

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

November 1, 2012

The Board of Aldermen of the City of Osage Beach, Missouri, met to conduct a regular meeting on Thursday, November 1, 2012, at 6:30 p.m. at City Hall. The following were present: Mayor Penny Lyons, Alderman Fred Catcott, Alderman Lois Farmer, Alderman John Olivarri, Alderman Kevin Rucker and Alderman Ron Schmitt. Alderman Steve Kahrs was absent. The City Clerk, Diann Warner was present and performed the duties of that office.

**Mayor's Communications.**

Mayor Lyons reported that for four days last week and Tuesday of this week, she attended the hearing before Commissioner Winn who will make a recommendation to the Land Reclamation Commission regarding the Lake Ozark/Osage Beach Joint Sewer Board versus the Magruder Quarry and the Department of Natural Resources lawsuit. As chairman of the Joint Sewer Board, Mayor Lyons testified on Tuesday. She expressed her appreciation to Gary Hutchcraft of Alliance for his eye witness testimony and to Superintendent of Public Works Rick King and City Engineer Nick Edelman for their testimony.

Mayor Lyons reported that several residents were present from the Woodriver Road area and Greg Gagnon testified about his initial involvement in chairing the Board and his concerns about the environmental impact an accident or a spill would have on the Lake of the Ozarks. She said final briefs are being prepared for the Commissioner. The process began in May 2007 when the Joint Sewer Board challenged the viability of a 100 year quarry adjacent to our only treatment plant for both cities. The original hearing officer found in favor of the quarry; however three judges in Miller County stayed the blasting and found in favor of the Joint Sewer Board. The DNR appealed to the appellate court in Kansas City and once again a decision was made in the Board's favor about the burden of proof and remanded it back to the Land Reclamation Commission who provided the recent hearing. Mayor Lyons said it would probably be several months before we know what the recommendation will be.

**Citizens Communications.**

Matt Duenke, representing Duenke Enterprises as well as a group of concerned business and property owners on the west side of the Grand Glaize Bridge, read a letter written by Mark Beeler and he also read the list of people who support a study of the Key Largo area before making any road improvements. The group proposes a public/private partnership to pay for an economic impact study to be conducted before any actions are taken by the City or MoDOT to make changes to the Key Largo interchange and/or the construction of the outer road.

The letter and the list of property and business owners who support the study are attached and become a part of these minutes.

**Consent Agenda.**

Alderman Olivarri moved to approve the consent agenda which includes minutes of the regular meeting held on October 18, 2012, the bill list as submitted and a caterer's license to Missouri Forget Me Not Horse Rescue for November 3, 2012. Alderman Farmer seconded the motion which was voted on and passed.

**Unfinished Business.**

**Bill No. 12-34.** AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE OSAGE BEACH FIRE PROTECTION DISTRICT FOR THE CONTINUATION OF DOCK INSPECTIONS WITHIN THE CITY

Mayor Lyons presented the second and final reading of Bill No. 12-34 by title only. It was noted that Bill No. 12-34 has been available for public review. Alderman Rucker moved to approve the second and final reading of Bill No. 12-34. Alderman Schmitt seconded the motion. The following roll call vote was taken to approve the second reading of Bill No. 12-34 and to pass same into Ordinance: "Ayes": Alderman Catcott, Alderman Rucker, Alderman Schmitt, Alderman Farmer, Alderman Olivarri. "Nays": None. "Absent": Alderman Kahrs. Bill No. 12-34 was passed and approved as Ordinance No. 12.34.

**New Business.**

**Public Hearing.** Rezoning Case No. 361. Summit Development Company, LLC.

Mayor Lyons opened the public hearing at 6:40 p.m.

City Planner Cary Patterson presented the following report:

**Planning Department comments and recommendation:**

**Applicant:** Summit Development Co. LLC

**Location:** Approximately 4000 ft off Highway KK on the East side of Three Seasons Road

**Petition:** R-2 (Residential two-family)

**Existing Use:** Vacant residential property

**Zoning:** R-1a (Single-family residential)

**Tract Size:** 2.84 acres

	<b><u>Surrounding Zoning:</u></b>	<b><u>Surrounding Land Use:</u></b>
<b><u>North:</u></b>	R-1a (Single Family)	Residential
<b><u>South:</u></b>	R-1a (Single Family)	Residential
<b><u>East:</u></b>	R-1a (Single Family)	Residential
<b><u>West:</u></b>	R-1a (Single Family)	Residential
<b>The Osage Beach Comprehensive Plan Designates this area as appropriate for:</b>		Moderate Density Residential

<u>Rezoning History</u>	<u>Case #</u>	<u>Date</u>
R-1a to R-2	316	May 2006
Utilities Water: <u>City</u>	Gas: <u>N/A</u>	
<u>Electricity:</u> Ameren	<u>Sewer:</u> City	

**Access:** Property has frontage on Three Seasons, Autumn, and Cardinal Circle.

**Analysis:**

1. The applicant purchased the property in question, which contains a 2.1 acre unplatted tract, a second but smaller unplatted tract of land, and three platted lots within Brickhaven Subdivision. The property maintains a Single Family Zoning and is vacant at this time.
2. The applicant intends to build duplex housing on the subject property.
3. The minimum lot size in an R-1a District is 10,000 square feet with one home per lot. The R-2 district permits lots of 6500 square feet with two dwelling units per lot. The property in question has already been subdivided with nine total lots which would allow a total of eighteen units on those existing lots.

**Department Comments and Recommendation:**

The applicant requested this change back in 2006 and was denied at that time. The Planning Department recommendation at that time was for approval of the request as it follows the recommendations of the Comprehensive Plan for Moderate Density Residential and the majority of the lots front a collector street which is more conducive to a higher intensity use. The property is recommended for Moderate Density Residential, which is defined by the Comprehensive Plan as 5-13 units per acre. If the applicant develops the 18 units on the subject property for which it is platted that would equate to just over 6 units per acre for this property which conforms to the recommendations of the Comprehensive Plan.

The applicant attempted to develop a small single family cottage use on the property but has had little interest when trying to move the home. Some of this is attributed to the state of the economy, but a greater issue is simply the property conditions being averse to transferring the property for full time single family uses.

It is also important that the City be willing to promote development on properties such as this in order to stimulate the commercial activity on the west side of the Grand Glaize Bridge. If the City approves this type of development on properties that will go undeveloped otherwise, it will serve to put more housing units on the west side of the bridge increasing the customer potential and the numbers from which our businesses can draw patrons.

Under the Section 405.610 of the City 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 Comprehensive Plan also encourages the City to provide additional work force housing when the opportunity arises to locate it on property where it is compatible.

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

The area surrounding the subject property contains mixed uses including single-family residential, apartments, mobile homes, Yacht Club Marina, and a restaurant and condominium development towards the end of the corridor.

The request basically provides a use that conforms to the mix of residential uses and provides some buffer for some of the residential uses from the collector street traffic and commercial property.

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

The property in that area is zoned R-1a (large lot single family), the development in the area however is not representative of this zone. For the most part the area has been developed in a moderate to small lot pattern. This is why the recommendations for the area were changed in the Comprehensive Plan Process.

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

This is a problem area. The property under discussion has numerous issues facing it when it comes to full time single family development. The first of which is its frontage on a high traffic collector street with the topography being the second major issue. People do not purchase homes that do not have yard capability and have dangerous traffic issues facing its frontage. However, duplex rental properties will not face the investment issues by the occupants and the City will work with the developer during the permit process on shared driveways and other possibilities to insure the safest means of ingress and egress to the dwellings.

5. 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 area surrounding the subject property is currently seeing little development as a result of the current economic situation facing the country. There is however a decent amount of developable property in the area, most of which is owned by a single owner, that we have had discussions on and expect to develop in a mixed residential nature ranging from high to moderate density with the possibility of lower intensity commercial uses being mixed in.

Based on the analysis of the conditions pertaining to the subject petition, the Planning Department recommends approval of the request subject to the following provisions regulating the property being rezoned to R-2:

***SECTION 405.160: "R-2" TWO-FAMILY DISTRICT***

A. *Permitted Uses.* In District "R-2" no building, structure, land, or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered except for one (1) or more of the following uses (for exceptions, see Section 405.590 "Special Uses Require Special Permission", Article VIII "Non-Conforming Uses" and Article X "Board of Adjustment"):

1. All uses permitted within an "R-1b" Single-Family District. (Providing that single-family construction when occurring in this zoning classification will be constructed as if the property were zoned in like manner. For example, if single-family housing were being constructed in this zone, it would be constructed following the same guidelines as shown for single-family housing in Article III, Section 405.150.)

2. Two-family dwellings or single-family dwellings with accompanying garage apartments.

B. *Coverage.* Main and accessory buildings shall not cover more than thirty percent (30%) of the lot area.

C. *Water Supply and Sewage System.* Each lot within an "R-2" Zoning District shall be served by a public water supply and a public sewer system at such time as the systems are installed and reasonably available.

D. *Parking Regulations.* Off-street parking space shall be provided in accordance with the requirements set forth in Article IX of this Chapter.

E. *Dimensional Requirements.* Minimum width, depth and minimum lot size shall be provided in accordance with the requirements set forth in Section 405.430 of this Chapter. (R.O. 2006 §405.160; CC 1985 §27-154; Ord. No. 87.28 Art. V §D, 10-1-87; Ord. No. 92.22 §8, 8-19-93)

The Planning Commission recommended approval by unanimous vote at their regularly scheduled meeting on October 9, 2012.

Lonnie Allen, representing Mr. Ron Westehaver the applicant, was present to answer questions. William Burger was present to speak in opposition to Rezoning Case No. 361. He said that the developer previously caused runoff onto his property and that with all the foreclosures, single family homes should be purchased to provide affordable living. He also said that the developer may have to blast because there is a great deal of rock.

John Tezak opposed the rezoning request. He questioned the location of the proposed buildings and stated that all the lots are not on Mr. Allen's site plan. Mayor Lyons asked Mr. Tezak to put his questions in writing and bring them to City Planner Patterson for response.

City Planner Patterson explained that 9 lots are included in the rezoning request; however 4 lots are not buildable. He added that a resubdivision will be necessary to reduce the number of lots and there could be 7 buildings with 14 units. He added that the main issue is that the request does conform to R-1a zoning as it relates to Three Seasons and Autumn Lane and that single family residential is not suitable for this property.

There being no further questions or comments, the public hearing closed at 6:50 p.m.

**Bill No. 12-36.** 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. 12-36 by title only. It was noted that Bill No. 12-36 has been available for public review.

Alderman Catcott moved to approve the first reading of Bill No. 12-36 as presented. Alderman Olivarri seconded the motion which was voted on and passed with Alderman Schmitt expressing a negative vote.

**Bill No. 12-37.** AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING SCHEDULE VI., ONE-WAY STREETS, DESIGNATING ZEBRA ROAD AS A ONE-WAY STREET.

Mayor Lyons presented the first reading of Bill No. 12-37 by title only. It was noted that Bill No. 12-37 has been available for public review.

Alderman Olivarri moved to approve the first reading of Bill No. 12-37 as presented. Alderman Farmer seconded the motion.

Following discussion, Alderman Olivarri withdrew the motion and Alderman Farmer withdrew the second.

Alderman Olivarri moved to amend Bill No. 12-37 by changing the word westerly to the word easterly in Section 1 of Bill No. 12-37. Alderman Farmer seconded the motion which was voted on and passed.

Alderman Olivarri moved to approve the first reading of Bill No. 12-37 as amended. Alderman Farmer seconded the motion which was voted on and passed.

Mayor Lyons presented the second and final reading of Bill No. 12-37 by title only. Alderman Olivarri moved to approve the second and final reading of Bill No. 12-37. Alderman Farmer seconded the motion. The following roll call vote was taken to approve the second reading of Bill No. 12-37 and to pass same into Ordinance: "Ayes": Alderman Schmitt, Alderman Farmer, Alderman Olivarri, Alderman Catcott, Alderman Rucker. "Nays": None. "Absent": Alderman Kahrs. Bill No. 12-37 was passed and approved as Ordinance No. 12.37.

**Bid Award.** Deicing Salt

The following bids were received for deicing salt:

Morton Salt	\$68.80 per ton
Cargill	\$70.34 per ton
North American	\$64.29 per ton
Independent	\$75.48 per ton
Central	\$72.84 per ton

The reserved quantity is 600 tons and orders will be placed on an as needed basis, not necessarily using the full 600 tons.

The cost for salt for the 2011-2012 year was \$72.84 per ton. Superintendent of Public Works Rick King recommended the bid be awarded to the low bidder North American Salt in the amount of \$64.29 per ton which will be charged to Account 20-761600.

Alderman Farmer moved to award the bid for deicing salt to the low bidder, North American Salt in the amount of \$64.29 per ton as recommended. Alderman Schmitt seconded the motion which was voted on and passed.

**Communications from Board Members.**

Alderman Schmitt. Ron Schmitt presented some facts which occurred this day in history. He distributed an article about the number of miles MoDOT has to maintain.

Alderman Catcott. Fred Catcott questioned when the removal of the curb on Redbud Road would take place. City Engineer Nick Edelman responded the project would be out to bid this month.

Alderman Rucker. Kevin Rucker announced that it is difficult to make a decision when earlier the City was asked to hurry up and do something on the west end of Osage Beach in the Key Largo area. Now the same business owners want the City to stop. He said that elected officials do the best they can with the resources available. Alderman Rucker said that the funds from MoDOT would not be available later and the City needs to move forward. He said it is difficult to know what constituents want.

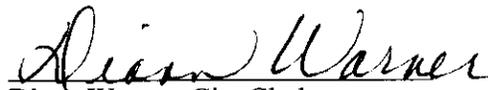
**Communications.**

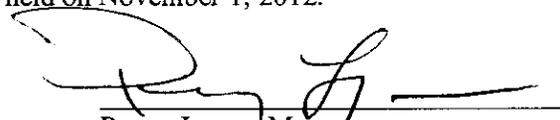
City Engineer. Nick Edelman reported that paving on the Old State Park Road would begin next week.

Superintendent of Public Works. Rick King reported that leaf pick up begins Monday.

There being no further business to come before the Board, the meeting adjourned at 7:07 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 November 1, 2012.

  
Diann Warner, City Clerk

  
Penny Lyons, Mayor

**APPROVED**  
11/15/12