

**MINUTES**  
**DES PERES BOARD OF ALDERMEN**  
**April 8, 2019**  
**DES PERES GOVERNMENT CENTER**

The regular meeting of the Board of Aldermen of the City of Des Peres, Missouri was held at the Des Peres Government Center, 12325 Manchester Road commencing at 7:00 PM on Monday, April 8, 2019.

**ROLL CALL**

The City Clerk took roll with the following board members present: Alderman Pound, Alderman Sansone, Alderman Kleinschmidt, Alderman Fitzpatrick, Alderman Concagh and Alderman Barrett. Mayor Becker was also present.

Staff members present included the City Administrator, City Clerk, City Attorney, Director of Public Safety, and Director of Public Works. Assistant City Administrator and Director of Finance were absent with excuse. At this time the Board of Aldermen, staff and citizens rose for the Pledge of Allegiance.

**PUBLIC HEARING - SPECIAL EVENTS**

Mayor Becker stated that Carrollton Bank has submitted a request for a Temporary Exterior Sales & Display Permit for their annual Customer Appreciation Day to be held on Saturday June 8<sup>th</sup>. Mayor Becker added that this event has been held multiple years without incident or complaint. No representative of Carrollton Bank was present.

Mayor Becker asked if there were any comments or questions from the audience or members of the Board of Aldermen. Hearing none, the hearing was closed and the item will be taken up later in the meeting.

Mayor Becker stated that Rosalita's Cantina has submitted a request for a Temporary Exterior Sales & Display Permit for their Second Annual Cinco De Mayo event to be held on Sunday May 5, 2019. Mayor Becker stated that the same event, held last year on a Saturday, went without incident or complaint. No representative of Rosalita's was present.

Mayor Becker asked if there were any comments or questions from the audience or members of the Board of Aldermen. Hearing none, the hearing was closed and the item will be taken up later in the meeting.

Mayor Becker announced that both requests will be taken up during the Consent Agenda.

## **PUBLIC HEARING – RIGHT OF WAY REGULATIONS**

Mayor Becker called a Public Hearing to order at 7:07pm, to discuss the recommendation from the Planning & Zoning Commission to amend the Municipal Code to adopt new Right-of-Way Regulation including for small wireless facilities, in response to the passage of House Bill 1991.

The City Clerk read the following exhibits:

1. Notice of Public Hearing posted March 21, 2019 on the City Website and at City Hall
2. Publication of Notice in the St. Louis Countian, a newspaper of General Circulation on March 21, 2019
3. Planning & Zoning Commission Meeting Minutes of March 13, 2019
4. House Bill 1991 as adopted by the 94<sup>th</sup> General Assembly
5. Bill 19-2852, an Ordinance Enacting Appendix E, Chapter 500, of the Code of Ordinances of the City of Des Peres regarding Right-of-Way Usage and Small Wireless Facilities
6. Municipal Code of the City of Des Peres and all related files

Mayor Becker asked if there were any comments or questions from the audience or the Board of Aldermen. Hearing none, Mayor Becker closed the Public Hearing at 7:10pm.

## **AMENDMENT OF AGENDA**

Mayor Becker added Resolution 19-3297 to the consent agenda granting a temporary special event permit under Section 406.040 of the Municipal Code to Carrollton Bank for an Exterior Customer Appreciation Event to be held on June 8, 2019.

Mayor Becker asked that the agenda be amended to include under Reports, the appointment of a citizen member to the Public Safety Commission.

## **CITIZEN COMMENTS**

Jane Tayon, 2347 Fairoyal Dr, addressed the Board to express her continued frustration with staff and the construction of her retaining wall. Mayor Becker stated that the City couldn't comment on personnel matters or ongoing litigation, but that her demand letter requesting \$57,000.00 was filed with the insurance carrier and has since been denied. Mr. Harms added that the City Attorney has filed a response to the insurance carrier.

Bill Sheridan, Harwood Hills, addressed the Board regarding the allowance of urban chickens. Mr. Sheridan stated that he didn't believe the chickens would attract additional wildlife or rodents, nor would it make it difficult for homes to sell in the neighborhood as stated in a letter

from the Trustees of Harwood Hills to the Board of Aldermen. Mr. Sheridan added that the nuisance laws should be enforced for chickens not properly kept.

Frank & Jane Melville, 2103 Trailcrest, addressed the Board in opposition of the presented plan for the Blattner Subdivision. Mr. Melville stated that they would prefer one home be built instead of two. Mrs. Melville indicated that the setback was incorrect on the site plan.

Director of Public Works Steve Meyer stated that the site plan depicts a 33' setback, and that he has reached out to the applicant to correct the plan.

Mrs. Melville stated she would be happy to see the land developed, but believes this proposal would be more detrimental than beneficial

James McEnroe, 2158 Trailcrest, stated that he was enthusiastic about this development but had some concerns. Mr. McEnroe stated that he'd like to see the properties staked out on Ballas so that the neighbors could better visualize the development. Mr. McEnroe stated that there could potentially be hazardous materials buried on the property, and asked who would review the removal and remediation if found.

Mayor Becker stated that those questions and concerns would be addressed at the public hearing, scheduled for April 22, 2019.

## **REPORTS OF OFFICERS AND COMMITTEES**

### Report of Committees

The Mayor acknowledged the following written reports submitted to the Board of Aldermen:

- a) Cancellation of the Public Safety Commission Meeting of April 1, 2019
- b) Report of the Parks & Recreation Committee Meeting of April 4, 2019

### Report of Mayor

Mayor Becker read a Proclamation related to Arbor Day which is being held April 26, 2019. Mayor Becker added at this proclamation is a mandatory feature for achieving Tree City USA, and award which we should receive for the 34<sup>th</sup> consecutive year.

Mayor Becker announced that the week of April 14- April 20<sup>th</sup> is Local Government Week in Des Peres, and presented a proclamation with a special recognition to those employees who have served the City for over twenty five years.

### Appointment of Officers

Alderman Barrett moved to appoint Caitlin Zimmerman to the Public Safety Commission, to represent Ward 3 to fill an unexpired term ending June 30, 2020. Second by Alderman Concagh.

A roll call vote was then taken with the following results: Fitzpatrick, AYE; Concagh, AYE; Kleinschmidt, AYE; Pound, AYE; Sansone, AYE; Barrett, AYE. Motion passed 6-0.

## **CONSENT AGENDA**

Mayor Becker advised that the Consent Agenda consisted of ten (10) items. Under the Board Rules, all items on the consent agenda can be approved by a single motion and any item on the warrant list may be removed prior to the vote at the request of any individual member of the Board of Aldermen. Items on the consent agenda included:

1. Minutes of Board of Aldermen Meeting Held March 25, 2019
2. Warrant List dated April 4, 2019
3. R19-3290 Authorizing Purchase of Computers from CDW-G Utilizing Cooperative Contracts Under the National Intergovernmental Purchasing Alliance (IPA) in the amount of \$ 20,912.39
4. R19-3291 Authorizing a Contract for Purchase of Fitness Equipment From Push Pedal Pull Utilizing a Cooperative Procurement Contract from Sourcewell in the amount of \$75,570.00
5. R19-3292 Authorizing Purchase of Fitness Equipment in the amount of \$56,457 and Authorizing Sale of Surplus Fitness Equipment to the Highest Bidders
6. R19-3293 Authorizing a Unit Quantity Contract with Gamma Tree Experts for Forestry Services with a Maximum Appropriation of \$90,000
7. R19-3294 Authorizing a Unit Quantity Contract with Sweetens Concrete Services in the Amount of \$132,488 plus a Contingency of \$17,500 for Concrete Slab Replacements
8. R19-3295 Authorizing a unit Quantity Contract with DuraSeal in the amount of \$288,029.98 plus a Contingency of \$75,000 for Asphalt Overlay Projects
9. R19-3296 Authorizing a Temporary Exterior Sales Permit for a Special Event at Rosalita's Cantina for Sunday, May 5, 2019 (Cinco de Mayo)
10. R19-3297 Authorizing a Temporary Exterior Sales Permit for a Special Event at Carrollton Bank for Saturday, June 8, 2019

Alderman Barrett moved to approve the Consent Agenda as amended, second by Alderman Fitzpatrick. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Concagh, AYE; Kleinschmidt, AYE; Fitzpatrick, AYE. Motion passed 6-0.

## **LEGISLATION (UNFINISHED)**

1. B19-2852 An Ordinance Enacting Appendix E, Chapter 500, of the Code of Ordinances of the City of Des Peres Regarding Right-of-Way Usage and Small Wireless Facilities (2<sup>nd</sup> Reading)

Alderman Barrett read Bill 19-2852 for the second time.

Alderman Barrett moved to approve Bill 19-2852 as presented, second by Alderman Fitzpatrick. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

## **LEGISLATION (NEW)**

1. B19-2853.1 An Ordinance Transferring and Reissuing the Conditional Use Permit for Operation of a Bank at 11781 Manchester Road to Simmons First National Bank Corporation

Alderman Pound introduced Bill 19-2853.1, and read it for the first time.

Alderman Pound moved to waive the rules and read Bill 19-2853.1 for a second time, second by Alderman Concagh. A roll call vote was then taken with the following results: Barrett, AYE; Sansone, AYE; Pound, AYE; Kleinschmidt, AYE; Concagh, AYE; Fitzpatrick, AYE. Motion passed 6-0.

Alderman Pound read Bill 19-2853.1 for a second time.

Alderman Pound moved to approve Bill 19-2853.1 as presented, second by Alderman Concagh. A roll call vote was then taken with the following results: Fitzpatrick, AYE; Concagh, AYE; Kleinschmidt, AYE; Pound, AYE; Sansone, AYE; Barrett, AYE. Motion passed 6-0.

2. Bill 19-2854 An Ordinance Rezoning a 4.85 Acre Tract of Land Located at 641 N Ballas Road from "D" Single Family Residential to Planned Residential Development (PDR), Approving a Master Development Plan for the Development and Approving a Preliminary Plat for the Blattner Farm Subdivision (Introduction – Hold for a Public Hearing on April 22, 2019)

Alderman Concagh introduced Bill 19-2854, and read it for the first time.

Mayor Becker stated that this item would be held until the next meeting when a public hearing would be held. He invited those in attendance who had spoken this evening regarding the proposal to return for the public hearing.

## **REPORTS OF STAFF**

### Report of City Administrator

Retaining Walls: City Administrator Harms stated that during the previous meetings the Board has requested additional information on items presented to them by residents. Written reports were prepared and are filed with the board of aldermen. The staff would be happy to prepare legislation as the board of aldermen desire on either issue.

Mr. Harms stated that at the meeting held January 14, 2019, Mr. & Mrs. Tayon voiced their dissatisfaction with the City's building codes related to what they consider lax or inadequate

building codes in Des Peres relative to retaining walls and the fact that their contractor built a retaining wall without being required to obtain a permit. The board had directed staff to do some research on the underlying issue of retaining wall permits.

Mr. Harms stated that a written report has been filed with the board. In summary, it states the current city building code provides that building permits are required for all retaining walls four foot or higher or if the wall has a surcharge. That provision is in the International Residential Building Code which was adopted without any changes in 2010. A brief survey was done of surrounding municipalities regarding their code requirements showing that Creve Coeur, Kirkwood and Maryland Heights require permits for walls 2 foot or higher; Frontenac, Ellisville, Fenton and St Louis County (unincorporated areas) require permit at 3 feet or higher; and that Ballwin, Des Peres and Town& Country use the 4 foot standard in the IBC Residential Code.

Regulations on Domestic Fowl: Mr. Harms stated that at the March 25, 2019 meeting the Board was requested by a resident to revisit regulations on keeping chickens in residential areas. Staff was asked by the board to update the 2014 memo on this topic. Mr. Harms stated that a written memo on the topic has been provided. In summary, the has shown that of twenty five cities surveyed, two outlaw chickens with no exceptions, four share similar regulations to Des Peres, and the remaining cities allow chickens with or without restrictions that most often deal with a prohibition on keeping roosters and some limit on the number of chickens permitted.

#### Report of City Clerk

The City Clerk announced the unofficial election results, and stated that St. Louis County Board of Elections had 15 days to remit final election results to the City before the Board can officially certify the election outcome.

Alderman Ward 1	Ben Sansone	264 Votes	Uncontested
Alderman Ward 2	James Kleinschmidt	262 Votes	Uncontested
Alderman Ward 3	Sean Concagh	249 Votes	Uncontested
Judge	Charles Billings	787 Votes	Uncontested

We anticipate certified election results prior to the next Board of Aldermen meeting and will swear-in the newly elected officials at the next meeting.

#### **ADJOURNMENT**

There being no additional business to come before the regular session of the Board of Aldermen, Alderman Fitzpatrick moved to adjourn into executive session pursuant to Section 610.021(1) legal actions.

Alderman Sansone stated his opposition for entering into executive session and his intention to vote against holding an Executive Session, as he believed sufficient notice was not provided on the agenda for the public to reasonably advise the public of the purpose of the closed meeting. The city uses a generic notice that states all of the possible reasons for holding a close meeting and does not indicate what specifically is the purpose of the executive session. As an alderman he does not know why the board is being asked to go into executive session.

Following discussion, The City Attorney was asked by Alderman Pound if the notice being provided by the city meets the requirements of state law.

Mr. O'Keefe stated that he believes the notice provided by the city meets the requirements of Section 610.020 of the statutes. The code requires that the city give notice of the time, date and location and a tentative agenda for a meeting at least 24 hours in advance of the meeting. The cities agenda as currently modeled meets that standard. The code also allows for the board to hold a meeting with less than 24 hours notice for good cause shown. The statute provides in Section 610.022 that only the board of aldermen can close a meeting which require a vote in open meeting stating the specific exception for closing the meeting allowed under Section 610.021 which includes closure for legal matters.

Motion was seconded by Alderman Concagh at 8:06PM. A roll call vote was then taken with the following results: Fitzpatrick, AYE; Concagh, AYE; Kleinschmidt, AYE; Pound, ABSTAIN; Sansone, NAY; Barrett, AYE. Motion passed 4-1-1.

Minutes prepared by:

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Stacey Mann, City Clerk

These minutes have not yet been approved by the Board of Aldermen.

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Mark Becker, Mayor

**ATTEST:**

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Stacey Mann, City Clerk