



**AGENDA
CITY OF HARRISONVILLE
BOARD OF ALDERMEN
REGULAR MEETING
CITY HALL
AUGUST 5, 2019
7:00 PM**

- 1. Call to Order**
 - A. Pledge of Allegiance**
 - B. Roll Call**
- 2. Ceremonial Matters**
 - A. Service Awards for Merrifield and Quezada**
- 3. Public Participation**
- 4. Approval of Minutes**
 - A. Board of Aldermen - Work Session - Jul 15, 2019 5:30 PM**
 - B. Board of Aldermen - Regular Meeting - Jul 15, 2019 7:00 PM**
- 5. Agenda Items**
 - A. SEPTEMBER 2, 2019 MEETING - RESCHEDULE**
 - B. Council Bill 48: A RESOLUTION OF THE BOARD OF ALDERMEN AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH ZONES FOR THE PURCHASE OF 18 PERSONAL COMPUTERS AND 1 LAP TOP COMPUTER IN THE AMOUNT OF \$21,577.44, AND ESTABLISHING AN EFFECTIVE DATE.**
 - C. Council Bill 49: A RESOLUTION OF THE BOARD OF ALDERMEN AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH KC WEB, INC., TO PROVIDE INTERNET SERVICES TO THE CITY AND ALLOW KC WEB TO UTILIZE THE CITY'S INFRASTRUCTURE TO PROVIDE SERVICE, AND ESTABLISHING AN EFFECTIVE DATE.**
 - D. Sign Regulations Public Hearing**
 - E. Council Bill 50: AN ORDINANCE AMENDING SECTION 435.125 OF THE CITY CODE ESTABLISHING THE SIZE RESTRICTIONS OF SPECIAL SIGNS**

- F. **Brian Renner Public Hearing Rezoning/Final Plat 1600 Mechanic**
 - G. **Special Use Permit Hearing - Holesman**
 - H. **Council Bill 51: AN ORDINANCE OF THE CITY OF HARRISONVILLE, CASS COUNTY, MISSOURI, GRANTING A 10-YEAR SPECIAL USE PERMIT TO GALE T. HOLESMAN, JR. AND AMERICAN WASTE SYSTEMS TO OPERATE A SOLID WASTE TRANSFER STATION AT 2901 BRICKPLANT ROAD.**
 - I. **Council Bill 52: AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, REPEALING A SECTION OF CHAPTER 205 EMERGENCY SERVICES; FIRE CODE; FIREWORKS AND CHAPTER 215; OFFENSES CONCERNING PROPERTY TO ALLOW OPEN BURNING FOR YARD AND VEGETATIVE WASTE IN THE CITY OF HARRISONVILLE, MISSOURI, AND ESTABLISHING AN EFFECTIVE DATE.**
 - J. **Council Bill 47: Request to Postpone Timber Drive Extension Variance**
- 6. **Aldermen and Committee Reports**
 - 7. **Report from the City Administrator**
 - A. **City Admin Rpt 8-5-19**
 - 8. **Questions from the Media**
 - 9. **Adjourn to Executive Session pursuant to RsMO 610.021 (3) Hiring, firing, discipline, promotion employee**
 - 10. **Adjourn From Regular Session**

Posted on City Hall Bulletin Board this 1st day of August, 2019

Randall K. Jones, City Clerk

The Board of Aldermen meeting is an open meeting but is not a meeting of the public. There is a place on the agenda for comments of citizens under PUBLIC PARTICIPATION. Our rule is that comments by any individual or group shall not exceed (4) minutes. The Board of Aldermen request that concerns be initially addressed at the appropriate action level before coming to the Board of Alderman



DRAFT
MINUTES
CITY OF HARRISONVILLE
BOARD OF ALDERMEN
WORK SESSION
CITY HALL
JULY 15, 2019
5:30 PM

1. **Call to Order & Pledge of Allegiance**
2. **Present**

Attendee Name	Organization	Title	Status	Arrived
Brad Bockelman	Harrisonville	Board Member	Absent	
Dave Doerhoff	Harrisonville	Board Member	Present	
Marcia Milner	Harrisonville	Board Member	Present	
Judy Reece	Harrisonville	Board Member	Present	
Clint Miller	Harrisonville	Board Member	Present	
David Dickerson	Harrisonville	Board Member	Present	
Gary Davidson	Harrisonville	Board Member	Present	
Matt Turner	Harrisonville	Board Member	Present	
Judy Bowman	Harrisonville	Mayor	Present	

Others present were: City Attorney Steve Mauer, City Administrator Happy Welch, Finance Director Marcella McCoy, Public Works Director Eric Patterson, Parks & Recreation Director Chris Deal, Electric Superintendent Tim Scott, Electric Department Administrative Assistant Kristen Morrow, Public Information Officer/Deputy City Clerk Daniel Barnett and City Clerk Randall Jones, Recording. (Randall left at 6:00 p.m.)

3. **Discussion Items**
 - A. **Toth Electric Rate Study**

Craig Woycheese, CPA, with Toth and Associates presented an electric rate study for the City of Harrisonville. Rate projections were given through the year 2026. Mayor Bowman asked if they could generate Kansas City metro area comparisons. She also asked if this was the first rate study done by Toth and the answer was yes and how long it had been since the last rate study and Eric Patterson stated it was before he started. David Dickerson asked if Keith Thomas had done a rate study. Eric Patterson said he did not know.

- B. **OATS Discussion**

Minutes Acceptance: Minutes of Jul 15, 2019 5:30 PM (Approval of Minutes)

Sarah Davis, area representative with OATS gave a presentation to the Mayor and Board of Aldermen. Alderman Reece asked why Harrisonville is the only city that is fully funded by federal money. Davis replied that funds started several years ago and remained that way. Alderman Reece asked how other cities are funded and Davis replied she did not know. City Administrator Happy Welch said that other cities use money from the general fund. Alderman Dickerson asked what the cost would be to go back to five days per week. Davis pointed to information in the handout that she provided. Alderman Dickerson asked who can ride the bus and the answer was the general public. Davis listed prices for several cities. Alderman Dickerson asked how people with disabilities get around without using the bus. Davis answered she did not know. Mayor Bowman asked about what goes into the budget and Davis listed a variety of items. Alderman Dickerson asked about the number of buses and Davis replied 63.

C. Harrisonville Villas Ordinance Review

City Administrator Happy Welch presented an overview with information regarding the Harrisonville Villas ordinance from City Attorney Steve Mauer. Alderman Doerhoff asked why the ordinance needed to be brought back. Mauer stated the original vote was invalid and does not count and that the records need to be amended. He cited the opinion of the Missouri Attorney General included in the packet that states five votes are needed to pass an ordinance in Harrisonville. Alderman Dickerson asked why a change is needed if the legal counsel at the time stated that the votes were legal. Mauer said that changing it would make the past ordinance valid. Mayor Bowman clarified that the State Auditor mandated 5 votes are needed. Mauer agreed. Alderman Miller asked if ordinances need to be passed saying it needs to be 5 and Mauer said the City could. Alderman Dickerson asked about what to do in case of an emergency where a quorum is not possible. Mauer referenced emergency rule. Alderman Davidson asked about the liability on prior attorneys. Mauer stated that the City would not be liable but the other party could be.

Debra Hart presented information about Harrisonville Villas. She stated the only way to pay for completing Timber Drive would be to raise the rent on the residents who live there. She stated there were cost overruns and delays in the project. Alderman Dickerson asked if the City offered agreements to help with projects. Hart stated yes but it did not happen. Alderman Dickerson asked if the agreement was made to finish the road if a second development were to be complete and Hart replied yes.

A motion was made by Alderman Doerhoff to adjourn work session. Second by Alderman Reece. Work session adjourned at 7:00 p.m.

Judy Bowman, Mayor & Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Randall K. Jones, City Clerk



DRAFT
MINUTES
CITY OF HARRISONVILLE
BOARD OF ALDERMEN
REGULAR MEETING
CITY HALL
JULY 15, 2019
7:00 PM

1. Call to Order

The meeting was called to order at 7:09 PM by Mayor Judy Bowman

A. Pledge of Allegiance

Attendee Name	Organization	Title	Status	Arrived
Brad Bockelman	Harrisonville	Board Member	Absent	
Dave Doerhoff	Harrisonville	Board Member	Present	
Marcia Milner	Harrisonville	Board Member	Present	
Judy Reece	Harrisonville	Board Member	Present	
Clint Miller	Harrisonville	Board Member	Present	
David Dickerson	Harrisonville	Board Member	Present	
Gary Davidson	Harrisonville	Board Member	Present	
Matt Turner	Harrisonville	Board Member	Present	
Judy Bowman	Harrisonville	Mayor	Present	

Others present were: City Attorney Steve Mauer, City Administrator Happy Welch, Finance Director Marcella McCoy, Public Works Director Eric Patterson, Parks & Recreation Director Chris Deal and Public Information Officer/Deputy City Clerk Daniel Barnett, Recording.

2. Ceremonial Matters

None.

3. Public Participation

John Foster, 2619 Duncan Circle, addressed the Mayor and Board of Aldermen regarding the Harrisonville Villas and the "odor of corruption" that has been surrounding that project from inside City Hall. Currently the state has no senior housing monies. He spoke on how funding for these projects works. Mr. Foster stated issues he sees with moving forward with the prospect

of adjoining projects. He said the City should make efforts to have the developer complete the street (Timber Drive) or to set aside money in escrow to have it completed by City staff.

4. Approval of Minutes

A. Board of Aldermen - Work Session - Jul 1, 2019 5:30 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	David Dickerson, Board Member
SECONDER:	Marcia Milner, Board Member
AYES:	Doerhoff, Milner, Reece, Miller, Dickerson, Davidson, Turner
ABSENT:	Brad Bockelman

B. Board of Aldermen - Regular Meeting - Jul 1, 2019 7:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Gary Davidson, Board Member
SECONDER:	Dave Doerhoff, Board Member
AYES:	Doerhoff, Milner, Reece, Miller, Dickerson, Davidson, Turner
ABSENT:	Brad Bockelman

5. Agenda Items

A. Park Board Appointment

City Administrator Happy Welch stated that Mayor Bowman would like to appoint Bret Reece to the Park Board. A motion was made by Alderman Dickerson to accept appointment with a second by Alderman Milner. Motion carried with 6 ayes with Alderman Reece abstaining.

B. A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO SIGN AN AGREEMENT WITH GOLDEN VALLEY TRACTOR FOR THE PURCHASE OF RADIAL ARM MOWER FOR THE HARRISONVILLE PARKS AND RECREATION DEPARTMENT, AND ESTABLISHING AN EFFECTIVE DATE THEREOF.

Staff report presented by Parks & Recreation Director Chris Deal. It was noted that the total price was \$16,291.00 - which includes the lift kit. Upon passage, Mayor Bowman designated it to be Resolution #2019-032.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Clint Miller, Board Member
SECONDER:	Marcia Milner, Board Member
AYES:	Doerhoff, Milner, Reece, Miller, Dickerson, Davidson, Turner
ABSENT:	Brad Bockelman

C. AN ORDINANCE TO REPEAL ORDINANCE 3411 AND TO ENACT IN LIEU THEREOF A NEW ORDINANCE REGARDING AN ESTABLISHED PROCEDURE TO DISCLOSE POTENTIAL CONFLICTS OF INTEREST AND SUBSTANTIAL INTERESTS FOR CERTAIN OFFICIALS AND TO AMEND THE TIME IN WHICH CANDIDATES FOR OFFICE ARE REQUIRED TO FILE DISCLOSURE STATEMENTS WITH THE CITY CLERK.

Presented by City Administrator Happy Welch. Council Bill #46 was read for the first time by title only. A motion to suspend the rules and move Council Bill #046-19 to its second reading by Alderman Dickerson with a second by Alderman Turner. Motion carried. Roll call vote was taken: Alderman Bockelman absent, Alderman Doerhoff aye, Alderman Milner aye, Alderman Reece aye, Alderman Miller aye, Alderman Dickerson aye, Alderman Davidson aye, Alderman Turner aye. Having been read in title only twice upon passage, Mayor Bowman designated it to be Ordinance #3470.

RESULT: ADOPTED [UNANIMOUS]
MOVER: David Dickerson, Board Member
SECONDER: Matt Turner, Board Member
AYES: Doerhoff, Milner, Reece, Miller, Dickerson, Davidson, Turner
ABSENT: Brad Bockelman

D. SECOND READING AN ORDINANCE AUTHORIZING A VARIANCE FOR THE DEVELOPER OF THE HARRISONVILLE VILLAS A VARIANCE OF THE APPROVED SUBDIVISION PLAT BY NOT REQUIRING TIMBER DRIVE TO EXTEND TO THE WEST PROPERTY LINE

Alderman Dickerson made a motion to suspend the ruling and move Council Bill #47 to its second reading. A second was made by Alderman Turner. Alderman Milner asked for further discussion. The motion was withdrawn. Audience members included Tom Blecher of 507 Timber Drive, who asked questions of the Board about why the issue was being re-discussed. He stated if the developer is made to put out money (for the road), the people who live there would have to pay. Others in the audience said that they had been told by the developer that their rent would go up. City Attorney Steve Mauer responded and explained his reasoning for advising the board to re-discuss the issue. Alderman Milner and Alderman Dickerson also responded. Alderman Dickerson again stated his desire to vote on matter this evening. Alderman Milner stated that she wanted to make sure the process is done in a way that is proper for all involved. Attorney Mauer stated the bigger concern than the cost of the road is that MDHC (Missouri Housing Development Commission) is going to review this, find an invalidity and declare that the tax credits that sponsored this project are unlawful. The tax credits are at risk. Alderman Dickerson asked if that makes the City liable. Attorney Mauer stated that it does not, that an illegal act by an elected official is an illegal act and the City is not held liable. Alderman Dickerson made a motion to suspend the ruling and move Council Bill #47 to its second reading with a second by Alderman Turner. Roll call vote: Alderman Bockelman absent, Alderman Doerhoff nay, Alderman Milner nay, Alderman Reece nay, Alderman Miller aye, Alderman Dickerson aye, Alderman Davidson nay, Alderman Turner aye. Motion did not pass and Council Bill #46 will be moved to August 5, 2019 meeting for its second reading.

RESULT: FIRST READING
Next: 8/5/2019 7:00 PM

Minutes Acceptance: Minutes of Jul 15, 2019 7:00 PM (Approval of Minutes)

6. Aldermen and Committee Reports

Alderman Doerhoff invited all to come to the upcoming Town Hall meeting.

Alderman Reece also spoke about Town Hall meeting. She told the audience that the board does not want to raise Harrisonville Villas rent. She stated that they just want to do what is right and best for all that is involved.

Alderman Miller spoke about the recent Park Board meeting and some events from the Parks & Recreation Department such as algae removal from the lakes, 4th of July event, golf tournament and upcoming meeting regarding a future dog park.

Alderman Dickerson thanked Steve Tiedman for his work in bringing the Vietnam Wall to Harrisonville. Mayor Bowman clarified that she had mentioned Mr. Tiedman in a previous meeting.

7. Report from the City Administrator

City Administrator Happy Welch presented his written report with the exception of Item #4 to be removed from report. It was noted that the monthly Municipal Court report was received.

A. City Admin Rpt 7-15-19

B. Monthly Municipal Court Report

8. Questions from the Media

None.

9. Adjourn From Regular Session

A motion was made by Alderman Dickerson with a second by Alderman Reece to adjourn meeting. Motion carried. Meeting adjourned at 7:45 p.m.

Judy Bowman, Mayor & Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Randall K. Jones, City Clerk



TO: Board of Aldermen
FROM: Randy Jones, City Clerk
DATE: July 29, 2019
SUBJECT: September 2, 2019 - reschedule

Type of Item: *Approval*

Our regularly scheduled meeting falls on Labor Day. The Board would need to decide to reschedule or cancel this meeting.

A. Discussion Item (ID # 3294)

SEPTEMBER 2, 2019 MEETING - RESCHEDULE



TO: Board of Aldermen
FROM: Jeremy Smith, IT Director
DATE: July 16, 2019
SUBJECT: 2019 Pc purchase

Type of Item: *Purchase*

Contract computer purchase for 2019 via Zones for 18 pc's and 1 laptop in the amount of \$21577.44. Computers are bought in bulk so that the configuration is the same, but are paid for out of each individual departments accounts.

Council Bill No. 48

Resolution No.

A RESOLUTION OF THE BOARD OF ALDERMEN AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH ZONES FOR THE PURCHASE OF 18 PERSONAL COMPUTERS AND 1 LAP TOP COMPUTER IN THE AMOUNT OF \$21,577.44, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Harrisonville (“City”) wishes to purchase 18 personal computers and 1 laptop ;

WHEREAS, Zones, LLC was determined to be the best quote,

WHEREAS, the Board of Aldermen have reviewed the quote presented and believe it to be in the best interests of the city to approve the bid for the 18 personal computers and 1 laptop computer in the amount of \$21,577.44;

NOW THEREFORE BE IT RESOLVED BY THE HARRISONVILLE BOARD OF ALDERMEN THAT:

Section 1: The City Administrator is hereby authorized and directed to enter into an agreement on behalf of the Board of Aldermen with Zones, LLC to purchase 18 personal computers and 1 laptop computer at a cost of \$21,577.44.

Section 2: That this resolution shall become effective immediately upon its passage and approval.

PASSED AND RESOLVED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Harrisonville, Missouri this 5th day of August 2019.

Judy Bowman, Mayor & Ex Officio
Chairman of the Board of Aldermen

ATTEST:

Randall K. Jones, City Clerk

WITNESS my hand and seal this 5th day of August 2019

ZONES™

7/5/20

Bill To:
CITY OF HARRISONVILLE A/P
PO BO 367
HARRISONVILLE, MO 64701
Phone : (816) 380-8900

Ship To:
JEREMY SMITH
CITY OF HARRISONVILLE
ATTN JEREMY SMITH
300 E PEARL ST
HARRISONVILLE, MO 64701
USA

Account # 00710296
Quote : K13281
PO:

Software prices subject to char
Hardware quotes are valid for 7 business da
Memory Prices are valid for 24 hours only, call for verificat

REMIT PAYMENT TO:
ZONES LLC
PO Box 34740
Seattle WA 98124-1740

**PLEASE SEND PURCHASE
ORDERS DIRECTLY TO YOUR
ZONES LLC ACCOUNT MANAGER
VIA FAX OR EMAIL**

Phil Olsen
Phone:25320530

Email:Phillip.Olsen@zones.c

Item #	Qty.	Mfr. Name	Description	Manufacturers Part #	Unit Price	Total
O 00162805 SPO N	18	ZONES INC (ITD)	Dell OptiPlex 5050 MFF-i7-6700T-Win10Pro-16GB RAM-256GB SSD-4 YR ProSupport	O 00162805 SPO	1080.60	19,450
O 00162805 SPO N	18	ZONES INC (ITD)	Kit - Dell Adapter - DisplayPort to VGA-470-AANJ	O 00162805 SPO	23.12	416
O 00162805 SPO N	1	ZONES INC (ITD)	Dell Latitude 5591-i7-8850H-Win10Pro-16GB RAM-512GB SSD-4 YR ProSupport	O 00162805 SPO	1710.48	1,710

ASK US ABOUT
Installation Services
On-site Technical Services and Hourly Service Rates
Remote Help Desk and Remote Network OS Support

Sub-Total: \$21,577.4
Estimated Sales Tax: \$0.0
FedEx Ground: \$0.0
Grand Total: \$21,577.4

Visit us on the web: <http://www.zones.com>

**FINANCING, LEASING AND SUBSCRIPTION OPTIONS AVAILABL
CONTACT LEASING@ZONES.COM FOR MORE MORE INFORMATION**

ZONES LLC
1102 15th Street S.W. Suite 102
Auburn, USA 98001
Phone: (800) 419-9663



CERTIFIED
as an NMBC
**MINORITY BUSINESS
ENTERPRISE**
by the NMSDC

IN THE EVENT THAT YOU HAVE AN AGREEMENT ("AGREEMENT") IN PLACE WITH ZONES, LLC, THAT GOVERNS THE SALE ASSOCIATED HEREWIT
SUCH AGREEMENT SHALL GOVERN; OTHERWISE THE TERMS AND CONDITIONS OF SALE SET FORTH ON THE WEB PAGE LINKED AT
WWW.ZONES.COM/TERMSOFSALE ("TERMS AND CONDITIONS"), SHALL GOVERN. ZONES EXPRESSLY LIMITS THE TERMS AND CONDITIONS OF TH
SALE TO SUCH AGREEMENT OR THE TERMS AND CONDITIONS, AS APPLICABLE, AND ZONES EXPRESSLY OBJECTS TO, DISCLAIMS, AND REJECTS
ANY DIFFERENT OR ADDITIONAL TERMS SET FORTH IN ANY OF CUSTOMER'S DOCUMENTS OR COMMUNICATIONS. ZONES EXPRESSLY DISCLAIM
ALL EXPRESS AND IMPLIED WARRANTIES.

Attachment: Zones_Quote_K1328179_002) (2019 Pc purchase)



TO: Board of Aldermen
FROM: Jeremy Smith, IT Director
DATE: July 31, 2019
SUBJECT: Kcweb Internet contract

Type of Item: *Contract*

New agreement with KC Web for upgraded internet service. We currently have services with KC Web for our primary internet. This would be a significant upgrade to the existing service and leverages our fiber infrastructure for better service. Staff compared offerings from Fidelity, Centurylink, and KC Web before deciding that the arrangement with KC Web was the best fit for the City.

Council Bill No. 49

Resolution No.

A RESOLUTION OF THE BOARD OF ALDERMEN AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH KC WEB, INC., TO PROVIDE INTERNET SERVICES TO THE CITY AND ALLOW KC WEB TO UTILIZE THE CITY'S INFRASTRUCTURE TO PROVIDE SERVICE, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Harrisonville ("City") wishes to upgrade its internet services;

WHEREAS, KC Web, Inc. ("KC Web") currently provides internet services for the city and utilizes city infrastructure to provide that service at a cost;

WHEREAS, staff contacted other providers of internet services and they are unable to provide the high speed broadband that KC Web will provide;

WHEREAS, the City will allow KC Web to use unused lines of the City's fiber network at a cost and continue to allow use of towers and buildings currently being used also at a cost established by this agreement;

WHEREAS, the Board of Aldermen have reviewed the Agreement presented and believe it to be in the best interests of the city to approve the Agreement as presented;

NOW THEREFORE BE IT RESOLVED BY THE HARRISONVILLE BOARD OF ALDERMEN THAT:

Section 1: The City Administrator is hereby authorized and directed to enter into an Agreement on behalf of the Board of Aldermen of the City of Harrisonville, Missouri with KC Web, Inc. of Pleasant Hill, Missouri, to provide high speed broadband internet services and utilize the City's infrastructure to provide service.

Section 2: That this resolution shall become effective immediately upon its passage and approval.

PASSED AND RESOLVED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Harrisonville, Missouri this 5th day of August 2019.

Judy Bowman, Mayor & Ex Officio
Chairman of the Board of Aldermen

ATTEST:

Randall K. Jones, City Clerk

WITNESS my hand and seal this 5th day of August 2019

Agreement

This Agreement is made and entered into this 30th day of July, 2019, by and between the City of Harrisonville, Missouri, hereinafter called the "City," and KC Web, Inc., hereinafter called "KC Web", whose principal office is located at _____

1. KC Web will provide 1000Mbps symmetrical bandwidth and up to 10 static IP Addresses to 205 N Lexington, Harrisonville, Missouri, which will be referred to hereinafter as the "City Server Room." . The City is responsible for all internal networking hardware, software, and programming for the City Server Room. The connection will be made via fiber at KC Web's demarcation building on Plaza Drive to the City's fiber infrastructure. The City will pay for the fiber splicing costs for connecting the City. Fiber splicing costs incurred to benefit KC Web will be paid by KC Web. The City will pay a recurring service charge of \$1600.00 per month for bandwidth.

2. The City will allow KC Web use of the Fire Station tower for \$100 per month and/or the rooftop of the Community Center for \$100 per month for bandwidth transmission purposes. KC Web agrees to credit the City \$200.00 for the use of these two sites. The \$200.00 payment for the use of the Fire Station Tower and the Community Center will appear as a credit on the City's itemized billing statements.

3. The City will allow KC Web use of 4 fiber transmission/receiving lines total, spliced on opposing paths of the city owned fiber ring beginning at the KC Web demarcation location on Plaza Drive and ending at the Community Center located at 2400 Jefferson Parkway, Harrisonville, Missouri. KC Web agrees to credit the City \$100.00 per fiber. The \$400.00 payment for the use of the Fiber will appear as a credit on the City's itemized billing statements.

4. KC Web will install point-to-point radio links between the City's remote buildings for \$150.00 per radio installation with no monthly recurring charge for the remote locations. If any of these radios fail, KC Web will be responsible for the replacement of the radio(s) and the City is responsible for the cost of replacement at \$150.00 per radio. The City is responsible for all internal networking hardware, software and programming for each of the remote locations.

4. The City allows KC Web the right to install, operate and maintain radio equipment for the purpose of transmitting internet bandwidth on the tower located at the Harrisonville Fire Department located at 903 S Commercial St., Harrisonville, Missouri, with no charge to KC Web so long as KC Web provides service to the City. In case of emergency repairs, KC Web will be allowed reasonable access to its equipment on the Fire Station tower and the use and access of electrical power/outlet(s) used for powering KC Web's equipment.

5. The City allows KC Web the right to install, operate and maintain radio equipment for the purpose of transmitting internet bandwidth on the rooftop of the Community Center located at 2400 Jefferson Parkway, Harrisonville, Missouri, with no charge to KC Web so long as KC Web provides service to the City. In case of emergency repairs, KC Web will be allowed reasonable access

Attachment: KC Webb Agreement 7-30-19 (Kcweb Internet contract)

to its equipment on the Community Center rooftop and the use and access of electrical power/outlet(s) used for powering KC Web's equipment by either an access code or key to the building or access to on-call maintenance personnel who is able to grant access.

6. If the bandwidth agreement between KC Web and the City is cancelled and KC Web no longer provides bandwidth to the City, it is agreed by the parties that the City will allow KC Web to enter into a lease agreement with the City for the use of the Fire Station tower for \$100 per month and/or the rooftop of the Community Center for \$100 per month, if KC Web still requires either or both of those locations for bandwidth transmission purposes. The Leased fibers will be charged at \$100 per fiber.

7. The Parties also agree that there may be other City operated locations that may be necessary and/or desirable to use as locations for KC Web to add bandwidth transmission equipment. Any such location(s) will be addressed in written form and proposed to the City for consideration and, if agreed upon, will be added as an addendum to this agreement.

8. KC Web agrees to carry no less than \$1,000,000 of liability insurance that provides for coverage of all risk of liability for personal injuries (including death) and damage to property arising out of or caused by the operation, installation, inspection or repair of the KC Web System. Insurance may be in the form of an existing policy or an endorsement on an existing policy. Any such insurance policy must identify the City as an additional insured and provide for thirty (30) days prior written notice to the City before cancellation. KC Web shall furnish certificates to the City showing insurance coverage. Upon written request KC Web agrees to provide certified copies of any or all insurance policies herein within 30 days of such request.

9. This contract shall be in effect for a period of 3 years from the Effective Date unless it is terminated prior to that date in accordance with the provisions contained herein. The contract can be renewed for up to an additional two (2) years.

10. This Agreement may be terminated by either party upon ninety(90) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination. This Agreement may be terminated by either upon not less than one hundred eighty (180) days written notice for the Parties' convenience and without cause.

11. KC Web agrees to indemnify and hold harmless the City against all suits, claims, damages, liabilities, losses or costs, including reasonable attorneys' fees and all costs associated with internal and external expenses for labor and materials in preparing for the defense, to the extent caused by KC Web's intentional, reckless, or negligent performance of professional services under this Agreement and that of its Professional Consultants or anyone for whom the KC Web is legally liable.

12. This Agreement is personal to the Parties. Except as otherwise specifically provided herein, this Agreement, including the obligations and benefits hereunder, may not be assigned to any party without the express written consent of the other party.

13. KC Web shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

14. This instrument constitutes the entire agreement of the parties in this matter and shall supersede any other agreement between the parties, oral or written, concerning the same subject matter.

15. This Agreement may be executed in one or more identical counterparts, each of which shall be deemed an original but all of which together shall continue one and the same instrument.

16. This Agreement may be amended only in writing which makes express reference to this Agreement as the subject of such amendment and which is signed by duly authorized representatives of KC Web and the City.

17. Any notice required to be given under this Agreement shall be given in writing, and shall be effective when received through certified mail, when actually received by facsimile, or when deposited with a nationally recognized overnight courier.

Notice to KC Web:

KC Web

Notice to Harrisonville:

City Administrator
Harrisonville City Hall
300 E. Pearl Street
Harrisonville, Missouri 64701

18. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law, or rule in any jurisdiction, the parties agree that such provision(s) will be enforced to the maximum extent permissible under the applicable law, and any invalidity, illegality or unenforceability of a particular provision will not affect any other provision of this Agreement.

19. This Agreement shall be governed and interpreted according to the laws of the State of Missouri. Jurisdiction and venue shall be exclusively in the state courts of Cass County, Missouri.

20. By signing this Agreement, the representative of the City and KC Web represent that they each are duly authorized to execute this Agreement, and that the City and/or KC Web have agreed to be bound by all its provisions.

Attachment: KC Webb Agreement 7-30-19 (Kcweb Internet contract)

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date written below,
by:

CITY OF HARRISONVILLE, MO

By: _____
Name:
Title:

SEAL: ATTEST: _____
City Clerk

KC WEB, INC.

By: Todd Hanifl
Title: Managing Partner

SEAL: ATTEST _____

Attachment: KC Webb Agreement 7-30-19 (Kcweb Internet contract)



City of
Harrisonville^{est. 1836}
STAFF REPORT

TO: Board of Aldermen
FROM: Randy Jones, City Clerk
DATE: June 14, 2019
SUBJECT: Public Hearing Sign Regulations

Type of Item: *Public Hearing*

City of Harrisonville, MO

Notice of Public Hearings

Notice is hereby given of two public hearings at the following days and times to receive public testimony on an application submitted by the Board of Aldermen to consider amendments to Section 435 Sign Regulations and Appendix A and B of the City Code establishing size restrictions of special signs.

Planning and Zoning Commission Meeting

6:00 p.m. Thursday, July 18, 2019

Board of Aldermen Meeting

7:00 p.m., Monday, August 5, 2019

Both public hearings will be held at City Hall at 300 E. Pearl Street in Harrisonville, MO 64701. All interested parties are encouraged to attend. A copy of the application is available for public review at City Hall.

Jamie Martin

Secretary to the Planning and Zoning Commission

- D. Discussion Item (ID # 3248)**
 Sign Regulations Public Hearing



STAFF REPORT

TO: Board of Aldermen
FROM: Roger Kroh, Planner
DATE: July 23, 2019
SUBJECT: Establishing Size Restrictions of Special Signs

Type of Item: *Public Hearing*

Planning and Zoning Commission Recommendation

On July 18, 2019, the Planning and Zoning Commission held a public hearing and unanimously recommended that the Board of Aldermen adopt an ordinance increasing the maximum size allowed for special signs from six (6) to thirty-two (32) square feet.

Issue:

Increase maximum Size of Special Signs from six (6) square feet to thirty-two (32) square feet.

Background:

Before the sign ordinance was updated in early 2019, banners could be up to 32 square feet in size. However, when the City adopted the new sign ordinance it reduced the maximum size of banners from 32 sf to 6 sf. In retrospect the Board of Aldermen (BOA) believes that Special Signs should be allowed to be as large as 32 square feet.

The Planning and Zoning Commission conducted a public hearing and considered the attached ordinance that returns the maximum allowed size of banners to 32 sf. The amendment states the following. The new language is in bold.

Section One. Section 435.125. Special Signs is hereby amended in bold to read as follows:

- A. Portable Stand-Alone Signs. One (1) Portable stand-alone sign may be permitted in lieu of a banner or fabric message display with a permit. The provisions of Section 435.130(B), "Sign Maintenance" shall apply.
- B. Banners and Fabric Message Displays. One (1) banner or fabric message display may be permitted in lieu of Portable Stand-

Alone Sign with a permit. The provisions of Section 435.130(B), "Sign Maintenance" shall apply.

- C. Maximum Gross Area or Aggregate Sign Face Area of Special Signs. The maximum gross area or Aggregate area of all Sign Face Areas displayed upon any Premises shall be limited to thirty-two (32) square feet.**

Recommendation:

Approve ordinance amending Section 435.125, Special Signs, to establish the maximum size as 32 square feet.

Council Bill No. 50**Ordinance No.****AN ORDINANCE AMENDING SECTION 435.125 OF THE CITY CODE
ESTABLISHING THE SIZE RESTRICTIONS OF SPECIAL SIGNS**

CITY OF HARRISONVILLE, MISSOURI

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 435.125 OF THE CITY CODE ESTABLISHING
THE SIZE RESTRICTIONS OF SPECIAL SIGNS

WHEREAS, the Board of Aldermen for the City of Harrisonville desire to amend Chapter 435 by establishing a size restriction of special signs under Section 435.125.

WHEREAS, a duly noticed and published public hearing was held by the Planning and Zoning Commission on July 18, 2019 regarding the proposed amendment, and a motion recommending that the Board of Aldermen approve the amendment passed upon a vote of 8 ayes and 0 nays.

WHEREAS, a duly noticed and published public hearing was held regarding the proposed amendment, and the amendment passed upon a vote of ___ to ___.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section One. **Section 435.125. Special Signs** is hereby amended in bold to read as follows:

- A. Portable Stand-Alone Signs. One (1) Portable stand-alone sign may be permitted in lieu of a banner or fabric message display with a permit. The provisions of Section 435.130(B), "Sign Maintenance" shall apply.
- B. Banners And Fabric Message Displays. One (1) banner or fabric message display may be permitted in lieu of Portable Stand-Alone Sign with a permit. The provisions of Section 435.130(B), "Sign Maintenance" shall apply.
- C. **Maximum Gross Area Or Aggregate Sign Face Area Of Special Signs. The maximum gross area or Aggregate area of all Sign Face Areas displayed upon any Premises shall be limited to thirty-two (32) square feet.**

Section Two. This Amendment shall be reflected in Chapter 435 APPENDIX A — NON-RESIDENTIAL SIGN TABLE BY STRUCTURAL TYPES regarding Special Signs.

Section Three: The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the Governing Body would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

Section Four: This Ordinance shall be in full force and effect both from and after its passage and approval by the Mayor.

This Bill was passed and approved this ____ day of August, 2019, by the Board of Aldermen of the City of Harrisonville, Missouri.

Judy Bowman
Mayor, City of Harrisonville

ATTEST:

Randall K. Jones, City Clerk

APPROVED by the Mayor this _____ day of August, 2019.



TO: Board of Aldermen
FROM: Randy Jones, City Clerk
DATE: August 1, 2019
SUBJECT: Brian Renner Public Hearing Rezoning/Final Plat 1600 Mechanic

Type of Item: *Public Hearing*

F. Discussion Item (ID # 3300)

Brian Renner Public Hearing Rezoning/Final Plat 1600 Mechanic



TO: Board of Aldermen
FROM: Randy Jones, City Clerk
DATE: August 1, 2019
SUBJECT: Special Use Permit Hearing - Holesman

Type of Item: *Public Hearing*

- G. Discussion Item (ID # 3299)**
Special Use Permit Hearing - Holesman



TO: Board of Aldermen
FROM: Roger Kroh, Planner
DATE: July 23, 2019
SUBJECT: Special Use Permit to Operate a Solid Waste Transfer Station at 2901 Brickplat Road

Type of Item: *Public Hearing*

GENERAL INFORMATION

Case No.: SUP19-012

Request: A Special Use Permit (SUP) to operate a solid waste transfer station

Location: 2901 S. Brickplant Road

Applicant: Gale T. Holsman, Jr., President, American Waste Systems, Inc.

Property Owners: Billy C. and Nancy L. Shelton Trust

Acres: 4.8 acres

Zoning: M-1 Light Industrial District

P&Z Commission Recommendation

The Planning and Zoning Commission unanimously recommended approval of this application at the July 18, 2019 Meeting subject to the conditions in the staff report.

General

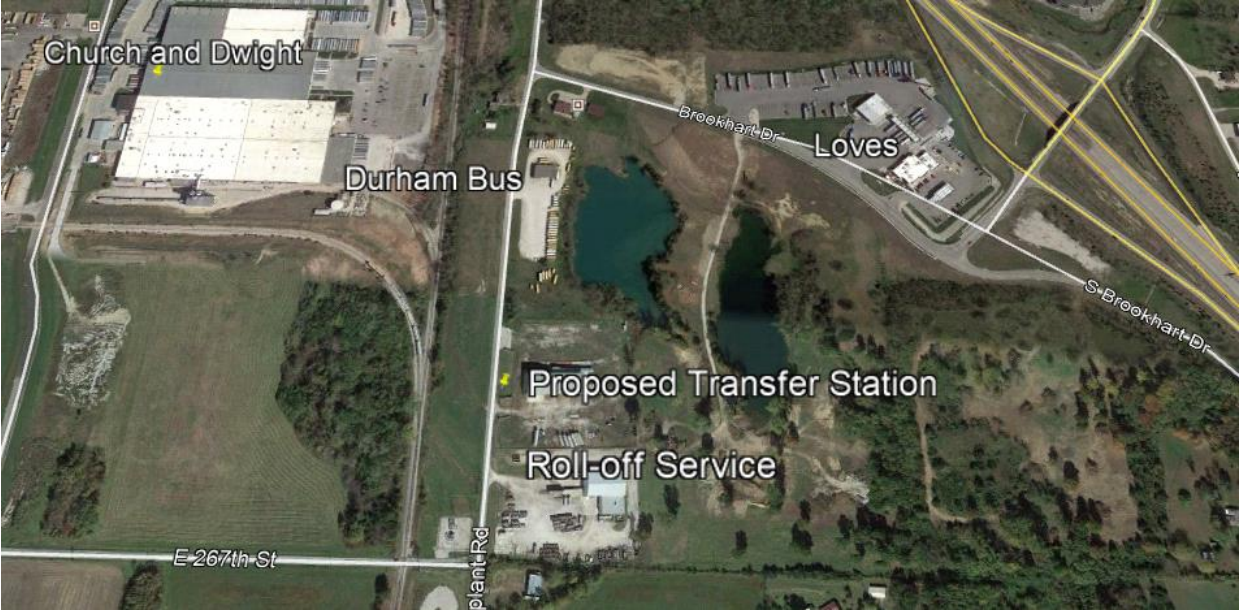
American Waste Systems, Inc. is acquiring the 4.8 acres and 15,170 sq. ft. building at 2901 Brickplant Road that is owned by the Billy C. and Nancy L. Shelton Trust. Until recently it was leased to Acton Mobile, a provider of mobile and modular offices and buildings. American Waste Systems wishes to use the facility for its commercial and residential trash hauling operation which now includes two trash removal companies who have worked in Cass County for a number of years as Willey's and On Time Disposal. No SUP is required to operate the trash-hauling portion of the operation.

American Waste Systems also wishes to resume operation of a transfer station inside the building that operated from approximately 1994 to 2006 under the name of Allied Waste (now Republic). A transfer station allows multiple trash trucks to deposit the waste they collect each day into a larger truck that takes the loads to the landfill. The transfer station requires a special use permit. The applicant for this SUP operated the transfer station when it was in operation before 2006. It discontinued operation around when the Waste Corporation of America (WCA) transfer station and recycling center was built just outside of Harrisonville on MO State Route 291.

American Waste Systems wishes to resume operation of the transfer station primarily to serve its customers who will account for the majority of waste that will go through the Brickplant facility. The remaining waste will come from private individuals bringing trash and debris from their homes and businesses and other private haulers. American Waste Systems has agreed to a request of the City that the Brickplant facility be open four (4) hours on Saturdays for the convenience of private individuals who only have weekends to dispose of their waste.

Vicinity







Note: Modular offices from prior tenant have been removed.



Note: Modular offices from prior tenant have been removed.

State Regulations and Operations

If American Waste Systems receives a SUP to operate a transfer station from the City, the company intends to apply for the necessary permits from the Missouri Department of Natural Resources (DNR), the State division charged with inspecting, licensing, and regulating transfer stations and landfills. One of the conditions of approval of the SUP is that the transfer station not begin operation until it obtains all required DNR permits. The staff at DNR have invited the City to participate in their meetings with American Waste Systems while they are obtaining state permits. They indicate the process takes approximately six (6) months. American Waste will have the option of starting the trash truck collection portion of their business during this 6-month period as it is only the transfer station that requires a SUP. However, during the interim they will not be able to use the transfer station.

One of the State requirements is that American Waste prepare an operation manual for approval by DNR. In brief, the company is planning for the following.

- 1) Estimate 12-15 deliveries by trash trucks owned by American Waste Systems that will generate 60% of the waste processed each day at the transfer station. Approximately 6 of the trucks will park overnight at the Brickplant facility.
- 2) Other haulers and private individuals will bring the remaining 40% of the waste to the transfer station each day.

- 3) Estimate 10 employees including owner, secretary, drivers, loader and ground crew.
- 4) Hours will be 8 AM to 4 PM Monday through Friday, leaving 1 hour at end of day for cleaning.
- 5) Open 8 AM to noon on Saturdays.
- 6) All trash trucks and private vehicles waiting to enter the building will be able to line up on-site, so no lines extend onto Brickplant Road.
- 7) All trash trucks and private vehicles will pull into the building before unloading trash.
- 8) Although not required since this is an existing building, American Waste Systems intends to install landscaping to improve the appearance of the facility. They will not be paving the parking areas as they would be required to do if a new building was being constructed.
- 9) The building is on City sewer. However, all fluids used in the scrubbing of the floors at the transfer station will be removed by truck and deposited at the landfill.

Performance Standards in the M-1 Zoning District

Section 405.490 sets forth the Performance Standards in the M-1 Zoning District. Those applicable to the transfer station are listed below and incorporated as conditions in the staff recommendation.

- A. All operations shall be conducted within a fully enclosed building.
- B. No use shall be permitted or so operated as to produce or emit:
 1. Dust, fly ash, radiation, gases, heat, glare or other effects which are obviously injurious to humans at the property line.
 2. Vibration or concussion perceptible without instruments at the property line.
 3. The noise level shall not exceed seventy-five (75) dB(A) at any point along the property line.
 4. Industrial processes and wastes shall be of such a quantity and nature as to not overburden the public sewage disposal facilities or to cause odor and unsanitary effects beyond the property line.

Review of Application using Zoning Ordinance Criteria for SUPs:

- 1. The character of the surrounding neighborhood, including the existing uses and zoning classification of properties near the subject property.**

The location of the solid waste transfer facility is in a both industrial and rural in character, albeit all in the M-1 Light Industrial District. The uses of the adjacent properties surrounding the subject site are as follows:

- North: The site is bordered to the north by the Durham School Services bus barn facility.
- East: The site is bounded to the east by undeveloped land.
- South: The site is bounded to the south by a services facility for roll-off dumpsters.
- West: The site is bounded to the west by Brickplant road followed by undeveloped land and railroad tracks. Southwest of the subject site is the Advanced Drainage Systems facility.

We believe the proposed use is consistent with the surrounding neighborhood, existing uses and the M-1 zoning district classification.

2. The physical character of the area in which the property is located.

The physical character of the area is predominantly industrial and rural. The topography of the subject site is gently to moderately sloping toward Brickplant Road. The proposed facility is proposed to remain generally the same as it exists at this time and as it did when operating as a transfer facility before 2006.

3. Consistency with the goals and objectives of the Comprehensive Plan and other plans, codes and ordinances of the City.

The proposed use is consistent with the following industrial land use policies in the Comprehensive Plan.

- A. Industrial areas shall have reasonable and convenient access to I-49 and Commercial St via Brickplant Road
- B. The proposed use is in an area of industrial development with similar or compatible uses.
- C. The proposed use is in an area where adequate streets, electricity, water and sewer are available.

4. Suitability of the subject property for the uses permitted under the existing and proposed zoning districts.

We believe the subject property is suitable for the proposed solid waste transfer facility subject for the following reasons:

- A. The property was used for over 10 years as a transfer station, the same use as is now proposed.
- B. All transfer of solid waste will occur inside the building.
- C. The subject site is served by adequate roads and all necessary utilities.

5. The trend of development near the property, including changes that have taken place in the area since the subject property was placed in its current zoning districts.

The area surrounding the subject site is zoned M-1, Light Industrial, and gradually filling in with industrial users.

6. The extent to which the zoning amendment may detrimentally affect nearby property.

We see the transfer station as not being detrimental to nearby property, particularly since the site operated as a transfer station from 1994 to 2006 and other industrial uses occupy the area top this day.

7. Whether public facilities and services will be adequate to serve development allowed by the requested zoning map amendment.

Public facilities and services in the area are adequate enough to serve the proposed use.

8. The suitability of the property for the uses to which it has been restricted under the existing zoning regulations.

We see the subject property as suitable for the proposed use due to its M-1 zoning and available public infrastructure

9. The length of time (if any) the property has remained vacant as zoned.

Approximately six (6) months.

10. Whether the proposed zoning map amendment is in the public interest and is not solely in the interest of the applicant.

The proposed transfer station will provide an alternative to the sole transfer station that now exists on MO SR 291. It will also be accepting waste from individual property owners both during the week and on Saturdays for four (4) hours. We see this as helping the community remove unwanted trash and debris.

11. The gain, if any, to the public health, safety and welfare due to the denial of the application, as compared to the hardship imposed upon the landowner, if any, because of denial of the application.

We believe there is a gain to the public health, safety and welfare by having a transfer facility that is open to private property owners during the week and for at least four hours on Saturdays.

STAFF RECOMMENDATION: Approve ordinance approving special use permit for Mr. Gale T. Holsman, Jr. and American Waste Systems, Inc. to operate a solid waste transfer station subject to the following conditions:

1. The Use - This special use permit authorizes the operation of a solid waste transfer station.
2. Location - The solid waste transfer station is approved on 4.8 acres at 2901 S. Brickplant Road (Parcel No. 13-31-05-000-000-035.002).
3. Exterior Appearance -All operations, including hand unloading, shall be conducted within a fully enclosed building with the exception of the parking of trash trucks and vehicular traffic utilizing and supporting the transfer station. The exterior grounds shall be kept clear of trash.
4. Environmental -- The transfer station shall not be operated so as to produce or emit dust, fly ash, radiation, gases, heat, glare or other effects which are obviously injurious to humans at the property line.
5. Odors - The transfer station shall not be operated so as to produce odors which a noticeable at the property line. Any trucks or trailers with trash or refuse exposed left outside after hours will be covered.

6. Tipping Floor - For fire prevention reasons and to reduce odors, the tipping floor shall be cleaned at the end of each day and any fluids involved in the process shall be disposed of in a landfill.
7. Vibration -- The transfer station shall not be operated so as to produce vibration or concussion perceptible without instruments at the property line.
8. Noise Level -- The transfer station shall not be operated so as to produce a noise level that exceeds seventy-five (75) dB(A) at any point along the property line.
9. Public Sewage Disposal Facilities -- Industrial processes and wastes shall be of such a quantity and nature so as to not overburden the public sewage disposal facilities or to cause odor and unsanitary effects beyond the property line.
10. Off-street Parking and Queuing - Off-street parking shall be provided in a number to accommodate the parking needs of participants plus one (1) space for each employee. Any queuing of vehicles waiting to use the transfer station shall occur on-site and not on Brickplant Road or 267th St.
11. City, County and State Standards - The transfer station shall operate in conformance with all applicable City, County, State and Federal ordinances, regulations and statutes.
12. Permits Required from Missouri Department of Natural Resources (DNR) - The transfer station shall not begin operation until the owner has obtained from DNR a Permit to Operate a Transfer Station, an Air Determination Permit, and a National Pollutant Discharge Elimination System Permit (NPDES).
13. Open to the Public - The public shall be allowed to bring solid waste to the transfer station during regular business hours during the work week and for a minimum of four (4) hours on Saturdays.
14. Time Limit - 10 years. Applicant may reapply for renewal of SUP.

Council Bill No. 51

Ordinance No.

AN ORDINANCE OF THE CITY OF HARRISONVILLE, CASS COUNTY, MISSOURI, GRANTING A 10-YEAR SPECIAL USE PERMIT TO GALE T. HOLESMAN, JR. AND AMERICAN WASTE SYSTEMS TO OPERATE A SOLID WASTE TRANSFER STATION AT 2901 BRICKPLANT ROAD.

AN ORDINANCE OF THE CITY OF HARRISONVILLE, CASS COUNTY, MISSOURI, GRANTING A 10-YEAR SPECIAL USE PERMIT TO GALE T. HOLESMAN, JR. AND AMERICAN WASTE SYSTEMS TO OPERATE A SOLID WASTE a noise level that exceeds seventy-five (75) dB(A) at any point along the property line.

9. Public Sewage Disposal Facilities -- Industrial processes and wastes shall be of such a quantity and nature so as to not overburden the public sewage disposal facilities or to cause odor and unsanitary effects beyond the property line.
10. Off-street Parking and Queuing - Off-street parking shall be provided in a number to accommodate the parking needs of participants plus one (1) space for each employee. Any queuing of vehicles waiting to use the transfer station shall occur on-site and not on Brickplant Road or 267th St.
11. City, County and State Standards - The transfer station shall operate in conformance with all applicable City, County, State and Federal ordinances, regulations and statutes.
12. Permits Required from Missouri Department of Natural Resources (DNR) - The transfer station shall not begin operation until the owner has obtained from DNR a Permit to Operate a Transfer Station, an Air Determination Permit, and a National Pollutant Discharge Elimination System Permit (NPDES).
13. Open to the Public - The public shall be allowed to bring solid waste to the transfer station during regular business hours during the work week and for a minimum of four (4) hours on Saturdays.
14. Time Limit - 10 years. Applicant may reapply for renewal of SUP.

Section 3. Severability. The sections, paragraphs, sentences, clauses and phrases of this ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this ordinance are valid, unless the court finds the valid portions of this ordinance are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City has enacted the valid portions without the void ones, or unless the court finds that the valid portions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 4. Governing Law. This ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 5. Effective Date. This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.

VOTE TAKEN AS FOLLOWS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

READ FOR THE FIRST TIME BY TITLE ONLY ON THE 5TH DAY OF AUGUST 2019 AND WAS READ FOR A SECOND TIME BY TITLE ONLY ON THE 5TH DAY OF AUGUST 2019 AND PASSED BY THE BOARD OF ALDERMEN THIS 5TH DAY OF AUGUST 2019.

Judy Bowman, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Randall K. Jones, City Clerk

WITNESS my hand and seal this 5th day of August 2019



TO: Board of Aldermen
FROM: Happy Welch, City Administrator
DATE: July 29, 2019
SUBJECT: Burning Ordinance

Type of Item: *Approval*

Issue:

Revision of burning regulations in the city.

Background:

The Department of Natural resources amended their rules regarding open burning, rescinding a years old practice that limited burning in the metropolitan areas. The new rules allow open burning and the city needs to regulate what's allowed, how big, when, and where open burning can take place.

Recommendation:

Approve the changes as discussed in previous work sessions.

Council Bill No. 52

Ordinance No.

AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, REPEALING A SECTION OF CHAPTER 205 EMERGENCY SERVICES; FIRE CODE; FIREWORKS AND CHAPTER 215; OFFENSES CONCERNING PROPERTY TO ALLOW OPEN BURNING FOR YARD AND VEGETATIVE WASTE IN THE CITY OF HARRISONVILLE, MISSOURI, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State of Missouri deregulated open burning in the Kansas City area and is allowing the cities to regulate such;

WHEREAS, the Board of Aldermen (Board”) wishes to allow open burning for single family and duplex dwellings inside the city limits as well as developers who are involved in land clearing operations;

WHEREAS, Section 205.1105 C. of the Code of Ordinances of the City of Harrisonville (“Code”), Starting Fires in the City of Harrisonville, Missouri ("City") regulates open burning and need to reference the proper sections of the Code;

WHEREAS, the Board has determined that residents should be allowed to burn 6 months out of the year and developers to burn 12 months of the year;

WHEREAS, certain regulations defining the time and place for the burning are included in the new regulations whereas charcoal grills and wood burning fire pits are excluded;

WHEREAS, City Staff have reviewed the changes with the Board at multiple work sessions and have developed rules and regulations to allow open burning;

WHEREAS, The Board of Aldermen feel it is in the best interest of the City to support the changes to Sections 205 & 215 and allow open burning within the City of Harrisonville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section 1. The Board of Aldermen (“Board”) hereby repeals Code Section 215-1105.C. Open Burning In Violation of Sections 205.020 - 205.025 and 205.040 - 205.060 of this Title, The International Fore Code And The Amendments Thereto and enacts in lieu thereof the following new Code Section 205.1105.C. to read as follows:

205.1105.C. Open Burning in Violation of Section 205.120 of this Title, The International Fire Code and the Amendments Thereto. It shall be unlawful for any person to kindle or maintain or authorize to be kindled or maintained any open burning in violation of Section 307 of the International Fire Code as adopted and amended by Article II of the Fire Code, Section 205.120 of this Title.

Section 2. The Board of Aldermen (“Board”) hereby repeals Code Section 215.120. Amendments to Adopted Code A.6. to read as follows:

307.1. General. Open burning shall not be authorized unless conducted in accordance with this Section and Section 215.1105 for properties with two (2) residential units or less; or for developers for land clearing operations as defined in Section 307.1.3. Open burning that causes or constitutes a public health hazard, a hazard to vehicular or air traffic, is composed of material listed in subsection (3)(A) of this Section, or violates any other rule or statute, is not allowed unless specified otherwise. A public health hazard is to be as determined by the Fire Code Official or his/her designee on a case-by-case basis. Commercial businesses and properties with two (2) or more residential units, such as mobile home parks or multi-family dwellings are not allowed to open burn.

307.1.2. Burn Ban. No open burning allowed during any period when the Fire Code Official or his/her designee has declared a burn ban under the provisions of the Code of Ordinances of the City of Harrisonville. **307.1.3. Definitions.** (A) Air curtain incinerator-A device that operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. (B) Developer - Person, company, or its employees who buys land within the City and builds upon it residential housing or commercial development. The person, company or its employees remains a Developer through the completion of the land clearing operations for the purposes of constructing residential housing. (C) Open burning-The burning of materials where the products of combustion are emitted into the open air without passing through a chimney or stack. (D) Salvage Operation-Any business, trade, industry, or other activity conducted in whole or in part for the purpose of salvaging or reclaiming any product or material. (E) Trade waste-Waste materials from any business, institution, or industry. (F) Untreated wood-Wood that has not been chemically preserved, painted, stained, or composited. Untreated wood does not include plywood, particleboard, chipboard, and wood with other than minimal quantities of paint, coating, or finish. (G) Vegetative waste- Organic waste materials including, tree limbs, tree trunks, tree trimmings, and vegetation. (H) Wood processing facility-A facility that uses logs or dimensional lumber to be cut and used in the manufacturing process. (I) Yard waste - Leaves, pruned branches, weeds, dead flowers, grass clippings, and brush.

307.2. Extinguishment of burn. The Fire Code Official or his/her designee reserves the right to prohibit, restrict, or order the extinguishment of open burning where burning is considered detrimental to air quality standards, or where burning would be hazardous due to atmospheric conditions or local circumstances. **307.3. Allowed Burning of Yard Waste** The City shall allow open burning of yard waste from two dwelling units or less provided it originates and is

burned on the same premises. This Section does not apply to mobile home parks or apartment complexes. Yard waste does not include home remodeling wastes, wastes from home businesses, durable goods such as old appliances, carpets or furniture, tires or other routine household waste. Materials such as tires or used oil may not be used to start the fires or be burned in the fires.

307.3.1. Allowed Burning of Vegetative Waste The City shall allow open burning of vegetative waste from developers during land clearing operations provided it originates and is burned on the same premises, in a burn pit with an air curtain incinerator. Vegetative waste does not include vegetation containing poison ivy or other allergenic vines or shrubs. **307.3.2.**

Prohibited Items The following materials must not be disposed of by open burning: 1. Petroleum-based materials, including but not limited to, tires, asphalt roofing material, carpet, and used oils; 2. Materials containing Asbestos ; 3. Trade waste, except untreated wood; 4. Construction or demolition waste, except untreated wood; 5. Salvage operation waste; 6. Household waste 7. Organic or vegetative waste containing poison ivy or other allergenic vines or shrubs; or 8. Durable goods. **307.4. Allowed Open Burning Time** Burning of Yard and Vegetative Waste will be allowed during certain months and at certain times. Burning of Yard Waste in a burn pit or on the ground will be allowed and limited to the months of March, April, May, October, November, and December between the hours of 10:00 a.m. to 4:00 p.m., unless the National Weather Service has issued any of the following: a Wind Advisory or High Wind Watch or Warning in effect, or a Fire Weather Watch or Red Flag Warning. Burning of Vegetative Waste is permitted January through December.

307.5. Location. The location for open burning shall not be less than fifty (50) feet [fifteen thousand two hundred forty (15,240) mm] from any structure or property line, and provisions shall be made to prevent the fire from spreading to within fifty (50) feet [fifteen thousand two hundred forty (15,240) mm] of any structure. Burning is not permitted in or on public parks, sidewalks, streets, curbs or drainage areas or in parking areas which are generally open to the public.

Exceptions:

1. Fires in approved containers that are less than fifteen (15) feet [four thousand five hundred seventy-two (4,572) mm] from a structure.
2. The minimum required distance from a structure shall be twenty-five (25) feet [seven thousand six hundred twenty (7,620) mm] where the pile size is five (5) feet [nine hundred fifteen (915) mm] or less in diameter and two (2) feet [six hundred ten (610) mm] or less in height.

307.5.1 Bonfires. A bonfire shall not be conducted within twenty-five (25) feet [seven thousand six hundred twenty (7,620) mm] of a structure or combustible material unless the bonfire is contained in a barbeque pit. Conditions which could cause a fire to spread within twenty-five (25) feet [seven thousand six hundred twenty (7,620) mm] of a structure shall be eliminated prior to ignition.

307.5.2 Recreational fires. Recreational fires shall not be conducted within twenty-five (25) feet [seven thousand six hundred twenty (7,620) mm] of a structure or combustible material unless the fire is contained in a barbeque pit. Conditions which could cause a fire to spread within twenty-five (25) feet [seven thousand six hundred twenty (7,620) mm] of a structure shall

be eliminated prior to ignition.

307.6. Attendance and Notification Required. Open burning, bonfires or recreational fires shall be constantly attended until the fire is extinguished. A minimum of one (1) portable fire extinguisher complying with IFC Section 906 with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. Police Dispatch must be notified at least twenty-four hours (24) in advance before any Open Burning. Notification is not required for burning of charcoal or gas grills, and wood burning fire pits with screen covers. **307.7. Open-flame cooking devices.** Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within ten (10) feet [three thousand forty-eight (3,048) mm] of combustible construction. **Exceptions:** 1. One and Two Family Dwellings 2. Where buildings, balconies or decks are protected by an automatic sprinkler system. **307.7.1. Liquefied-petroleum-gas-fueled cooking devices.** LP-gas burners having a LP-gas container with a water capacity greater than twenty-five (25) pounds [one and fourteen hundredths (1.14 kg)] LP-gas capacity shall not be located on combustible balconies or within ten (10) feet [three thousand forty-eight (3,048) mm] of combustible construction. **Exceptions:** One and two family dwellings.

Section 3. That this ordinance shall become effective immediately upon its passage and approval.

Section 4. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

VOTE TAKEN AS FOLLOWS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

READ FOR THE FIRST TIME BY TITLE ONLY ON THE 5TH DAY OF AUGUST 2019 AND WAS READ FOR A SECOND TIME BY TITLE ONLY ON THE 5TH DAY OF AUGUST 2019 AND PASSED BY THE BOARD OF ALDERMEN THIS 5TH DAY OF AUGUST 2019.

Judy Bowman, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Randall K. Jones, City Clerk

WITNESS my hand and seal this 5th day of August 2019



TO: Board of Aldermen
FROM: Happy Welch, City Administrator
DATE: July 11, 2019
SUBJECT: REQUEST TO POSTPONE TIMBER DRIVE VARIANCE EXTENSION

Type of Item: *Approval*

Issue:

An ordinance passed in October 2017 allowing Timber Dr. to not be extended to the west property line of the Harrisonville Villas Development.

Background:

The Board voted 4-3 to allow a variance for the developer to waive the requirement that Timber Dr., an accepted City right of way, not be extended to the west property line adjacent to the Welborn Property. A vacant seat existed in Ward 4 and the previous attorney wrote an opinion that the Board could adopt an ordinance with a 4-3 vote. Our current attorney disputes that claim (see AG Opinion attachment) that to adopt an ordinance it takes at least 5 members voting for the ordinance and has requested we bring this before the Board for a vote to approve or reject the variance.

Recommendation:

Planning and Zoning in 2017 recommended approval of the variance.

Council Bill No. 47**Ordinance No.**

**SECOND READING AN ORDINANCE AUTHORIZING A VARIANCE FOR
THE DEVELOPER OF THE HARRISONVILLE VILLAS A VARIANCE OF THE
APPROVED SUBDIVISION PLAT BY NOT REQUIRING TIMBER DRIVE TO
EXTEND TO THE WEST PROPERTY LINE**

WHEREAS, Harrisonville Villas is a Missouri Housing Development Commission (“MHDC”) supplemented senior housing development with 48 residences on the north end of the City of Harrisonville, Missouri;

WHEREAS, the City approved the development plat improvement on July 5, 2016;

WHEREAS, Harrisonville Villas, LP (the “Developer”) encountered some delays and extra expenses while building the affordable housing development:

WHEREAS, the Developer presented its request for a variance to the Planning and Zoning Commission to amend the requirement under the development plat and Development Agreement to extend Timber Dr. from the intersection of the private drive to the west property line of Harrisonville Villas and the adjacent sidewalk (the “Extension”), as required in City Code Sections 410.350 and 410.520, on August 17, 2017 (the “Sections”);

WHEREAS, the Planning and Zoning Commission heard from the Developer on the extra expenses and delays, discussed in detail why the Extension will create an unwarranted economic hardship in completing the development, heard from the developer the budget constraints they are facing, discussed the Extension is not necessary or desirable for the advantageous development of the adjacent tracts, such that the Developer could be relieved of the requirement for the Extension with the variance, and voted to approve the requested variance and forward it to the Board of Aldermen;

WHEREAS, the Board of Aldermen find that the review, decision, and recommendation of the Planning and Zoning Commission for the approval of the variance should be sustained;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section 1: That the Board sustains the recommendation of the Planning and Zoning Commission for a variance relieving the Developer of the requirement under the Sections to construct the Extension.

Section 2: That this ordinance shall become effective immediately upon its passage and approval.

VOTE TAKEN AS FOLLOWS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

**READ FOR THE FIRST TIME BY TITLE ONLY ON THE 15TH DAY OF JULY 2019
AND WAS READ FOR A SECOND TIME BY TITLE ONLY ON THE 15TH DAY OF
JULY 2019 AND PASSED BY THE BOARD OF ALDERMEN THIS 15TH DAY OF
JULY 2019.**

Judy Bowman, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Randall K. Jones, City Clerk

WITNESS my hand this 15th day of July 2019



DRAFT
MINUTES
CITY OF HARRISONVILLE
BOARD OF ALDERMEN
REGULAR MEETING
CITY HALL
OCTOBER 16, 2017
7:00 PM

1. **Call to Order & Pledge of Allegiance**
2. **Roll Call**

Attendee Name	Organization	Title	Status	Arrived
Judy Bowman	Harrisonville	Board Member	Present	
Clint Long	Harrisonville	Board Member	Present	
David Dickerson	Harrisonville	Board Member	Present	
Matt Turner	Harrisonville	Board Member	Present	
Marcia Milner	Harrisonville	Board Member	Present	
Judy Reece	Harrisonville	Board Member	Present	
Brad Bockelman	Harrisonville	Board Member	Present	
Brian Hasek	Harrisonville	Mayor	Present	

Others present were: City Administrator Happy Welch, City Attorney John Fairfield, Finance Director Marcella McCoy, Police Chief John Hofer, Street Superintendent Rodney Jacobs, Community Development Director Jim Clarke and City Clerk Randall Jones, Recording.

3. **Ceremonial Matters**

A. Proclamation: Harrisonville Cass County BusinessWomen Week

Mayor Hasek presented proclamation to the Harrisonville and Cass County Business Women, declaring the week of October 16-21, 2017 as Missouri Business Women's Week. Present were Ruth Christain, Betty Beason, Shirley Howell, Kim York, Mary Parker and Judy Bowman.

4. **Public Participation**

John Foster, 2619 Duncan Circle, addressed Mayor and Board in regard to Council Bill #65 - Harrisonville Villas variance request. His concerns were the placement of utility lines, sidewalks

and occupancy. He was concerned with the variance to waive the street completion. Alderman Bowman asked if he had seen any street signs or street lights.

Obie Carl, 27917 S. Bybee, reported to the Mayor and Board that the Burnt District Festival went well and expressed his gratitude to city staff for their involvement.

Virgil Butler, 606 N. King, addressed Mayor and Board over Alderman Bowman's statement from last meeting. He asked Alderman Bowman for the question she had for the Mayor and Alderman Bowman reminded him that he is only to address the Board as a whole. He stated that he was the one who had asked Alderman Bockelman to go look at the Harrisonville Villas.

Andrea Girard, 2102 N. Truman, Archie, addressed the Mayor and Board over concern with Harrisonville Villas and the completion of a road that involves private property. She also had concerns over the Chapter 430 revisions and Alderman Bowman's request for listing of owners of all corporations involved. Girard asked for an explanation of the 353 financing. She stated that if anyone could not back up an accusation then they should not bring it forward.

5. Approval of Minutes

A. Board of Aldermen - Regular Meeting - Oct 2, 2017 7:00 PM

RESULT:	ACCEPTED AS AMENDED [UNANIMOUS]
MOVER:	David Dickerson, Board Member
SECONDER:	Clint Long, Board Member
AYES:	Bowman, Long, Dickerson, Turner, Milner, Reece, Bockelman

B. Board of Aldermen - Budget Meeting - Oct 9, 2017 6:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	David Dickerson, Board Member
SECONDER:	Marcia Milner, Board Member
AYES:	Bowman, Long, Dickerson, Turner, Milner, Reece, Bockelman

C. Minutes of Executive Session, Oct. 2, 2017

Motion by Alderman Dickerson and second by Alderman Turner to approve minutes as presented. Motion carried with a voice vote.

6. Agenda Items

A. Appointment to Historic Preservation Commission

Motion to appoint Robert Wiseman to Historic Preservation Commission. Motion carried.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	David Dickerson, Board Member
SECONDER:	Clint Long, Board Member
AYES:	Bowman, Long, Dickerson, Turner, Milner, Reece, Bockelman

B. Special Event Permit: Twin Oaks Block Party 2017

RESULT:	APPROVED [UNANIMOUS]
MOVER:	David Dickerson, Board Member
SECONDER:	Marcia Milner, Board Member
AYES:	Bowman, Long, Dickerson, Turner, Milner, Reece, Bockelman

C. Special Event Permit: Veterans Day Recognition 2017

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Marcia Milner, Board Member
SECONDER:	David Dickerson, Board Member
AYES:	Bowman, Long, Dickerson, Turner, Milner, Reece, Bockelman

D. An Ordinance Authorizing a Variance for the Developer of the Harrisonville Villas a Variance of the Approved Subdivision Plat By not Requiring Timber Drive to Extend to the West Property Line

Second reading. Following second reading, Mayor Hasek designated Council Bill #65 as Ordinance #3417 after passage.

Prior to vote was discussion:

Developer Debbie Hart addressed the Board along with Greg Lee, General Contractor for Harrisonville Villas. They explained the development and why a request for a variance for Timber Drive came about. Mr. Lee addressed some concerns that were voiced earlier in the meeting and gave an update on where they were in finishing the project.

Alderman Dickerson addressed the question from Mr. Lee in regard to 3-phase electricity and why it was required by former electric director.

Alderman Milner asked if roads and sidewalks were in original plans, explanation of street light needs and explanation of delays from City.

Mayor Hasek stated the pipe that was delivered to be installed was wrong size.

Alderman Milner stated there had been issues with former city inspector and that the City had paid for having a new inspector for project.

Mayor Hasek asked if they had spoken with adjoining property owners - the Welborns. Debbie Hart stated that she had and Mr. Welborn was okay with shortened road but voiced more concern over the tie-in at the west end of the property with 291.

Alderman Dickerson asked if there would be any violation if this variance was approved.

Alderman Bowman asked about street not being complete - Mr. Lee said a top coat should be completed next week.

Alderman Bowman asked about some of the first residents moving in with non-working smoke alarms.

Alderman Bowman stated the city inspector allegations were unfounded but City hired another inspector. Mr. Lee said the complaints were about inconsistencies. Mayor Hasek said former staff was not following procedures.

Alderman Bowman asked Hart about tax credit amounts received and asked about her monetary investment in said project.

Alderman Bowman asked city attorney about Board majority needed to pass an ordinance because of vacated Alderman seat in Ward 4 and requested his written legal opinion on matter.

RESULT:	ADOPTED [4 TO 3]
AYES:	Clint Long, David Dickerson, Matt Turner, Brad Bockelman
NAYS:	Judy Bowman, Marcia Milner, Judy Reece

E. An Ordinance of the Board of Aldermen of Harrisonville, Missouri Repealing Chapter 430 of the City Code and Enacting in lieu thereof an Amended Chapter 430 Urban Redevelopment Regulations of the City of Harrisonville, Missouri and Establishing an Effective Date.

Second reading. Following second reading, Mayor Hasek designated Council Bill #67 as Ordinance #3418 after passage.

Mayor Hasek read minutes from previous Community Development Committee meetings.

Alderman Bowman did not see where item 2 - review process, was discussed at committee meeting. Bowman again requested written legal opinion from City Attorney.

RESULT:	ADOPTED [4 TO 3]
AYES:	Clint Long, David Dickerson, Matt Turner, Brad Bockelman
NAYS:	Judy Bowman, Marcia Milner, Judy Reece

F. A Resolution of the Board of Aldermen of Harrisonville, Missouri Authorizing the City Administrator to enter into a 5-year service contract with Praxair Distribution, Inc. for the bulk supply of Liquid Oxygen at the Harrisonville Water Treatment Plant

Designated by Mayor Hasek as Resolution #39 upon passage.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Marcia Milner, Board Member
SECONDER:	Clint Long, Board Member
AYES:	Bowman, Long, Dickerson, Turner, Milner, Reece, Bockelman

7. Aldermen and Committee Reports

Alderman Bowman asked City Administrator for update on new trash service contract. He stated that he was working on it with Mr. Moore and city attorney.

8. Report from the City Administrator

A. City Admin Rpt 10-16-17

9. Report from the Mayor

Reminder about Parks & Rec Haunted Hayrides on October 28th.

Mayor Hasek reminded Aldermen that any concerns should be brought to the Mayor and/or City Staff prior to meetings.

Mayor Hasek stated that the Mayor has the right to form committees. Those that had voted against having committees were not placed on a reformed committee and some have voiced concern over committees not sharing of information.

10. Adjourn From Regular Session

Motion by Alderman Dickerson and second by Alderman Long to adjourn. Motion carried and meeting adjourned at 8:55 p.m.

Brian Hasek, Mayor & Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Randall K. Jones, City Clerk

Attachment: Minutes from 10-16-17 (REQUEST TO POSTPONE TIMBER DRIVE VARIANCE EXTENSION)



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

JOSHUA D. HAWLEY
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

July 19, 2018

Representative Ira Anders
201 West Capitol Avenue
Jefferson City, MO 65101-6806
(573) 751-5701

Dear Representative Anders:

You ask how many votes are needed in order for the Board of Aldermen in a fourth-class city to pass an ordinance, when one or more of the aldermen positions are vacant due to resignation. You also ask whether a person who is appointed to fill a vacant alderman position has the same powers as someone who was elected to that position.

We conclude that, except where the legislature specified otherwise, the number of votes necessary to pass an ordinance is determined using the total authorized membership. We also conclude that, whether a person has been elected to a position on the Board of Aldermen, or whether a person has been appointed to a position on the Board of Aldermen, that person has the same powers and duties under § 79.130.1, RSMo.

As to your first question, § 79.130.1, RSMo, provides, in pertinent part, as follows: “No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the *members elected* to the board of aldermen shall vote for it, and the ayes and nays be entered on the journal.” *Emphasis added*. Similar language is found in § 79.240, RSMo:

1. The mayor may, with the consent of a majority of all the *members elected* to the board of aldermen, remove from office, for cause shown, any elective officer of the city ... Any elective officer ... [may, for cause] be removed from office by a two-thirds vote of all *members elected* to the board of aldermen ... The mayor may, with the consent of a majority of all the *members elected* to the board of aldermen, remove from office any appointive officer of the city at will, and any such appointive officer may be so removed by a two-thirds vote of all the *members elected* to the board of aldermen, independently of the mayor's approval or recommendation. ...
2. Nothing in this section shall be construed to authorize the mayor, with the consent of the majority of all the *members elected* to the board of aldermen, or the board of aldermen by a two-thirds vote of *all its members*,¹ to remove or discharge any chief, as that term is defined in section 106.273.

Similar language has been interpreted to refer to the total authorized membership of the public body. *State ex rel. Brown v. City of O'Fallon*, 728 S.W.2d 595, 597-98 (Mo. App. E.D. 1987) (holding that language in § 79.240, RSMo, that allowed the removal of the mayor by “two-thirds vote of all members elected to the board” meant that six of the eight board members needed to vote for the measure; the phrase “all members elected” included the votes of “non-participating members”); *Braddy v. Zych*, 702 S.W.2d 491, 493-94 (Mo. App. E.D. 1985). In *Braddy*, the court considered charter language that required certain votes to be by majority or two-thirds approval of “of all the members” of the board of aldermen. In determining whether this phrase meant all the authorized aldermen, or only the aldermen available to vote on the measures, the court stated:

¹ This phrase is different from all the phrases that preceded it. This is especially strange, given that the only purpose of this provision is to limit the removal power when applied to a chief. This difference in phrasing thus appears to be a stylistic choice, to avoid the clunky sentence that would otherwise occur: “... all the members elected to the board of aldermen, or the board of aldermen by a two-thirds vote of all the members elected to the board of aldermen.”

Treating the language “all the members” as referring to the entire Board as defined in the Charter creates a predictability and definiteness in the requirements for the enactment of laws. It also gives substance to the charter scheme that representatives of sufficient wards to adequately represent the residents of the city support an enactment before it becomes binding on the City as a whole. Interpreting “all the members” to be less than the full board established by the Charter creates the possibility that legislation may be enacted which has support in less than the required number of wards. So also treating “all the members” as describing the full Board as constituted by the Charter insures that actions deemed important enough to require greater than majority approval, such as override of a veto or sale of city real estate, will not have less support than contemplated by the Charter.

Braddy v. Zych, 702 S.W.2d at 493-94. See also *Smith v. Taney County*, --- S.W.3d ---, 2018 WL 2753055, note 4 (Mo. App. S.D. June 8, 2018) (mentioning with approval the holding in *Braddy*). Thus, it makes no difference whether a member of the body is absent due to death, resignation, temporary absence, or abstention, the total authorized number of members of the body is the correct number to use in determining what fraction of that body has voted in favor of an ordinance.

Additionally, where the legislature wanted a vote to be calculated using only the currently serving members of the board of aldermen, the legislature used different language: § 79.280, RSMo, provides that where there is a vacancy “in any elective office,” that office may be filled by mayoral appointment, with “the advice and consent of a majority of the *remaining* members of the board of aldermen.” *Emphasis added*. See *Braddy v. Zych*, 702 S.W.2d at 494 (contrasting a charter provision that required a vote of all the “remaining” members with a charter provision that required a vote of “all the members.”); see also *Mosley v. English*, 501 S.W.3d 497, 505 (Mo. App. E.D. 2016) (in interpreting statutes, the court considers the entire legislative act, and where different terms are used, the court presumes that the legislature intended those terms to have different meanings). Because the legislature specified when it wanted a vote to be counted only by a subset of the entire authorized board, it is reasonable to conclude that the legislature

intended the references to votes by the members elected to the board to refer generically to votes by the entire authorized membership of the board, whether those members were elected or appointed.

We realize this could create a situation where a board lacks the power to pass ordinances, if many of its members have resigned at once. However, § 79.280, RSMo, provides a quick remedy for this situation, and, further, it appears to be the legislative intent of this chapter that ordinances not be passed without adequate representation of all the wards in the city.

Therefore, in answer to your first question, the number of votes necessary to pass an ordinance is determined as a ratio of the number of affirmative votes to the number of authorized board members.

Turning to your second question, under § 79.280, RSMo, when there is a vacancy in the board of aldermen, the mayor convenes a special meeting of the remaining board members. The mayor appoints a person to fill the vacancy, “with the advice and consent of a majority of the remaining members of the board[,]” and that new alderman serves “until the next regular municipal election.” *Id.* Clearly, for a board member to “serve,” that board member must be able to execute the powers and duties of that office. Otherwise, the office would, as a practical matter, still stand vacant. *Compare State ex inf. Lamkin ex rel. Harrison v. Tennyson*, 151 S.W.2d 1090, 1091 (Mo. banc 1941) (“courts indulge a strong presumption against a legislative intent to create a condition that might result in a vacancy in public office.”).

However, you point out that language in Chapter 79, RSMo, could be interpreted to only allow elected, rather than appointed, board members to vote on proposed ordinances: “No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members *elected* to the board of aldermen shall vote for it, and the ayes and nays be entered on the journal.”² § 79.130, RSMo, *emphasis added*. You ask whether this language prevents appointed aldermen from being fully-functioning board members, because they were not members “elected” to the board, but were members “appointed” to the board.

² In *Braddy v. Zych*, 702 S.W.2d 491, 493 (Mo. App. E.D. 1985), the court noted that a Texas court had held that this language referred not to the number of people currently serving who had been elected, but to the number of possible elected positions on the board: “an irreducible number.” The *Braddy* court questioned whether using the adjective “elected” before the term “members” was intended to create a meaningful distinction. *Id.*

Statutes should not be interpreted in a “hyper-technical” sense, but rather they should be read to give a “reasonable and logical ... meaning to the statutes.” *Donaldson v. Crawford*, 230 S.W.3d 340, 342 (Mo. 2007). This is especially true of statutes involving local political subdivisions, many of which statutes are of long standing, and were written to be applied by lay-people. *See State ex inf. Attorney General ex rel. Lincoln v. Bird*, 244 S.W. 938, 940 (Mo. 1922) (school board statutes were written to be applied by lay-people, and, therefore, “no strict and technical construction should be given to them.”).

If § 79.130, RSMo, were read as stripping an appointed alderman of the power to cast a meaningful vote to pass an ordinance, an important part of the alderman’s representation of his or her ward would be limited. Courts do not favor such a result.

For example, in *City of St. Robert, Missouri v. Clark*, 471 S.W.3d 321, 325-26 (Mo. App. S.D. 2015), the court considered a situation where the mayor took a temporary leave of absence, and the acting president of the board of aldermen served in the mayor’s position. During this time, the acting president of the board voted, as a board member, to terminate an employee. *Id.* at 325. Then, with a majority of the aldermen having voted in favor of termination, in his position as acting mayor, he gave his consent to terminating the employee. *Id.* The employee brought suit, claiming it was improper for the board member to vote as an alderman, when he also was executing mayoral powers in the same matter. *Id.* at 323, 328.

The court disagreed, finding that the statutes did not require this result, and further holding that: “to hold that President lost his power to vote as an alderman during the absence of Mayor would deprive the residents of President’s ward of half of the aldermanic voting power they would otherwise have[.]” *Id.* at 328.

Similarly, to conclude that an alderman who was appointed, rather than elected, lost the ability to cast a valid vote with the majority in passing an ordinance, would deprive those of that alderman’s ward of representation. The purpose of appointing an alderman to a vacant office is to ensure the board can continue to function, and that the people of that ward may continue to have representation in the board until the next regular election. *See* § 79.110, RSMo (duties of board of aldermen); § 79.280, RSMo (vacancies shall be filled by appointment). A hyper-technical reading of § 79.130.1,

Representative Ira Anders
Page 6

RSMo, would frustrate the express purpose of the statutes that require an appointment to fill a vacant office, because this technical reading would make the appointed person not a true board member, but a board member in name, but without essential voting powers. *Compare State ex inf. Lamkin ex rel. Harrison v. Tennyson*, 151 S.W.2d at 1091.

There can situations where statutes specifically distinguish between elected and appointed positions. *See, e.g., Pumphrey v. City of Lutesville*, 707 S.W.2d 475, 477 (Mo. App. S.D. 1986) (statutes provided “for different procedures for the removal of elected officers and appointed officers. ... There are obvious reasons why removing an elected official should be more difficult than removing an appointed official.”). However, in § 79.130.1, RSMo, the term “elected” is not used to distinguish between elected and appointed members and assign them different powers and duties; rather, no mention is made of appointed members, whatsoever, and it appears the term is used merely as a generic adjective regarding the usual composition of board members. And, as explained above, to read the statute in such a hyper-technical way would frustrate the legislative intent in providing for an appointee to fill a board member vacancy.

Therefore, we conclude that all aldermen, whether elected or appointed, have the power to vote on ordinances under § 79.130, RSMo.

Sincerely,



Linda Lemke
Assistant Attorney General

Attachment: AG Memo 5 Votes to Pass (REQUEST TO POSTPONE TIMBER DRIVE VARIANCE EXTENSION)

OP-2018-0077



STAFF REPORT

TO: Board of Aldermen
FROM: Happy Welch, City Administrator
DATE: July 31, 2019
SUBJECT: City Admin Rpt 8-5-19

Type of Item: *Report*

CITY ADMINISTRATOR REPORT

August 5, 2019

1. MGT will present their final report for the franchise fee transfer to staff on Monday, August 12. They have been working on this since June and this is the last part of the State Audit findings to be completed.

2. Missouri Main Street Connection will be at city hall Monday, August 5 for the 2nd of four meetings with Love the Harrisonville Square. This is part of the 4-Point Approach from the Affiliate Grant that the city helped fund as the group works toward a more vibrant and viable courthouse square.

3. Our meeting with the Bird Ave. residents is Thursday, August 8, at 6:30p. This is to discuss not allowing any vehicle parking on Bird Ave. from Mechanic to South St. We will have it in their neighborhood at the Harrisonville Community Church at Chapel and South St.

4. The Insurance Broker committee has finished interviewing the companies who submitted RFQ responses and hope to have a recommendation by the next Board meeting.

A. Action Item (ID # 3298)

City Admin Rpt 8-5-19