixing potholes). Mr. Jones commented Mellow Mushroom might have an affirmative obligation in the easement document or at least a joint obligation.

Alderman Gau made a motion for the Public Works Director to issue a 45 day temporary occupancy permit for Mellow Mushroom. Seconded by Alderman Baebler and it was unanimously passed.

Sandra Jo Ankney gave an update on the deer report she distributed to the board members. Based on the report she would like the board to suspend the 2016-17 deer bow hunting starting 9/17/16 and ending 1/15/17 until such time regarding any changes in the deer population.

Mayor Fribis announced two birthdays; Dee Baebler and a 60 year resident of Sunset Hills celebrating her 100<sup>th</sup> birthday; a celebration is being held at the Historical Society.

### **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.

### **APPOINTMENTS**

Mayor Fribis stated appointment "g" will be omitted and will be addressed at a later time.

- a) Elizabeth Huonker Ward 2- Economic Development Committee (replacing Scott Haggerty).
- b) Pam Livingston Ward 3- Parks and Recreation Commission-at large position. (Doug McGuire moved from at large to Ward 1 position)
- c) Richard Gau Ward 1- Capital Improvement Committee
- d) Thomas Musich Ward 2- Capital Improvement Committee
- e) Kurt Krueger Ward 3 – Capital Improvement Committee
- f) Mark Colombo Ward 4- Capital Improvement Committee

Alderman Gau made a motion to approve appointments a-f which was seconded by Alderman Krueger and motion passed unanimously.

### **Reappointments**

- a) Bill Taylor Ward 2 – Economic Development Committee

Alderman Musich stated Mr. Taylor might have moved and is no longer in Ward 2, clarification will be made and reappointment will be held at a later date.

- b) Richard Gau Ward 1 – Economic Development Committee

Alderman Musich made a motion to re-appoint and Alderman Baebler seconded it, motion passed unanimously.



### **A MOTION TO HOLD A CLOSED MEETING**

A motion was made by Alderman Price to hold a closed meeting, with closed votes and records immediately after adjournment of the August 9, 2016 and August 23, 2016 meetings and Alderman Bersche seconded the motion, and the members voted:

**Roll Call Vote:**

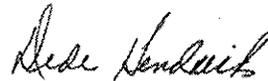
Alderman Baebler	-Aye
Alderman Gau	-Aye
Alderman Musich	-Aye
Alderman Bersche	-Aye
Alderman Krueger	-Aye
Alderman Kostial	-Aye
Alderman Price	-Aye
Alderman Colombo	-Aye

There being 8 AYE votes and 0 NAY votes, the motion passed

### **ADJOURNMENT**

Alderman Gau made a motion to adjourn the meeting. The motion was seconded by Alderman Bersche, and it was unanimously approved, meeting adjourned at 9:44 pm.

Recording Secretary



Dede Hendricks