

**CITY OF FENTON, MISSOURI  
625 NEW SMIZER MILL ROAD  
FENTON, MO 63026  
MINUTES  
SPECIAL MEETING OF THE BOARD OF ALDERMEN  
THURSDAY, JUNE 13, 2019  
6:00 P.M.**

**CALL TO ORDER:** 6:00 P.M.

Mayor Bob Brasses called the Special Meeting of the Board of Aldermen of the City of Fenton, St. Louis County, Missouri to order at 6:00 p.m. on Thursday, June 13, 2019 at City Hall.

**PLEDGE OF ALLEGIANCE**

Mayor Brasses stated that there were a lot of residents of other municipalities who lost their lives over the last couple of days due to the tornadoes and severe weather. Mayor Brasses asked for a moment of silence.

**ROLL CALL**

City Clerk Morgan Kuepfert called the roll:

Alderman Seemayer	<i>Absent</i>	Alderman Clauss	<i>Present</i>
Alderman Sobey	<i>Present</i>	Alderman Patton	<i>Present</i>
Alderman Wisbrock	<i>Present</i>	Alderman Jokerst	<i>Present</i>
Alderman Maurath	<i>Present</i>		

Five Alderman were present at the opening of the meeting.

Alderman Sobey entered the Special Meeting at 6:19 p.m.

**CITY OFFICIALS:**

Mayor Bob Brasses  
City Attorney Erin P. Seele, Esq.  
City Administrator Lisa Peck  
City Clerk Morgan Kuepfert  
Community Development Director Nikki Finkbiner  
Project Manager Dan Howard  
Court Administrator Jan Fischer  
Judge Charles Billings

**This Special Meeting is being called for:**

- **PUBLIC COMMENTS**  
There were no Public Comments.

- **MAYOR'S APPOINTMENT OF A WARD 3 ALDERMEN TO FILL AN UNEXPIRED TERM EXPIRING APRIL 2020.**

Mayor Brasses stated that he has done a lot of research on how to resolve this issue. He stated that he looked into a Special Election, however that is not a possibility. Mayor Brasses stated he would like to discuss mediation if his appointment is not approved. He explained that he wants to work together with the Board to move this process forward. Mayor Brasses made a recommendation to appoint Robin Huels to fill the Ward 3 vacancy. Alderman Jokerst made a motion to approve the Mayor's appointment. The motion was seconded by Alderman Maurath.

Alderman Patton spoke regarding the appointment and other various thoughts. His comments are attached to the Minutes for the record.

Discussion was held relating to the required votes needed for approval of the Mayor's appointment. It was noted that approval of the remaining members of the Board is required, therefore 4 Aye votes would be required to approve the Mayor's appointment regardless of how many aldermen were present at a given meeting.

Following discussion and the roll being called, the Board of Aldermen voted as follows:

Alderman Seemayer	Absent	Alderman Clauss	Nay
Alderman Sobey	Absent	Alderman Patton	Nay
Alderman Wisbrock	Aye	Alderman Jokerst	Aye
Alderman Maurath	Aye		

It was announced that the motion failed.

- **DISCUSSION OF POTENTIAL ARBITRATION/MEDIATION – MAYOR BRASSES**

Mayor Brasses stated that he is trying to move past the disagreement on the appointment. He stated he spent many hours looking through Minutes of past meetings and studying state statute and is following what state statute states, that he should be calling a Special Meeting to fill the appointment. Mayor Brasses explained that he wanted this position filled immediately and felt that the person who is appointed should have the opportunity to vote on the President of the Board and other City business. Mayor Brasses suggested the Board investigate either mediation or arbitration to get the issue resolved.

City Attorney Erin Seele explained the differences between arbitration and mediation. She noted that in mediation, the mediator will hear both sides and attempts to come up with an arrangement that both sides can agree to. Erin explained that an arbitrator acts more like a judge and will hear both sides and make a decision. Erin further explained that arbitration is usually binding, and mediation could be made binding, but that it is normally non-binding as it is up to the parties to agree on a solution with the mediator's assistance. Erin noted, that there were issues, in this circumstance, of having arbitration be binding because first amendment rights come into play. She stated that the cost would vary based on the amount of time spent but could range from \$300 to \$500 per hour.

Alderman Patton questioned if in either situation, an arbitrator or mediator could compel a Board member to vote a certain way. It was noted that they cannot. Alderman Patton then questioned if a facilitator would be appropriate in a situation like this, and Erin noted that facilitators and mediators are very similar in that they hear both sides and come up with a mutual recommendation that would please both sides of the argument.

Alderman Maurath noted, for the record, that he is in favor of an arbitrator. He stated that the state statute is clear on the Mayor appointing an individual to fill the vacancy. He stated that the Board has been advised by the City Attorney that there is no precedent from 26 years ago and questioned if there are any other avenues to pursue, such as an attorney general opinion. City Attorney Erin Seele explained that it is a possibility, and the City can always ask for an opinion, but generally they are relying on or interpreting a law to provide and opinion and here, both statutes are silent on timing. She also noted that any opinion would generally be advisory. Alderman Maurath again noted, for the record, that he feels that would be wise, and feels strongly that there should be eight sitting aldermen, per City of Fenton code.

Alderman Jokerst noted that if the decision is not binding, it would not matter what the opinion states if it will not sway a vote. Maurath noted for the record that he is not taking sides, but his vote is to do what state statute says and will abide by the opinion but is confident vacancy should be filled first.

Further discussion ensued relating to how the Board would move forward with the decision that is made through arbitration or mediation. Alderman Patton stated that he received a call from Aldermen Seemayer, who could not be at tonight's meeting, and asked that he inform the Board that he is not in favor of either arbitration or mediation. He then stated that if the Board has a genuine desire to work together, that he believes mediation is the best route.

Alderman Clauss stated that she is opposed to arbitration. She stated she believes mediation may or may not produce something fruitful, but as with every issue, there is a remedy in place, or one can be created, to solve the issue.

Following discussion, Alderman Jokerst made a motion to have staff proceed with creating a Request for Qualifications for mediation services. The motion was seconded by Alderman Wisbrock. Discussion was held relating to the timeline of the RFQ. Following additional discussion and a vote being taken, the motion passed with Alderman Maurath voting Nay.

- **ENERGY AUDIT PROPOSALS**

Tiffany Duncan and Jennifer Geen, TRANE, gave the Board of Aldermen a presentation regarding their proposal for the Energy Audit. A copy of the presentation is attached to the Minutes for the record.

Question was raised as to what other companies responded to the RFP. City Administrator Lisa Peck stated that CTS also responded but would not be interested unless both parties were contracted. She further stated she believes that would not be in the best interest as there are many repairs that need to happen soon due to outdated equipment. Additional questions were asked about specific locations, equipment, etc.

Jennifer explained that once the contract is awarded, further investigation would be conducted on more specific areas of concern. She stated that the City would need to sign the letter of intent to work with Trane, Trane would conduct an investment grade audit, which would take between 30 and 45 days, then engagement in the contract would begin. She stated that the equipment needed is manufactured in house, so the turn around time would be between 8-12 weeks, however Trane would consider Fenton an emergency situation in an effort to expedite the projects.

Question was raised as to what warranties would be offered. Project Manager Dan Howard stated that the majority of the equipment has between a 20 and 25-year life span and the equipment is designed that way due to the advances in technology. Dan also mentioned that maintenance plays a big factor in the life span but feels confident that the equipment will be very well maintained.

Discussion ensued relating to other energy sources such as solar power and wind. Tiffany Duncan stated that those options have been explored, however, the long-term savings would not be guaranteed because there were not many incentives available due to the lower cost of energy in Missouri. Tiffany stated that Trane can explore those options if the City elects, but at this time, the proposed updates would be the most cost-effective. Additional discussion was held relating to the timeline of the savings and when the City would begin to see that. City Administrator Lisa Peck stated that the numbers in tonight's presentation are preliminary, but the total payback is 15 years.

Following discussion, Alderman Clauss made a motion to engage with Trane with a Letter of Intent and to forward to the June Board Meeting. The motion was seconded by Alderman Maurath. Upon a vote being taken, the motion passed.

- **OFFICE OF STATE COURT ADMINISTRATOR COMPLIANCE REQUIREMENT – SEE 5/30/19 MEMO FROM JAN FISCHER**  
Discussed in Executive Session.
- **MISSOURI DEPARTMENT OF AGRICULTURE PROMOTIONAL GRANT – FARMERS MARKET BANNER – SEE 6/13/19 MEMO FROM KATE BUEMI**  
The City has received grant funding for promotional items for the Fenton Farmers and Community Market from the Missouri Department of Agriculture. Staff is seeking approval to place a 3 x 5 double sided banner on City Hall's property for the duration of the season. Discussion was held relating to the exact placement of the sign, and it was noted that Park Board's recommendation was to place the sign where it would be visible on City Hall property. Following discussion, Alderman Patton made a motion to accept the recommendation from Park Board to place a 3 x 5 banner on City Hall property for the Fenton Community and Farmers Market and to make this a final vote. The motion was seconded by Alderman Wisbrock. Upon a vote being taken, the motion passed.
- **CONTRACTOR ACCEPTANCE RIVERCHASE PARKING LOT IMPROVEMENTS – SEE 6/7/19 MEMO FROM DAN HOWARD**  
The bid opening for the RiverChase Parking Lot Improvements project was held on June 7, 2019. Four bids were received with Spencer Contracting submitted the lowest responsive bid of \$471,378.77. Staff is recommending awarding the contract to Spencer Contracting. Alderman Jokerst asked why Staff is recommending Spencer. Project Manager Dan

Howard stated that Spencer has done work for the City previously and staff is always very pleased with their work.

**BILL NO. 19-50**

**AN ORDINANCE APPROVING AN AGREEMENT WITH SPENCER CONTRACTING COMPANY FOR PARKING LOT AND SIDEWALK IMPROVEMENTS OF RIVERCHASE RECREATION CENTER PARKING LOT.**

There was no objection from the Board to allow Alderman Clauss to sponsor Bill 19-50.

Alderman Clauss desired one reading of Bill 19-50. City Attorney Erin Seele read Bill 19-50 one time by title only.

Alderman Clauss made a motion to seek a waiver of the rules for a second reading. The motion was seconded by Alderman Patton. Upon a vote being taken, it was announced that the motion was passed unanimously by the Board of Aldermen. City Attorney Erin Seele read Bill 19-50 for a second time by title only. Alderman Clauss made a motion that Bill 19-50 be enacted as an Ordinance. The motion was seconded by Alderman Sobey. Upon the roll being called, the Board of Aldermen voted as follows:

Alderman Seemayer	Absent	Alderman Clauss	Aye
Alderman Sobey	Aye	Alderman Patton	Aye
Alderman Wisbrock	Aye	Alderman Jokerst	Aye
Alderman Maurath	Aye		

It was announced that Bill No. 19-50 was passed by the Board of Aldermen and would become Ordinance No. 3937 when and if signed by the Mayor.

• **RUDDER ROAD PROGRAMMING AGREEMENT – SEE 6/7/19 MEMO FROM DAN HOWARD**

The City has been awarded grant funding through the Surface Transportation Program (STP) for the reconstruction of Rudder Road from Larkin Williams to the MoDOT right-of-way just west of the South Outer Road signal. The project will also include construction of a five-foot sidewalk. The grant includes 80% reimbursement, up to \$1,263,102, for construction.

**BILL NO. 19-51**

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A SURFACE TRANSPORTATION PROGRAM (STP) – URBAN PROGRAM AGREEMENT BETWEEN THE CITY OF FENTON, MISSOURI AND THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR THE RUDDER ROAD PROJECT.**

There was no objection from the Board to allow Alderman Maurath to sponsor Bill 19-51.

Alderman Maurath desired one reading of Bill 19-51. City Attorney Erin Seele read Bill 19-51 one time by title only.

Alderman Maurath made a motion to seek a waiver of the rules for a second reading. The motion was seconded by Alderman Sobey. Upon a vote being taken, it was announced that the motion was passed unanimously by the Board of Aldermen. City Attorney Erin Seele read Bill 19-51 for a second time by title only. Alderman Maurath made a motion that Bill 19-51 be enacted as an Ordinance. The motion was seconded by Alderman Jokerst. Upon the roll being called, the Board of Aldermen voted as follows:

Alderman Seemayer	Absent	Alderman Clauss	Aye
Alderman Sobey	Aye	Alderman Patton	Aye
Alderman Wisbrock	Aye	Alderman Jokerst	Aye
Alderman Maurath	Aye		

It was announced that Bill No. 19-51 was passed by the Board of Aldermen and would become Ordinance No. 3938 when and if signed by the Mayor.

- **2<sup>ND</sup> QUARTER CAREER ACHIEVEMENT AWARDEES**

Each year, the City recognizes all employees who have achieved five-year milestones on a quarterly basis. This quarter, we are recognizing the following April, May and June anniversaries for 2019:

1. Doug Schulze, Building and Grounds Technician – 20 years
2. Joe Therina, Code Enforcement Officer – 5 years
3. Kathy Strehle, Building and Grounds Maintenance Worker – 20 years
4. Linda Brendel, Receptionist – 5 years.

Alderman Maurath made a motion to forward to the June Board Meeting. The motion was seconded by Alderman Clauss. Upon a vote being taken, the motion passed.

- **PLANNING AND ZONING COMMISSION MEETING JUNE 4, 2019 – UPDATE/DISCUSSION**

All items listed will be forwarded to the June Board Meeting for approval unless otherwise noted.

1. **Announcements**

- **The Planning and Zoning Commission continued to the next Planning and Zoning Commission Meeting CASE 2019-TXT-01, consideration of amendments to Chapter 470 – Additional Non-Residential District Regulations of the Zoning Code.**
- **CASE 2019-SUP-03, a Petition by Sonsvic, LLC for a Special Use Permit to expand an existing motel (Motel 6) into an existing, vacant building on-site at 1860 Bowles Avenue in order for the Petitioner to provide evidence of a Motel 6 franchise agreement for the subject building. The parcel is zoned “HP-1” Hospitality Park. CASE 2019-SUP-03 has been withdrawn by the petitioner.**

- **CASE 2019-SUB-01, a Petition by David J. Hyde, III, Trustee of David J. Hyde III R.L.T. UTD 11/20/2014, to subdivide an existing 1.64-acre lot, described as Lot 5 A of the Rudder Consolidation Plat, into two (2) lots. The parcel is addressed as 1735 Rudder Road Industrial Park Drive and is zoned “BP-3” Business Park District. CASE 2019-SUB-01 has been withdrawn by the petitioner.**
- **The Planning and Zoning Commission continued to the next Planning and Zoning Commission Meeting CASE 2019-TXT-04, consideration of amendments to Chapters 450 and 495 of the Zoning Code pertaining to drive-through services and off-street parking and loading requirements.**
- **The Planning and Zoning Commission continued to the next Planning and Zoning Commission Meeting CASE 2019-TXT-09, consideration of amendments to Chapter 480 – Subdivision Regulations of the Zoning Code.**
- **Due to the July 4 Holiday, the Planning and Zoning Commission Meeting has been moved to Tuesday, July 9<sup>th</sup>.**
- **Chairperson John Shea has submitted his resignation to the Commission effective following the July 9<sup>th</sup> meeting. Mr. Shea has served on the Planning and Zoning Commission since 1999.**

Community Development Director Nikki Finkbinder encouraged Board members to attend the July 9 Planning and Zoning Meeting, as Mr. Shea will be presented a plaque for him time served on the Commission.

2. **The Planning and Zoning Commission recommended approval, with conditions, of CASE 2019-SUP-10, a Petition by Infinity Hospitality, LLC, for a Special Use Permit to operate a hotel (Quality Inn & Suites by Choice Hotel) at 800 S. Highway Drive. The property is zoned “HP-1” Hospitality Park District.**
3. **The Planning and Zoning Commission recommended approval, with conditions, of CASE 2019-SPR-11, a Petition by Infinity Hospitality, LLC, for Site Plan Review of a proposed addition to an existing hotel building and a proposed 29,000 square-foot building at 800 S. Highway Drive. The property is zoned “HP-1” Hospitality Park District.**

Community Development Director Nikki Finkbinder noted that the Quality Inn mentioned in CASE 2019-SUP-10 would only take up a portion of the hotel. She stated a separate Special Use Permit will be required for the remainder of the building and the conditions of approval for 2019-SPR-11 exclude the larger 29,000 square foot building. It was also noted that the remaining parts of the building would potentially be used for a convention center and restaurant.

4. **The Planning and Zoning Commission recommended approval of CASE 2019-TXT-06, amendments to Section 400.030 Definitions and Section 476.010 Land Use Matrix pertaining to automotive and commercial motor vehicle definitions and related permitted uses and uses allowed by Special Use Permit, as indicated in Exhibit A.**

Community Development Director Nikki Finkbinder stated that the City had found a loophole where certain vehicles were not taken into account in the code and this amendment is designed to fix that loophole. She further noted that Staff recommended approval of a Commercial Motor Vehicle use by Special Use Permit, but the Commission recommended to the Board that such be a permitted use in the “IP-1” District.

- 5. The Planning and Zoning Commission recommended approval of CASE 2019-TXT-07, amendments to the definition for Hotel under Section 400.030 of the Zoning Code, as indicated in Exhibit B.**

Community Development Director Nikki Finkbiner stated that these amendments would allow for a manager's quarter in hotels for overnight staff. She noted that it would not be considered a permanent living space and would not be larger than the typical hotel room.

- 6. The Planning and Zoning Commission recommended approval of CASE 2019-TXT-08, amendments to Section 476.010 Land Use Matrix of the Zoning Code to allow Distilleries as a use allowed under a Special Use Permit in the "BP-3" Business Park District.**

Community Development Director Nikki Finkbiner stated that you see a lot of distillers including wineries and microbrews utilizing warehouses so this will open the code to allow such use under a Special Use Permit.

- 7. The Planning and Zoning Commission recommended approval of CASE 2019-TXT-10, amendments to Chapter 405 – Planning and Zoning Commission of the Zoning Code, as indicated in Exhibit C.**

Community Development Director Nikki Finkbiner stated that this amendment is being made to reflect state statute. She stated that the Mayor has elected to not sit on the Planning and Zoning Commission as a voting member. This amendment, in accordance with state statute, and would allow the Board of Aldermen to decide if they would want the liaison to be a voting member on the Planning and Zoning Commission. It was noted that the Mayor would need to select whether he/she wants to sit on the Commission within 30 days of taking the oath of office and that such decision stands for the Mayor's 2-year term. The Board's decision of whether to select a member to sit on the Commission will be for a one-year term.

- 8. The Planning and Zoning Commission recommended approval, with conditions, of CASE 2019-SP-03, a Petition by Alliance Credit Union c/o Warren Sign Company for review of a Sign Plan for proposed signage at 1280 S. Highway Drive. The parcel is zoned "BP-1" Business Park District.**

Community Development Director Nikki Finkbiner stated that the request is to use the same sign and pole but the cabinet is different. It was noted that despite the application stating that the City could use the sign that the City has not and will not consider such offer in its zoning decision.

- 9. The Planning and Zoning Commission recommended approval, with conditions, of CASE 2019-SPR-12, a Petition by US Capital Development for Site Plan Review of two (2) proposed warehouse buildings ("Buildings 7 and 8 at Fenton Logistics Park"), containing 192,800 square feet each, at 2055 Fenton Logistics Park Boulevard. The property is zoned "PID" Planned Industrial Development.**

Community Development Director Nikki Finkbiner noted that this is a typical shell-building for future buildout.

- Case 2019-PLT-03: A Petition by Cypress Horan, LLC and Russel J. Groom and Judith C. Groom for a Boundary Adjustment Plat of Lot 2 of "Casa Estates" and Lot B of "Lots A&B of J.R. O'Neal's Subdivision Boundary Adjustment Plat" and a part of Section 21, Township 44 North, Range 5 East. The parcels are zoned "R-1" Single-Family Residential and are addressed as 1000, 1020, 1024, and 1040 Horan and 1630, 1650 Uthoff Drive.**

The proposed Boundary Adjustment Plat was submitted to reconfigure three existing parcels, described as Lot 2 of "Casa Estates" and Lot B of "Lots A&B of J.R. O'Neal's Subdivision Boundary Adjustment Plat" and a part of Section 21, Township 44 North,



Range 5 East into two parcels. Currently the only improved parcel is Lot B of “Lots A&B of J.R. O’Neal’s Subdivision Boundary Adjustment Plat” with a single-family residence, addressed at 1650 Uthoff Drive. All parcels are zoned “R-1” Single Family Residential. Alderman Jokerst made a motion to forward a Bill to the June Board Meeting. The motion was seconded by Alderman Patton. Upon a vote being taken, the motion passed.

- **A RESOLUTION OF THE CITY OF FENTON, MISSOURI, AUTHORIZING THE APPLICATION TO THE MUNICIPAL PARK GRANT PROGRAM FOR AN ALL ABILITIES PLAYGROUND AND GRANTING FURTHER AUTHORITY FOR SAME.**

**RESOLUTION NO. R-19-01**

**A RESOLUTION OF THE CITY OF FENTON, MISSOURI, AUTHORIZING THE APPLICATION TO THE MUNICIPAL PARK GRANT PROGRAM FOR AN ALL ABILITIES PLAYGROUND AND GRANTING FURTHER AUTHORITY FOR THE SAME.**

There was no objection from the Board to have Alderman Wisbrock sponsor Resolution R-19-01.

Alderman Wisbrock desired one reading of Resolution R-19-01. City Attorney Erin Seele read Resolution R-19-01 one time in full.

Alderman Wisbrock made a motion to approve Resolution R-19-01. The motion was seconded by Alderman Clauss. Upon a vote being taken, it was announced that the motion was passed unanimously by the Board of Aldermen.

- **EXECUTIVE SESSION: ROLL CALL VOTE TO CLOSE THE MEETING PURSUANT TO SECTION 610.021(1) LEGAL ACTIONS, CAUSES OF ACTION OR LITIGATION... SECTION 610.021(2) LEASE, PURCHASE OR SALE OF REAL ESTATE... AND SECTION 610.021(3) HIRING, FIRING, DISCIPLINING OR PROMOTING EMPLOYEES...**

Alderman Clauss made a motion to enter into Executive Session pursuant to Section 610.021(1) legal actions, causes of action or litigation, Section 610.021(2) lease, purchase or sale of real estate, and Section 610.021(3) hiring, firing, disciplining or promoting employees. The motion was seconded by Alderman Patton. Upon the roll being called, the Board of Aldermen voted as follows:

Alderman Seemayer	Absent	Alderman Clauss	Aye
Alderman Sobey	Aye	Alderman Patton	Aye
Alderman Wisbrock	Aye	Alderman Jokerst	Aye
Alderman Maurath	Aye		

It was announced that the motion was passed by the Board of Aldermen.

- **ADJOURNMENT**

At 9:06 p.m., Alderman Maurath made a motion that the meeting be adjourned. The motion was seconded by Alderman Patton. Upon a vote being taken, the motion passed.

Respectfully submitted,

A handwritten signature in black ink that reads "Morgan Kuepfert". The signature is written in a cursive style with a large, prominent initial "M".

Morgan Kuepfert  
City Clerk  
City of Fenton