

MINUTES OF THE REGULAR MEETING OF THE BOARD OF ALDERMEN
OF THE CITY OF OSAGE BEACH, MISSOURI

July 7, 2011

The Board of Aldermen of the City of Osage Beach, Missouri, met to conduct a regular meeting on Thursday, July 7, 2011, at 6:30 p.m. at City Hall. The following were present: Mayor Penny Lyons, Alderman Lois Farmer, Alderman Dave Gasper, Alderman Steve Kahrs, Alderman John Olivarri, Alderman Kevin Rucker and Alderman Ron Schmitt. City Clerk Diann Warner was present and performed the duties of that office.

Mayor's Communications. Mayor Lyons expressed her appreciation to those who planned the retirement reception for Chief Severson and to those who stopped by to visit with the Chief and his wife Laura.

Mayor Lyons reported that the sales tax receipts reflect that the month of May are 6% above receipts received for the same period last year. She said it is the best May in the last eleven years. She thanked all the businesses and customers. Mayor Lyons also reported that construction permits are up \$4.1 million over the same period last year.

Citizens Communications.

Dr. Charles Peterson was present and spoke in opposition to Rezoning Case No. 357. He said that a commercial zoning does not fit in the neighborhood and that a residential zoning would be good and smaller homes would sell quickly. Dr. Peterson said he would like to see the area zoned residential and not commercial.

Richard Ross, president of the Harbor Heights Homeowners Association, was present to speak about the monument sign that appears on the agenda later in the meeting. He said when the roads were improved the sign was removed and the association is requesting approval to replace the sign with a monument sign made of Colorado sandstone. Mr. Ross asked for the Board's support.

A caretaker for Mr. Stone who owns the home on Dude Ranch Road, known as the Stone Mansion, was present and submitted photos of recent activities. He said Mr. Stone is willing to do whatever is necessary to comply with the City in the fall since this is the busy season.

Consent Agenda.

Alderman Olivarri moved to approve the consent agenda which includes minutes of the regular meeting and the closed session held on June 16, 2011, the bill list as submitted and liquor licenses to the following:

El Jimador
Inn at Grand Glaize (Caterer)
Kelly's Port Boat Store
Missouri Athletic Training Center (City Park Concessions)
Outback Steakhouse

Alderman Schmitt seconded the motion which was voted on and unanimously passed.

Unfinished Business.

Appointments to the Osage Beach Citizen Advisory Committee.

Mayor Lyons asked that this item be deferred until after Bill No. 11-45 is discussed.

New Business.

Public Hearing.

Rezoning Case No. 357. Terry Ross requests rezoning of property located between Ledges Drive and Port Lane from A-1, Agriculture to R-1a, Single Family Residential and from A-1, Agriculture to C-1 General Commercial.

City Planner Cary Patterson presented the following report:

Department Comments and Recommendation:

Applicant: Terry Ross

Location: Between Ledges Dr. and Port Lane with frontage on Dude Ranch Rd.

Petition: Rezoning from A-1 (Agriculture) to R-1a (Single family Residential) and C-1 (General Commercial).

Existing Use: The subject property is vacant.

Zoning: A-1 (Agriculture) and C-1 (General Commercial)

Tract Size: 1.1 acres and 4,615 sq. ft.

	<u>Surrounding Zoning:</u>	<u>Surrounding Land Use:</u>
<u>North:</u>	C-1 (General Commercial)	Condo Development/ Single family
<u>South:</u>	R-1 zones	Single family
<u>East:</u>	R-3 (Multi-family) C-1 (Commercial)	Apartments/Marina/S family
<u>West:</u>	C-1 w/ PUD overlay	Resort Residential

The Osage Beach Comprehensive Plan
Designates this area as appropriate for: Moderate density residential

<u>Rezoning History</u>	<u>Case #</u>	<u>Date</u>
Diamond Pointe281 (withdrawn)		September 14, 2004

Utilities: Water: City
Sewer: City

Electricity: Ameren UE

Access: Property has frontage on Dude Ranch Road, Port Lane, and Ledges Drive.

Analysis:

1. The applicant is the owner of the vacant property in question. The applicant recently purchased the property from a lending institution that had repossessed it.
2. The character of the area is mixed containing single-family homes, condominiums, apartments, Blue Moon Marina, and RT's Cove (lake front resort residential). The subject property requested for rezoning to R-3 is surrounded on all sides by properties zoned C-1 (General Commercial) or R-3 (Multi family) except for the piece of property being requested for R-1a (Single Family) by the applicant that is located on the frontage of Dude Ranch Road.
3. The applicant has amended the original request and is leaving the property currently zoned C-1 (General Commercial) unchanged along with a request to rezone a small wedge of land that is within the commercial property and is 4,615 sq. ft. in area from A-1 to C-1. The applicant has withdrawn his request to rezone a portion of the property to R-3 with a PUD 1 Overlay choosing to let it remain A-1 (Agriculture) and is maintaining his request to rezone 1.1 acres of the A-1 property to R-1a for the construction of single family dwellings.

With the applicant withdrawing his request to rezone a portion of his property to allow multi family development the request now falls within the requirements for low density residential as defined by the Comprehensive Plan. The request for the R-1a zone conforms to the development on the Dude Ranch Road frontage and offers lower density than what is recommended by the Comprehensive Plan.

The request to rezone the 4,615 sq. ft. of property from A-1 to C-1 is being done at the request of the Planning Department to allow for the ability to regulate development in the area efficiently and appropriately. Allowing the small piece of land to remain a different zoning designation creates the opportunity for developmental mistakes to take place putting the City at risk. I have discussed this with the City Attorney and he is in agreement.

Under Section 405.610 of the Osage Beach Code of Ordinances for amendments and changes, bullet point 6 gives five matters that the city should consider before making a change in the zoning of property.

1. Relatedness of the proposed amendment to the goals and outlines of the long range physical plan for the City:

The request offers a lower density than that recommended by the Comprehensive Plan.

2. Existing uses of property within the general area of the property in question:

The request for R-1a zoning on the Dude Ranch frontage is consistent with the character of the corridor.

3. The zoning classification of property within the general area of the property in question:

4. The request is consistent with the surrounding zoning classifications.

5. The suitability of the property in question to the uses permitted under the existing zoning classification:

The subject property would not benefit from an appropriate use if developed with uses permitted within the A-1 zone. The request for single family is a suitable use of the Dude Ranch frontage property.

6. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification:

The request is consistent.

Based on the analysis of the conditions pertaining to the subject petition, the Planning Department recommends approval of the request to rezone 1.1 acres of A-1 (Agriculture) property to R-1a (Single family) and 4,615 square feet of A-1 (Agriculture) to C-1 (Commercial).

Planning Commission Recommendation:

Based on the request for R-3 with a PUD 1 Overlay the majority of the Planning Commission recommended that the Board deny this request by way of a 4 to 3 vote. At that time the members voting against the request made it known that they voted in the negative because they felt it was obvious that the surrounding property owners did not support multi family residential development in that area.

With the applicant's removal of the multi family housing from his request he may have addressed those concerns.

Mick Bednara said his home is directly across from the commercial property and he questioned the reason a residential zone was not recommended. City Planner Patterson responded that an R-3, multi family zoning district was recommended however, the commercial property across from Mr. Bednara has been zoned commercial since 1984. Mr. Bednara opposed the rezoning stating that there are many grandfathered properties zoned commercial but the land use is residential. He said that Dude Ranch Road is residential and he wanted it to remain a residential community.

Dave Plotke of Port Lane also spoke in opposition to Rezoning Case No. 357 and stated that every Lot in Blue Harbor Subdivision is occupied by a single family home but the zoning is commercial. City Planner Patterson explained that he does not know the reason the property is zoned commercial but there are many areas that are zoned commercial next to residential areas. He added that allowing the 4,000 square feet to be rezoned to commercial is against the comprehensive plan but he is trying to remedy a situation where a small lot is zoned agriculture surrounded by commercially zoned property.

Mr. Plotke questioned the process since the Planning Commission turned down the rezoning request. Mayor Lyons explained that the request came to the Board with a negative recommendation from the Planning Commission but Mr. Ross decreased his request. City Planner Patterson said Mr. Ross believed that the R-3 zoning was the issue so he deleted it from the request.

Mr. Plotke said he would like to see property along Dude Ranch Road rezoned but he asked that the C-1 zone not be approved.

Ann Smith said she lives across the street from the property under consideration and opposed the rezoning. She asked the impact on the future if the Planning Commission desires Dude Ranch Road to be residential and the Board approves a C-1 zoning request. She questioned whether the original request included a C-1 zoning district. Mr. Patterson responded that he recommended the C-1 because of surrounding zoning and that each case is considered separately. Mrs. Smith said she understands the existing C-1 zoned area but she questioned whether it should be expanded.

Terry Ross, the applicant, distributed photos of the type of home that will be built and said the 4,000 square feet area to be zoned C-1 is a small area and it was the City Planner's recommendation to rezone it to C-1.

Ron Driscoll said he lives off of Dude Ranch Road and when he moved to Osage Beach, he did not know the property was zoned C-1. He said the piece of property is so small he did not know how anything could be built on the lot. Mr. Driscoll said it would be an eyesore and a detriment to the neighborhood.

Jack Campbell of Spruce Lane said he did not know the property was zoned C-1. He said that the issue is Port Lane because it cannot be turned over to the City due to the width of the road and it cannot meet the requirements. He said the rezoning would bring more traffic to Port Lane and he asked the Board not to approve the rezoning.

There being no further questions or comments, Mayor Lyons closed the public hearing at 7:27 p.m.

Alderman Olivarri wanted to clarify that the application is a request to rezone a tract that is zoned A-1 to R-1 so that the developer may build three homes and the City is requesting a 4,000 square feet tract be rezoned from A-1 to C-1 to be consistent with the existing C-1 zoning. Mr. Patterson responded in the affirmative. Alderman Schmitt questioned the size of the existing commercially zoned property. Terry Ross, the applicant, said it is approximately 150-175 feet wide and approximately 1,000 to 1,200 feet deep.

Mr. Patterson explained the small tract he recommended to be rezoned is located across from Blue Moon Marina which is an existing C-1 use. Alderman Farmer questioned whether the tract zoned C-1 could be rezoned to residential. City Planner Patterson responded that it would require a City initiated rezoning and it would be difficult to do.

Alderman Olivarri commented that real estate agents do not always have the zoning designation in their information and when he moved to Osage Beach he made a special effort to make sure he was moving into a residentially zoned area.

Alderman Kahrs questioned the number of acres owned by Mr. Ross. Mr. Ross responded that there are six acres in that area and he proposed to construct three homes on 1.1 acres. Alderman Kahrs questioned whether Mr. Ross would consider rezoning the tract to residential. Mr. Ross responded in the negative and stated that homes would never sell on that property because they would be across from commercial.

Bill No. 11-44. Rezoning Case No. 357.

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, ADOPTING AN AMENDMENT TO THE ZONING MAP OF THE CITY OF OSAGE BEACH, MISSOURI.

Mayor Lyons presented the first reading of Bill No. 11-44 by title only. It was noted that Bill No. 11-44 has been available for public review.

Alderman Olivarri moved to approve the first reading of Bill No. 11-44 as presented. Alderman Gasper seconded the motion. The following roll call vote was taken to pass the first reading of Bill 11-44: "Ayes": Alderman Schmitt, Alderman Olivarri, Alderman Gasper, Alderman Rucker. "Nays": Alderman Farmer, Alderman Kahrs. The first reading of Bill No. 11-44 passed.

Public Hearing. Water and Sewer Billing

Assistant City Administrator Jeana Albertson explained that due to the increased number in delinquent bills and subsequent disconnections, staff feels the ordinances should be amended not only to assist those incurring delinquent fees but also to better match current in-house disconnect procedures and save staff time and resources in the process.

Requested changes are as follows:

- States the City's right to disconnect water service for delinquent sewer accounts
- Outlines details for sewer only customers incurring sewer reconnect fees
- Outlines details for sewer customers on the WATER SERVICE and water only customers incurring water reconnect fees
- Water Reconnection Fee - Minimum \$125, plus the minimum monthly utility bill for each month disconnected, maximum twelve (12) months
- Sewer Reconnection Fee - Minimum \$400, plus the minimum monthly utility bill for each month disconnected, maximum twelve (12) months
- Outlines regular reconnection timeframes and additional fee for after hour/weekend reconnections
- States the availability of possible payment plan options

No one was present to speak to the amendments to water and sewer ordinances regarding billing, therefore, Mayor Lyons closed the public hearing at 7:40 p.m.

Bill No. 11-36.

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING SECTIONS 705.360 RELATING TO WATER, OF THE OSAGE BEACH CODE OF ORDINANCES.

Mayor Lyons presented the first reading of Bill No. 11-36 by title only. It was noted that Bill No. 11-36 has been available for public review.

Alderman Olivarri moved to approve the first reading of Bill No. 11-36 by deleting the word *by* before the word *to* in the fourth Whereas, on the first page. Alderman Rucker seconded the motion which was voted on and unanimously passed.

Mayor Lyons presented the second and final reading of Bill No. 11-36 by title only.

Alderman Schmitt moved to approve the second and final reading of Bill No. 11-36 as amended. Alderman Gasper seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill No. 11-36 and to pass same into Ordinance: "Ayes": Alderman Schmitt, Alderman Olivarri, Alderman Farmer, Alderman Gasper, Alderman Kahrs, Alderman Rucker. "Nays": None. Bill No. 11-36 was passed and approved as Ordinance No. 11.36.

Bill No. 11-37.

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING SECTIONS 710.480 RELATING TO SEWER, OF THE OSAGE BEACH CODE OF ORDINANCES.

Mayor Lyons presented the first reading of Bill No. 11-37 by title only. It was noted that Bill No. 11-37 has been available for public review.

Alderman Olivarri moved to approve the first reading of Bill No. 11-37 by deleting the word *by* before the word *to* in the fourth Whereas, on the first page. Alderman Schmitt seconded the motion which was voted on and unanimously passed.

Mayor Lyons presented the second and final reading of Bill No. 11-37 by title only.

Alderman Farmer moved to approve the second and final reading of Bill No. 11-37 as amended. Alderman Schmitt seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill No. 11-37 and to pass same into Ordinance: "Ayes": Alderman Olivarri, Alderman Farmer, Alderman Gasper, Alderman Kahrs, Alderman Rucker, Alderman Schmitt. "Nays": None. Bill No. 11-37 was passed and approved as Ordinance No. 11.37.

Bill No. 11-43.

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING SCHEDULE II. STOP SIGNS, BY ESTABLISHING THE LOCATION OF A STOP SIGN ON FIRE STATION ROAD AT THE INTERSECTION WITH BURTON DUENKE LANE.

Mayor Lyons presented the first reading of Bill No. 11-43 by title only. It was noted that Bill No. 11-43 has been available for public review.

Alderman Rucker moved to approve the first reading of Bill No. 11-43 as presented. Alderman Schmitt seconded the motion which was voted on and unanimously passed.

Mayor Lyons presented the second and final reading of Bill No. 11-43 by title only.

Alderman Gasper moved to approve the second and final reading of Bill No. 11-43 as presented. Alderman Farmer seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill No. 11-43 and to pass same into Ordinance: "Ayes": Alderman Farmer, Alderman Gasper, Alderman Kahrs, Alderman Rucker, Alderman Schmitt, Alderman Olivarri. "Nays": None. Bill No. 11-43 was passed and approved as Ordinance No. 11.43.

Bill No. 11-45.

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, REPEALING SECTIONS 111.030, 111.040, and 111.050 PERTAINING TO THE CITIZEN ADVISORY COMMITTEE AND ENACTING IN LIEU THEREOF, THREE NEW SECTIONS UNDER THE SAME NUMBERS.

City Attorney Ed Rucker said that Bill No. 11-45 would expand the Citizen Advisory Committee from eight to fifteen members and establish that a quorum consists of six members or a majority of the members.

Mayor Lyons presented the first reading of Bill No. 11-45 by title only. It was noted that Bill No. 11-45 has been available for public review.

Alderman Olivarri moved to approve the first reading of Bill No. 11-45 as presented. Alderman Rucker seconded the motion which was voted on and unanimously passed.

Mayor Lyons presented the second and final reading of Bill No. 11-45 by title only.

Alderman Farmer moved to approve the second and final reading of Bill No. 11-45 as presented. Alderman Gasper seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill No. 11-45 and to pass same into Ordinance: "Ayes": Alderman Gasper, Alderman Kahrs, Alderman Rucker, Alderman Schmitt, Alderman Olivarri, Alderman Farmer. "Nays": None. Bill No. 11-45 was passed and approved as Ordinance No. 11.45.

Appointments to the Osage Beach Citizen Advisory Committee.

Alderman Olivarri moved to appoint the following to serve two year terms on the Osage Beach Citizen Advisory Committee:

Rebecca Green
Ron Rule
Charles Martin
Don Chisholm
Pat Cantwell
Robert O Keefe

Alderman Schmitt seconded the motion which was voted on and unanimously passed.

Bid Award.

Bids were received from Brenttagg, GS Robins, Univar, Chemrite and DNS Equipment for water treatment chemicals. Superintendent of Public Works Rick King said the bid is for one year and includes a \$50 delivery charge. He said that the purchase comes from various budgets and the purchase would remain within the budgeted amount.

Alderman Rucker moved to award the bid for water treatment chemicals to Brenntag, the low bidder, as recommended provided that the purchase does not exceed the budgeted amount. Alderman Farmer seconded the motion which was voted on and unanimously passed.

Authorize the Sale of Surplus Pipe.

Assistant City Administrator Jeana Albertson said the City has several pieces of 20 foot/16 inch diameter steel casing pipe that is of no use to the City. She requested authorization to sell the pipe via GovDeals.com.

Alderman Olivarri moved to authorize the sale of pipe as requested. Alderman Schmitt seconded the motion which was voted on and unanimously passed.

Authorize the Construction of Subdivision Sign.

City Planner Cary Patterson explained that the Harbor Heights Homeowners Association is requesting Board approval to construct a sign in the island located at the intersection of Harbor Heights Lane and Greenwood Circle. The proposed location falls within the City owned right of way for Harbor Heights Lane and requires Board approval according to Section 405.370 4. According to the Engineering Department, no utilities exist in that location. Mayor Lyons questioned how the landscaping would be maintained. Mr. Ross said the landscaping would be maintained by the homeowners association.

Alderman Kahrs moved to approve the construction of a subdivision sign as requested by the Harbor Heights Homeowners Association. Alderman Olivarri seconded the motion which was voted on and unanimously passed.

Communications from Board Members.

Alderman Olivarri. John Olivarri questioned the status of the plantings in the center of the round about on KK since it is overgrown with weeds. City Engineer Nick Edelman said a landscaper is interested in landscaping and maintaining the space with the provision that he be permitted to place his company name somewhere in the space. Mr. Edelman has sent the information to MoDOT for approval and will keep the Board updated.

Staff Communications.

Executive Session.

Alderman Schmitt moved to close the meeting pursuant to RSMo. Section 610.021(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys, and RSMo. Section 610.021(2) Leasing, purchase, or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefore; and RSMo. Section 610.021(3), Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. Alderman Rucker seconded the motion.

The following roll call vote was taken to close the meeting: "Ayes": Alderman Kahrs, Alderman Rucker, Alderman Schmitt, Alderman Olivarri, Alderman Farmer, Alderman Gasper "Nays": None. The meeting was therefore closed.

CLOSED SESSION

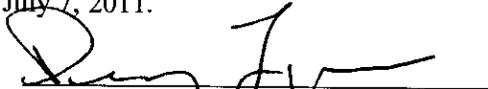
Alderman Kahrs moved to open the meeting. Alderman Olivarri seconded the motion. The following roll call vote was taken to open the meeting: "Ayes": Alderman Olivarri, Alderman Farmer, Alderman Gasper, Alderman Kahrs, Alderman Rucker, Alderman Schmitt. "Nays": None. The meeting was therefore opened.

No announcements were made following closed session.

There being no further business to come before the Board, the meeting adjourned at 9:05 p.m.

I, Diann Warner, City Clerk of the City of Osage Beach, Missouri, do hereby certify that the above foregoing is a true and complete journal of proceedings of the regular meeting of the Board of Aldermen of the City of Osage Beach, Missouri, held on July 7, 2011.


Diann Warner, City Clerk


Penny Lyons, Mayor

** A vote was taken in closed session to appoint Todd Davis Police Chief as follows: "Ayes": Alderman Gasper, Alderman Farmer, Alderman Schmitt, Alderman Kahrs, Alderman Rucker, Alderman Olivarri. "Nays": None.

On Friday, July 8, 2011, an announcement was made that Todd Davis had accepted the position of Police Chief.