

MINUTES OF THE SPECIAL MEETING  
OF THE BOARD OF ALDERMEN  
OF THE CITY OF SUNSET HILLS MISSOURI  
HELD ON MARCH 21, 2023

BE IT REMEMBERED that that the Board of Aldermen of the City of Sunset Hills, Missouri met in special session via Zoom on Wednesday March 21, 2023. The meeting convened at 8:00 p.m.

The meeting began with the reciting of the Pledge of Allegiance.

**ROLL CALL:**

Patricia Fribis	-Mayor
Ann McMunn	-Alderman Ward I
Brian Fernandez	-Alderman Ward I
Christine Lieber	-Alderman Ward II
Cathy Friedmann	-Alderman Ward III
Randal Epperson	-Alderman Ward III
Lindsay Hof	-Alderman Ward IV
Fred Daues	-Alderman Ward IV
Brittany Gillett	-City Administrator
Erin Seele	-City Attorney

Absent : Casey Wong -Alderman Ward II

Mayor Fribis asked if anyone had any comments.

Alderman McMunn stated for the sake of transparency the Aldermen who called the meeting stated the purpose of it was to discuss whether or not they should direct City staff to communicate privileged Board of Aldermen information to the Board of Adjustment. She asked Attorney Seele what the Sunset Hills protocol was and if it was proper, legal or ethical for the Board to direct City staff to inform the Board of Adjustment of any particular Alderman's preference and or try to lobby or influence the Board of Adjustment in any way.

Alderman McMunn asked if this violated Section 2-395 of the Code of Ethics.

Attorney Seele stated it was improper to make recommendations to the Board of Adjustment, however if the Board of Aldermen decided to waive their client privilege and provide the Board of Adjustment with the privileged information in an open setting, they could.

Attorney Seele stated there are no private communications with the Board of Adjustment since they are a quasi-judicial body and act similar to judges. Everything, for due process reasons as well as ex-parte concerns, has to be out in the open. Attorney Seele further explained that any kind of statement made by anyone to the Board of Adjustment had to be made on the record at a Board of Adjustment meeting. There is no such thing as private correspondence to the Board of Adjustment. Attorney Seele reiterated that the Board of Adjustment is an independent body that is designated by Statute to determine whether hardships exist for the property.

Alderman McMunn asked if any discussion by the Board regarding that needed to be in open session to avoid violating the Sunshine Law.

Attorney Seele stated the Board could seek legal guidance in closed session without it being a violation.

Alderman McMunn asked Ms. Gillett to poll the Board of Aldermen to see whether or not they had personal contact with members of the Board of Adjustment or with Dr. Despotis.

Ms. Gillett asked the Board of Aldermen to please let them know if they have had any contact with the Board of Adjustment or Dr. Despotis.

Alderman Daues stated he had no contact with Dr. Despotis but had spoke with the Chair of the Board of Adjustment about having a meeting. He explained that after speaking with Alderman McMunn, he notified Mr. Weber that the situation had changed and he had nothing to discuss so canceled the meeting.

Alderman Epperson stated he had no personal contact with either with the exception of socially at a Veterans event where Dr. Despotis was in attendance, but there was no discussion in reference to the issue.

Alderman Lieber stated she had no contact with either with the exception of socially at a Veterans event where Dr. Despotis was in attendance. She also stated he was in attendance at a Guns and Hoses event, but had no contact with him. Alderman Lieber addressed the issue of her political signs being in the right of way of the property in question. She explained she received permission from two other owners and had no contact with Dr. Despotis. Alderman Lieber stated they could not prevent being in the same room with people but could prevent what they have conversations about. Alderman Lieber stated Mr. Haasis was in Rotary with her but she had not been to a meeting in over eight months.

Alderman Fernandez stated no to both.

Alderman Hof stated no to both.

Alderman Friedmann stated she had not spoken to anyone on Board of Adjustment or Dr. Despotis.

Alderman Friedmann read a section of the Code of Ethics- statement

*The value of independent advice and recommendations of boards, commissions and committees to the public decision-making process is of such significance that members of the Board of Aldermen should refrain from using their positions to influence the deliberations or outcomes of board, commission and committee proceedings.*

Alderman Friedmann asked if directing the City Attorney or City Administrator to convey thoughts or feelings about what the Board may or may not be ok with or have a problem with to the Board of Adjustment.

Alderman Lieber interjected by stating that was not correct.

Alderman Friedmann explained she was asking a question. She asked if it would be a violation of the section she just read for the Board of Aldermen to direct the City Attorney or the City Administrator to convey a preference or an opinion that the Board would be OK or not OK with a certain course of action by the Board of Adjustment.

Attorney Seele answered that it was their Code of Ordinances so it was open to their interpretation, but the idea behind the section was you are not allowed to influence a board. She explained if they believed that was what they were trying to do or if they were trying to make a recommendation to the Board of Adjustment than that would be in violation. She reiterated the Code had made it clear that they are not supposed to try to influence a Board.

Alderman Friedmann asked that stating having a problem or not having a problem with a certain course of action was not construed as an attempt to influence?

Attorney Seele answered they would have to ask what their purpose behind the statement was.

Ms. Gillett asked Alderman McMunn if she wanted to go on record to answer the question.

Alderman McMunn stated she had not had any contact with either with the exception of in Court.

Alderman Lieber stated she would like to take that one step further to ask if anyone on the Board or the Mayor spoke to anyone on Planning and Zoning to influence the vote last month.

Alderman Lieber – No.  
Alderman Epperson- No.  
Alderman McMunn – No.  
Alderman Daues – No  
Alderman Fernandez- No  
Alderman Hof- No.

Mayor Fribis stated, in response to Alderman McMunn's question, she sat through two days of court proceedings with Dr. Despotis but had not spoken to him or members of the Board of Adjustment in reference to anything other than serving on the Board. She stated she had not spoken to anyone on Planning and Zoning but was at the meeting and heard the comments and the vote.

Alderman Epperson stated it was his understanding that any decisions made in closed session would not be their personal opinions but based on specific facts.

Ms. Gillett stated that they have noted that any influence at all or recommendation would certainly be improper.

Alderman Friedmann asked about the staff reports included in the Board of Adjustment application and why there was no mention of the litigation, appeal or that P&Z had recommended them for denial. She stated it would take a 2/3 majority vote for passage.

Alderman Friedmann made a motion to direct staff to have those facts included in the staff report.

Ms. Gillett stated that the variances applied for were not the applications denied by P&Z last month. She stated the variances were for lots 1, 4, 5 and 6 and that the variances recommended for denial were for lots 7,8 and 9.

Alderman Friedmann asked if there was a problem with including the information that there was a lawsuit and an appeal in process.

Attorney Seele stated in her opinion it was irrelevant to the Board of Adjustment's decision. She explained the Board of Adjustment's job is to look at the characteristics of the property, look at the variance being requested and then determine whether or not there is a hardship or practical difficulty for that. Whether or not there is a lawsuit going on really isn't within the purview of the Board of Adjustment.

Alderman Friedmann re-iterated that the fact there was a lawsuit was irrelevant, and presumably, any thoughts the Board of Aldermen had with regard to that, at the Board of Adjustment, would also be irrelevant.

Attorney Seele responded that it was supposed to be, yes.

Alderman Friedmann stated there would really be no reason to reach out to the Board of Adjustment then.

Attorney Seele replied yes if they look at the criteria they are supposed to look at, yes.

Mayor asked if anyone else would like to speak.

#### **APPROVAL OF THE AGENDA:**

Alderman Epperson made a motion to approve the agenda as listed. Alderman Daues seconded the motion and it was unanimously approved.

**REQUEST TO MEET IN CLOSED SESSION PURSUANT TO 610.21 (1) RSMo TO DISCUSS LEGAL MATTERS:**

Alderman Epperson made a motion to go into closed session. Alderman Lieber seconded the motion.

**ROLL CALL VOTE:**

**Vote: Passed/Failed (Summary Yes=6, No =1)**

Aye: Alderman Fernandez, Alderman Lieber, Alderman Friedmann, Alderman Epperson, Alderman Hof, Alderman Daues

Nay: Alderman McMunn

Absent: Alderman Wong

The Board went into closed session at 8:22 p.m.

The Board reconvened in open session at 9:35 p.m.

**ADJOURNMENT:**

Alderman Lieber made a motion to adjourn the meeting. Alderman Daues seconded the motion and it was unanimously approved.

Meeting adjourned at 9:35 p.m.

Deputy City Clerk  
Lori Stone