

**CITY OF BRENTWOOD, MISSOURI  
BOARD OF ALDERMAN MEETING  
OCTOBER 20, 2014**

**MEETING CALLED TO ORDER**

Mayor Pat Kelly called the meeting to order at 7:00 pm, in the Council Room of City Hall located at 2348 S. Brentwood Blvd., Brentwood, MO 63144 and immediately led the Pledge of Allegiance.

**ROLL CALL**

The following members were present

Alderman Harper	Present	Alderman Toohey	Present
Alderman Wynn	Present	Alderman Leahy	Present
Alderman Robertson	Present	Alderdwoman Manestar	Present
Alderman Kramer	Present	Alderdwoman Saunders	Present
Mayor Kelly	Present		

Members present constituted a quorum. Also present were City Clerk/Administrator Bola Akande, City Attorney Frank Albrecht, and Deputy City Clerk Octavia Pittman.

**APPROVAL OF AGENDA**

**Board of Aldermen October 20, 2014**

Alderdwoman Saunders made a motion to amend the agenda moving the **Excise Commissioner's Report** to **Item #3B**. Motion seconded by Alderdwoman Manestar. Unanimous vote in favor taken; **MOTION PASSED**.

Alderdwoman Saunders made a motion to approve the amended agenda. Motion seconded by Alderman Wynn. Unanimous vote in favor taken; **MOTION PASSED**.

**Excise Commissioner**

**Revised Liquor License - Schnucks Store (8800 Manchester Road)**

Brentwood Schnucks has requested a change in their liquor license from "package" to "full liquor" and to add "Sunday by the drink"; they have indicated interest in selling drinks to shoppers. A similar license has been approved for Dierbergs. Alderman Leahy made a motion to approve the liquor license change as submitted. Motion seconded by Alderman Harper. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderdwoman Manestar – yes; Alderdwoman Saunders – no; **MOTION PASSED**.

**CONSIDERATION AND APPROVAL OF THE MINUTES**

**Board of Aldermen Regular Meeting Minutes September 15, 2014**

Alderdwoman Saunders made a motion to approve the meeting minutes as submitted. Motion seconded by Alderman Leahy. **VOICE VOTE TAKEN;** 7 – yes; Harper – abstain; **MOTION PASSED**.

**Board of Aldermen Special Meeting Minutes September 29, 2014**

Alderman Leahy made a motion to approve the meeting minutes as submitted. Motion seconded by Alderman Toohey. Unanimous vote in favor taken; **MOTION PASSED**.

**PRESENTATION/RECOGNITION**

**None**

**PUBLIC HEARING**

**A Petition To Amend Chapter 19 Of The Brentwood Code Of Ordinances As It Pertains To Sign Regulations**

Mayor Kelly opened the public hearing presented by Planning Director Wyse at 7:04 pm.

The City's special legal counsel on planning and zoning related items has recommended that the City amend our sign regulations to comply with recent case law stemming from a lawsuit in the 8<sup>th</sup> Circuit Court of Appeal's decision (*Neighborhood Enterprises Inc. v. City of St. Louis*). This decision held that a City cannot treat signs differently based upon content, except in the narrowest usage possible to address a compelling governmental purpose. The Eighth Circuit's decision has also cast appreciable doubt over the traditional notion that a City can treat noncommercial signs preferentially to commercial signs.

Following this decision and recommendation by the City's legal counsel, Staff forwarded the information to be considered by the City's Planning and Zoning Commission, as required by City Code.

The Planning and Zoning Commission reviewed the information presented by legal counsel over a several month period. Through this process, the Commission vetted Chapter 19 of the City Code in its' entirety and reviewed relevant case law, the City's Comprehensive Plan, as well as anecdotal information presented by the Commission and staff regarding the effectiveness and administration of the current regulations.

Following this several month process, the Planning and Zoning Commission, by a vote of 10-0 have forwarded a recommendation for approval of the changes necessary to provide a legally defensible set of sign regulations that promote the goals of the Comprehensive Plan to the Board of Aldermen. It was noted that further review is needed by the Commission and as such, the public hearing is being continued to the November 17<sup>th</sup> Board of Aldermen meeting.

There were no questions or comments from citizens. Mayor Kelly closed the public hearing at 7:07 pm.

**BIDS**

**RFP – Sewer Lateral Repair Services**

Administrator Akande reminded that the Board of Alderman adopted Trenching and Shoring Policy and Procedures which included the requirement for any sewer lateral excavation 12 foot or deeper to be contracted out to a qualified excavation contractor. The City issued a RFP for this service; first in June and received only one response. The RFP was issued again in September receiving 2 responses; XL Contracting and Truss Brothers (whose bid was significantly higher). After reviewing the proposals submitted, the Public Works Committee unanimously agreed to forward XL Contracting to the Board for approval.

**HEARING OF ANY MATTER OF PUBLIC INTEREST UPON REQUEST OF ANY PERSON PRESENT**

**Robert Boley 9185 Brentwood Ln** reiterated his support for Bills #5897 and #5898 prohibiting trucks and commercial vehicles off certain roads in Brentwood Forest. He emphasized that this would help the citizens by keeping the noise and traffic from coming on the streets, and added that they just started resurfacing Wrenwood and now we would be

inviting truck traffic. And lastly that it would be a disservice to not have the same protection as other roads.

**Lynn Morgan, 9156 Robin Ct. (Brentwood Forest Bd of Managers)** offered comments of the traffic difficulties at Eager and Brentwood; large trucks would make this disastrous and it will get worse during the holidays. She asked that it is considered how they will get out of their neighborhood safely. She later requested that the name of the “Maddenfest” goes back to “Brentwood Days”.

**Jeanne Staples, 1640 High School** stated her support of the bills which will reduce safety concerns; in which safety should be a top priority for all. The proposed bills impart a small section of Eager Road that is residential, it has a pedestrian crosswalk and is also an entrance to Brentwood Square. She listed safety concerns believed to arise when the large commercial trucks travel East on Eager from McCutcheon: narrow roads are not designed for big trucks and trailers, residents back out of parking on Eager, limited visibility of larger trucks and takes longer to stop – this is magnified by the steep hill and sharp right turn which includes pedestrian crossing, truck drivers are unfamiliar with the area and its conditions, there is currently a backup of traffic and limited room to maneuver. She stated her appreciation of the votes to avoid potential injury to people and properties.

**Maureen Wheat, 2420 Mari Kay Court** addressed the board with a grievance against administration for non-disclosure tactics in ruling at citizens and not for citizens, of which was submitted in writing and is attached to the minutes.

**Dorothy Needles, 9040 N. Swan** stated her support of Bills #5897 & #5898 and reiterated that there will be financial consequences if they are not passed; monies spent on the lake and the roads. She stated that we’ve been through this once and do not want to bear it again.

**Patricia Ebeling 1430 Peacock Ln.** stated her support to others comments regarding Bills #5897 & #5898 and added that these streets should have the same designation as others.

**Martha Lopiparo 8842 Eager** stated that she is not against the complex they are looking to build, she is not against the increased traffic or the tax revenue that the project will bring; she is against the construction traffic and the way it will be routed. She added that there are no other resident’s on Eager Road and that they are asking for protection; the same protection Richmond Heights is granting their residents. There are 4 phases to this project; how many years will this go on. She also commented that there are safety issues with residents backing up on to the street, pedestrians crossing, and the hill with the blind spot.

**Susan Ryan, Pine** stated that it is important to understand that planning and zoning is a recommending body primarily responsible for the commercial aspect, but the Board of Aldermen makes the final decisions. There is also Board of Adjustment and the Architectural Review Board who is responsible for residents; both of which decision is final. She stated that there are codes of conduct for employees and for the board of Aldermen but there is a gap as there is no code of conduct for the commissions. She was told if she has a problem she would have to take it to the state ARB and questioned why. She stated that she had previously presented some guidelines for behavior and asked that they are considered to ensure there is no gap in responsibilities we give to our decision making bodies.

**Karen Smith, Harrison** offered comments in regards to Bills #5897 and #5898 and questioned why the restrictions in the traffic schedule G and M1 are not applied more broadly throughout the city; how these streets were chosen and why others were not. She shared an experience she had in an accident at an intersection that has congestion and safety issues and asked these circumstances are considered when mixing residential and commercial uses. She asked, in relation to the Meridian ordinance, if an explanation could be given to clarify the financing;

has the aggregate increased to 57.65% - off of the amounts from that development, if the other taxes included are new, and if we think this amount of extra burden will really be paid off by 2023.

**INTRODUCTIONS, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS**

A discussion was held regarding if Bill #5896 was ready to be removed from hold and Administrator Akande reported that she had received an update from Representative Mitten's Office that it would take 90 days to get to the request and another 90 to provide the requested research; it was suggested to review the draft ordinance presented by the City Attorney. Motion was made by Alderman Leahy and seconded by Alderman Kramer to remove from hold, Bills #5896, #5897, #5898. **VOICE VOTE TAKEN; 7 – yes; Saunders – no; MOTION PASSED.** After discussing if they should be addressed separately, Aldermen Leahy and Kramer withdrew their motion.

Alderman Leahy made a motion to remove Bill #5896 from hold. No second; **MOTION DIES.**

Motion was made by Alderwoman Saunders and seconded by Alderman Kramer to remove from hold Bill #5897. **VOICE VOTE TAKEN; 7 – yes; Wynn – no; MOTION PASSED.**

Motion was made by Alderwoman Saunders and seconded by Alderman Kramer to remove from hold Bill #5898. **VOICE VOTE TAKEN; 7 – yes; Wynn – no; MOTION PASSED.**

Alderman Leahy made a motion for the 1<sup>st</sup> and 2<sup>nd</sup> reading of Bills #5897, #5898, #5912, #5913, #5914, #5915, #5916, #5917, #5918, #5919, #5920, #5921, #5922. Motion seconded by Alderman Toohey. Unanimous vote in favor taken; **MOTION PASSED.**

**Bill #5896 – (ON HOLD) An Ordinance Amending Chapter 8 Of The Revised Code Of Ordinances Of The City Of Brentwood, Missouri By Deleting Section 8-2 In Its Entirety And Enacting In Lieu Thereof A New Section 8-2, As It Relates To Election Of Officers Generally; Providing For The Current Maintenance Of This Code; Providing For The Effective Date Of This Ordinance; And Providing For The Repeal Of All Conflicting Ordinances – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Remains on hold.

**Bill #5897 – An Ordinance Amending Chapter 14 Of The Revised Code Of Ordinances Of The City Of Brentwood, Missouri, By Amending Section 14-1007 Relating To Commercial Vehicles And Motor Buses; Providing For The Effective Date Of This Ordinance; Providing For The Repeal Of All Conflicting Ordinances – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5897 by title only. Alderman Kramer provided the synopsis, “this bill is for an ordinance that would prohibit commercial vehicles and motor buses on Eager Road eastbound, from Wrenwood Lane to Bobolink Place; and Wrenwood Lane, from S. Brentwood Boulevard to Eager Road; Eager Road eastbound, from Chafford Woods to Bobolink Place and Wrenwood Lane. With an affirmative vote of 2-1, the Public Safety Committee forwards a positive recommendation for approval by the Board of Aldermen”. Alderman Wynn clarified that his vote from Public Safety was just to move it forward to the Board.

Alderman Leahy questioned, with the passage of Bills #5897 & #5898, if the commercial vehicles that are not allowed can be identified; does it included UPS, moving vans or other delivery trucks. Alderman Kramer explained the he is not aware why these schedules were originally set up as they are but as it is, schedule G allows delivers on those streets. An officer would not be sitting and watching; if residents complain, the police would have an ordinance to use for the violation. Bill #5897 is for commercial vehicles and Bill #5898 is for trucks which are precluded.

Alderman Leahy commented that these ordinances will not help mitigate the issues raised by the public, the trucks will be legally licensed, would be making deliveries in the area and therefore the police would not be able to do anything. The ordinance also would not stop the dirt, noise, or inconvenience and does not solve citizens' concerns. The only thing they could really do (as done with Hwy 64) would be to take Wrenwood out of Brentwood Forest and leave as much of the traffic off Eager so that they are not entangled with the trucks as much. After evaluating the intersection during rush hour, he agreed that there is heavy traffic and trucks will have a hard time getting through; chances are, they will also damage the little island.

Alderman Kramer recalled that the citizens have been through this before. Claims have been made that there is a bond in place, as it was last time. He discussed the hardship caused to the city and Brentwood Forest residents in 2004; the noise, dirt, traffic and unresponsive approach by Richmond Heights which was compared to the inconvenience of being involved in a car accident even though you have insurance. An alternative would be McCutcheon and Brentwood Forest residents are asking for protection via Bills #5897 and #5898.

Alderman Leahy asked if motor buses as referred to in Bill #5897 includes school buses; yes but they can be on the street if they are picking up and dropping off on that street.

Alderwoman Saunders stated her support and questioned how it is determined that streets get on the schedule. She also asked if Alderman Leahy is looking to eliminate these sections of the code if they are not correcting the problem. Alderman Leahy clarified that his understanding is that all commercial trucks and motor buses would be on Eager road for the intent of servicing this construction site; these bills would not give any authority otherwise. Mayor Kelly explained what makes this enforceable is that the other side of the street is Richmond Heights, under our code it is not considered a local delivery (even though they are our neighbors). He stated his opposition and added that if this development was in Brentwood, we would make the same requirement; they would be required to use Eager Road and not McCutcheon to get into the main road.

Alderman Toohey asked if this was an issue in 2004/2005, why we waited to bring it up now and change the rules. If they were to do this we wouldn't respond very favorably either. He also asked, if this is passed, could the developer have a legal case for targeted development? Attorney Albrecht could not say with any certainty at this time as he has not been notified of any pending litigation, he added that it is perceivable if they feel it would affect their ability to do business. Alderman Kramer also responded that most legislation is the result of some incident. When Brentwood Square was developed, Brentwood Forest should have been protected at that time. It was unknown what the conditions would be when Manhassatt Village was taken down and now that they are coming forward for another construction, residents are remembering their experience and asking for protection from the Board of this hardship. He also added that there was previously insurance for the project and the city had to pay to get the road paved. Mayor Kelly clarified that the city postponed paving our side of Eager Road because we knew they were going to do that project. Alderman Toohey added that the Bills may not speak for the entire community and even though Brentwood Forest adopted the resolution, many of the owners do not live there they own rental property. He added that some miss information is circulating; for instance, the dredging of the pond was not related to the tear down, it was related to the MoDot project.

Mayor Kelly further clarified with respect to the current street schedule; they were added when there were specific issues, not to stop construction traffic. He added that the intersection at Clayton and McCutcheon are not designed for large trucks; the intersection at Eager and Brentwood may be congested but is designed for large trucks. Brentwood Forest residents were upset and had many of the same issues when Brentwood Square was being built. There were issues but they were being addressed as they came up. Once the project was completed, it was something that we could be proud of. In response to questions of concerns of dirt and

debris being left on the streets, Administrator Akande commented that she has spoken with the Richmond Heights city manager and it was indicated that the provision was included that the developer wash off their trucks before leaving the construction site. Alderwoman Saunders offered comments of using the ordinance restrictions to bring both parties to the table. Alderman Kramer also announced discussions held with the developer in which they stated that they have no issues with using McCutcheon; that problem is with Richmond Heights. After additional questions, Attorney Albrecht clarified that he didn't see a legal issue with the ordinances and it is his preference that ordinances not be used as negotiating tools. The ordinance would be enforceable if used for best interest of residents as a whole.

Attorney Albrecht read Bill #5897 by title only. Alderman Kramer made a motion to perfect Bill #5897 into ordinance from. Motion seconded by Alderman Harper. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – no; Alderman Robertson – no; Alderman Kramer – yes; Alderman Toohey – no; Alderman Leahy – no; Alderwoman Manestar – yes; Alderwoman Saunders – yes; Mayor Kelly – no; **MOTION FAILED.**

**Bill #5898 – (ON HOLD) An Ordinance Amending Chapter 14 Of The Revised Code Of Ordinances Of The City Of Brentwood, Missouri, By Amending Section 14-1013.1 Relating To Trucks And Commercial Vehicles Over Eighteen Thousand Pounds; Providing For The Effective Date Of This Ordinance; Providing For The Repeal Of All Conflicting Ordinances – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5898 by title only. Alderman Kramer provided the synopsis, “this bill is for an ordinance that would prohibit truck, tractor, trailer or tractor-trailer combinations or commercial vehicles licenses or registered for or weighing more than eighteen thousand (18,000) pounds gross weight (anything over Ford F-550, for example) at any time on Eager Road eastbound, from Wrenwood Lane to Bobolink Place; (22) Wrenwood Lane, from S. Brentwood Boulevard to Eager Road; (23) High School Drive, from Eager Road to Lawn Avenue. With an affirmative vote of 2-1, the Public Safety Committee forwards a positive recommendation for approval by the Board of Aldermen”. Attorney Albrecht read Bill #5898 by title only. Alderman Kramer made a motion to perfect Bill #5897 into ordinance from. Motion seconded by Alderman Harper. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – no; Alderman Robertson – no; Alderman Kramer – yes; Alderman Toohey – no; Alderman Leahy – no; Alderwoman Manestar – yes; Alderwoman Saunders – yes; Mayor Kelly – no; **MOTION FAILED.**

**Bill #5904 – (ON HOLD) An Ordinance Amending Chapter 14 Of The Revised Code Of Ordinances For The City Of Brentwood, Missouri By Repealing Section 14-159 Of Said Chapter Relating To Designation Of Certain Streets; Enacting In Lieu Thereof New Sections 14-159 And 14-159.1; Providing For The Current Maintenance Of This Code; Providing For The Effective Date Of This Ordinance; And, Providing For The Repeal Of All Conflicting Ordinances – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Remains on hold.

**Bill #5912 – An Ordinance Adopting And Enacting An New Code Of Ordinances Of The City Of Brentwood; Establishing The Same; Providing For The Repeal Of Certain Ordinances Not Included Therein, Except As Herein Expressly Provided; Providing For The Manner Of Amending Such Code Of Ordinances; Providing Penalty For The Violation Thereof; And Providing When This Ordinance Shall Become Effective – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5912 by title only. Alderman Kramer provided the synopsis, “this ordinance approves a recodification of the City of Brentwood Code. Updates to the Code include statutory updates affected by changes in State law during 2012 & 2013 legislative sessions, changes made as a result of conversations with the City during the editorial conferences in 2012 and 2013, and ordinances adopted by the Board of Aldermen up until June 2014”. Alderman Leahy made a motion that the board put the bill on hold to have for a special meeting to discuss further as some discussion is needed before a vote to pass. Motion

seconded by Alderwoman Saunders. A brief discussion was held and it was announced that adoption would allow the code to be placed back online for public access; additional changes could be taken back to their respective committee. Alderwoman Saunders commented that there should be a reason for making changes to the code, it was previously scheduled to go through the chapters but the process stopped before she could get her questions answered. Mayor Kelly added that this process has been ongoing since 2008/2009 and called for the question. **ROLL CALL:** Alderman Harper – no; Alderman Wynn – no; Alderman Robertson – no; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – yes; **MOTION PASSED.** Alderman Leahy made a motion to place Bill #5912 on hold. Motion seconded by Alderwoman Saunders. Unanimous vote in favor taken; **MOTION PASSED.**

**Bill #5913 – An Ordinance Authorizing The Mayor To Execute A Lease Agreement On Behalf Of The City Of Brentwood, Missouri, With Raymond A. Davis And Karen S. Davis D/B/A Southern Sno, Of 8817 Powell Avenue, Brentwood, Missouri 63144 For Renting A Portion Of Land In Memorial Park; And Providing For The Effective Date Of This Ordinance – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5913 by title only. Alderman Kramer provided the synopsis, “Southern Sno has been renting the grassy area near the parking lot in Memorial Park for the last nine years for the purpose of the placement of a trailer for concession sales. The new lease begins May 1, 2015. The Parks and Recreation Department has a good working relationship with Southern Sno. The area where their trailer is located is always clean and well maintained and they have been prompt with their rental payment. The only utility that is used for the trailer is electricity, and Ameren UE bills Southern Sno directly. The lease will now include an increase in the monthly rent from \$125 per month from May – October, to \$150 per month, earning the City \$900 per year. The Public Works Committee recommends approval to the Board of Aldermen”. Attorney Albrecht read Bill #5913 by title only. Alderman Leahy made a motion to perfect Bill #5913 into ordinance form. Motion seconded by Alderwoman Manestar.

**ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – yes; **MOTION PASSED.**

***BILL #5913 IS HEREBY PASSED AND NOW BECOMES ORDINANCE #4572***

**Bill #5914 – An Ordinance Authorizing The Installation Of One (1) Additional Fire Hydrant In The City Of Brentwood – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5914 by title only. Alderman Kramer provided the synopsis, “the Fire Department requests from Missouri American at no cost to the City, one additional fire hydrant in the area of Annalee and Litzsinger Road. The Public Safety Committee recommends approval to the Board of Aldermen”. Attorney Albrecht read Bill #5914 by title only. Alderman Leahy made a motion to perfect Bill #5914 in ordinance form. Alderman Wynn seconded by the motion. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – yes; **MOTION PASSED.**

***BILL #5914 IS HEREBY PASSED AND NOW BECOMES ORDINANCE #4573***

**Bill #5915 – An Ordinance Of The City Of Brentwood, Missouri, Authorizing The Mayor And/Or City Administrator To Execute The Attached Supplemental Agreement No. 1 To The Engineering Services Contract For STP 5438(608) Litzsinger Road Improvements Project – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5915 by title only. Alderman Kramer provided the synopsis, “this bill is for an ordinance authorizing the mayor and/or city administrator to execute a supplemental agreement with the City of Brentwood and Horner & Shifrin in the amount of \$9,643.03. The initial agreement with Horner Shifrin was approved by ordinance 4358 and authorized design services not to exceed \$201,037.50. As the design on the project has progressed, utility coordination has required more effort than originally anticipated. Based on

this additional time and effort, Horner and Shifrin have requested a supplemental agreement. The agreement requests and additional \$9,643.03 for a total design phase cost of \$210,680.53. No additional funding is required – the request only shifts where the previously approved funds would be spent. The Public Works Committee recommends approval to the Board of Aldermen.” Attorney Albrecht read Bill #5915 by title only. Alderman Leahy made a motion perfect Bill #5915 into ordinance form. Motion seconded by Alderman Kramer. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – yes; **MOTION PASSED.**

***BILL #5915 IS HEREBY PASSED AND NOW BECOMES ORDINANCE #4574***

**Bill #5916 – An Ordinance Amending Chapter 13 Of The Revised Code Of Ordinances Of The City Of Brentwood Missouri By Deleting Sections 13-250 - 13-260 Of Article XII, As It Relates To Regulation Of Smoking In Public And Work Places, And Enacting In Lieu Thereof New Sections 13-250 – 13-260 To Article XII; Providing For The Current Maintenance Of This Code; Providing For The Effective Date Of This Ordinance; And, Providing For The Repeal Of All Conflicting Ordinances – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5916 by title only. Alderman Kramer provided the synopsis, “with the passage of this ordinance, the use of e-cigarettes and vapor products would also be prohibited in public places and the workplace. The initial regulation (Ordinance No. 4243) to prohibit smoking in public and work place was passed and adopted by the Board of Aldermen on August 16, 2010.” Alderman Toohey offered comments of creating an environment of no advantage to the smoking alternative and Mayor Kelly stated his belief that there is no infinitive study. He added that is request for this ordinance is a result of complaints received from individuals that are opposed to smoke and vapor. Alderman Leahy also commented that it should be the discretion of the individual businesses. After additional questions of the impact is has on businesses, Mayor Kelly stated that he was told by some that business has picked up when they originally thought they would lose a lot of customers. Attorney Albrecht read Bill #5916 by title only. Alderman Wynn made a motion to perfect Bill #5916 in ordinance form. Motion seconded by Alderwoman Manestar. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – yes; **MOTION PASSED.**

***BILL #5916 IS HEREBY PASSED AND NOW BECOMES ORDINANCE #4575***

**Bill #5917 – An Ordinance Authorizing The Mayor And/Or City Administrator To Enter Into And Execute An Agreement On Behalf Of The City Of Brentwood, Missouri, With XI Contracting; And Providing For The Effective Date Of This Ordinance – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read bill #5917 by title only. Alderman Kramer provided the synopsis, “on May 19, 2014 the Board of Alderman approved Resolution #1010, the acceptance of the Trenching and Shoring Policies and Procedures. As part of this new policy any sewer laterals excavation 12 foot or deeper needs to be contracted out to an excavation contractor. The Public Works Committee recommends approval to the Board of Aldermen”. Attorney Albrecht read Bill #5917 by title only. Alderman Harper made a motion to perfect Bill #5917 by title only. Motion seconded by Alderman Leahy. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – yes; **MOTION PASSED.**

***BILL #5917 IS HEREBY PASSED AND NOW BECOMES ORDINANCE #4576***

**Bill #5918 – An Ordinance Of The City Of Brentwood, Missouri, Authorizing The Mayor And/Or City Administrator To Enter Into And Execute A Lease Purchase Agreement With Hewlett-Packard Financial Services Company; And Providing For The Effective Date Of This Ordinance – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5918 by title only. Alderman Kramer provided the synopsis, “in order to meet the City’s wide-spread requirement for current technology, staff identified the

need for a comprehensive technology refresh. Funding is in the FY 14 to start implementation. Staff anticipated the phasing and implementation of this technology plan would take place over seven (7) years. By consolidating the purchases into a larger acquisition, staff was able to meet price point discount requirements and obtain the equipment via a five-year lease with annual payments of \$41,706.11 per year. This item will be purchased of the Missouri State Contract, which means the City does not have to issue a Request For Proposal (RFP) for this purchase. The Ways and Means Committee recommends approval to the Board of Aldermen". Attorney Albrecht read Bill #5918 by title only. Alderman Leahy made a motion to perfect Bill #5918 into ordinance form. Motion seconded by Alderman Robertson. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – yes; **MOTION PASSED.**

***BILL #5918 IS HEREBY PASSED AND NOW BECOMES ORDINANCE #4577***

**Bill #5919 – An Ordinance Amending Chapter 19 Of The City Of Brentwood Municipal Code, Pertaining To The Regulation Of Signs, Providing For The Current Maintenance Of This Code; Providing For The Effective Date Of This Ordinance; And Providing For The Repeal Of All Conflicting Ordinances – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Alderman Leahy made a motion to place Bill #5919 on hold. Motion seconded by Alderman Wynn. Unanimous vote in favor taken; **MOTION PASSED.**

**Bill #5920 – An Ordinance Granting Amended Site Plan Approval To Xyquad For Exterior Renovation Of An Existing Building And Related Site Improvements At Property Numbered 2921 S. Brentwood Blvd Which Permits Under The Provisions Of Chapter 25 Of The Brentwood Code Of Ordinances The Development Of That Site; Providing The Conditions Of Such Development; And Providing For The Effective Date Of This Ordinance – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5920 by title only. Alderman Kramer provided the synopsis, "This bill grants an ordinance for a site plan approval amended site plan approval to Xyquad for exterior renovation of an existing building and related site improvements at property numbered 2921 S. Brentwood Boulevard. The improvements entail removal of the existing mansard roof with installation of a new dryvit façade, painting the rear of the building, screening of HVAC units, and installation of landscaping along the front of the building. The Planning & Zoning Commission recommends approval of the site development plan by a vote of 7-0". Attorney Albrecht read Bill #5920 by title only. Alderman Robertson made a motion to perfect Bill #5920 into ordinance form. Motion seconded by Alderman Wynn. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – yes; **MOTION PASSED.**

***BILL #5920 IS HEREBY PASSED AND NOW BECOMES ORDINANCE #4578***

**Bill #5921 – An Ordinance Of The City Of Brentwood, Missouri, Authorizing The Mayor And/Or City Administrator To Enter Into And Execute An Agreement Between The City Of Brentwood, Missouri And Horner & Shifrin To Provide Surveying And Geotechnical Engineering Services; And Providing For The Effective Date Of This Ordinance – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5921 by title only. Alderman Kramer provided the synopsis, "This bill authorizes the mayor and/or city administrator to enter into an agreement with Horner Shifrin, one of the City's on-call engineering firms, to provide Surveying & Geotechnical Engineering Services related to the renovations to the Brentwood Recreation Complex. This expenditure will be funded as part of the cash funding the City of Brentwood will be contributing from the reserves in the Stormwater & Park Improvement Fund to the renovation project". Attorney Albrecht read Bill #5921 by title only. Alderman Robertson made a motion to perfect Bill #5921 into ordinance form. Motion seconded by Alderman Wynn. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer –

yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – yes; **MOTION PASSED.**

**BILL #5921 IS HEREBY PASSED AND NOW BECOMES ORDINANCE #4579**

**Bill #5922 – An Ordinance Authorizing The Execution Of An Amended And Restated Trust Indenture Relating To The City’s \$7,650,000 Taxable Tax Increment Refunding Revenue Bonds, Series 2007A (8300 Eager Road Project - Phase 1) And \$13,185,000 Taxable Tax Increment Refunding Revenue Bonds, Series 2007B (8300 Eager Road Project - Phase 2); Authorizing The Execution Of An Eighth Amendment To And Restatement Of Redevelopment Agreement And Other Documents; And Authorizing Certain Other Actions In Connection With The Execution And Delivery Of The Bonds – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5922 by title only. Alderman Kramer provided the synopsis, “This ordinance authorizes the execution of an eighth amendment to and restatement of redevelopment agreement and other documents; and authorizing certain other actions in connection with the execution and delivery of the bonds”. Mark Grimm, Gilmore Bell, was also present to provide any necessary clarity. Mayor Kelly explained that these are not obligations of the city, they are obligations of the TIF district. Once the time limit expires in 2023 the obligation of the taxing district goes away. The developer will be holding the bonds/notes when this is reissued and at that point, anything outstanding is their obligation. The city’s contribution amount is from revenues from revenues generated by that project.

Alderman Leahy asked if all three parties in the settlement agreement have gotten on the same page. Grimm responded that this is intended to implement the settlement agreement. He has not had any direct communications with Compass Bank, but has been told by the developers’ counsel that Compass Bank is on board. Mayor Kelly added that this is the phase we are at and the reality is that they (the developers) do have a commitment from a bank for financing, if for some reason it doesn’t move forward a trial date is set for November 3<sup>rd</sup>. He also commented that we have been on the same page since the beginning; we have honored our obligations with respect to the settlements and are ready to proceed. We need to pass this bill for completion of the bond costing; this ordinance will not hurt the city but affirms that the city is ready to implement the settlement agreement. Grimm commented that in his observations the developer and the bank haven’t been closer than they are now.

Alderwoman Saunders followed up to a citizen question of financing and what taxes are normally calculated. Grimm responded that the TIF does capture parks, storm water, fire, etc, but does exclude Metro link sales tax. Saunders continued, stating that originally it was the top 50% and now we are giving 57% of the bottom half and also asked if the bonds were the same as issued in 2007. Saunders added that we have already adopted an eight amended agreement and now there is another before us. She recalled that the developers were supposed to give 4 million in the initial settlement and then with the stay of execution it was reduced to 2 million, but, in seeing the bonds it is not reduced – it is the same issuance as in 2007. Grimm agreed with the percentage and stated that the documents reflect exactly what the agreement that the stay litigation set forth. The agreement was approved by the Board of Aldermen in January and approved by the developer, the banks and UMB Bank as trustee; the documents precisely set forth the business deal agreed by all in January. As further asked, the million dollars put on deposit reduced the amount held by Compass Bank and that obligation would then run to the developer; the developer put up a million dollars to Compass and received a million in bonds back. The maturity date on the bonds is December 17, 2023 (the end date of the TIF) and are structured so that all money that comes in pays debt service. The interest rate will now be fixed instead of variable; Stifel is advising on the interest rate. A portion of the bonds are likely to be outstanding in 2023, we had hoped that the interest rate would be set by tonight and since it has not, the ordinance was amended to include a specification of not to exceed 6%. It also states that the city will reasonably consider necessary rebonding if the

developer asks – which means if the city finds it in its best interest to do so and the terms are acceptable.

Alderman Leahy clarified if the city passes the agreement and it goes to the other parties to execute, if something falls apart between now and November 3<sup>rd</sup> what happens. Grimm responded that we will send to the other developer and the city will sign only if it looks like it will close. He also clarified for Alderwoman Saunders that the board approved the eight amendment, but it was never fully executed; to eliminate confusion it was best to come back with another eighth amendment instead of jumping to ninth. Alderman Leahy stated his unwillingness to sign showing our commitment and it still falls apart. Mayor Kelly clarified that we are committed by the settlement agreement; the original (2007) trust indenture did not set out a fixed interest rate for the bonds which is why it needed to be amended. This authorizes that rate but doesn't change the facts from the city's stand point.

Grimm further explained that when the Eager Road TDD was set up, the deal from the beginning was that \$230,000 per year from the TDD sales tax would be captured by the TIF and the rest of the TDD sales tax would be paid over to the Eager Road TDD. We've got the concept of the captured TDD revenues (\$230,000) and then all the rest of the TDD sales taxes goes to the Eager Road TDD but the rest of the money is TIF money.

Mayor Kelly stated that with respect to the percentage amount of sales tax revenue going to this specific project, compared to some other projects the percentage is low (Promenade we contributed all sales tax revenue to pay off the bonds quicker, Brentwood Square was the same plus any additional revenues above projections were passed through to the other taxing districts). Each project is different and with the TDD we negotiated to ensure we got what was necessary to support the TIF by getting them to give us the first \$115,000 each half year.

Attorney Albrecht read Bill #5922 by title only. Alderman Robertson made a motion to perfect Bill #5922 into ordinance form as amended. Motion seconded by Alderman Wynn. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – no; **MOTION PASSED.**

***BILL #5922 IS HEREBY PASSED AND NOW BECOMES ORDINANCE #4580***

**Resolution #1019 – A Resolution Adopting Healthy And Sustainable Food Service Guidelines In The City Of Brentwood**

Alderman Kramer provided the synopsis, of Resolution #1019, “the City would like to institute Healthy and Sustainable Food Service Guidelines as part of the City's health and wellness goals for Let's Move! Cities, Towns and Counties (LMCTC). LMCTC is a major component of First Lady Michelle Obama's comprehensive Let's Move! initiative, which is dedicated to solving the childhood obesity epidemic within a generation; and a policy for healthy and sustainable food service guidelines aligned with the Dietary Guidelines for Americans is adopted for municipally owned venues that offer or sell food/beverages is needed to move forward with Goal IV – Model Food Service. This would apply to vending machines located in City Hall and the Brentwood Community Center. The Public Works Committee recommends approval to the Board of Aldermen”. A brief discussion was held and it was clarified that this provides no conflict with the agreement we currently have with Pepsi and would not cause any issues with the vending machine supplier. Alderman Wynn stated his opposition to governments involvement on this matter. Alderman Robertson made a motion to approve Resolution #1019. Motion seconded by Alderman Harper. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – no; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – no; Alderwoman Manestar – yes; Alderwoman Saunders – no; **MOTION PASSED.**

**ACCOUNTS AGAINST THE CITY**

Alderman Kramer made a motion to approve the warrant list in the amount of \$186,130.43 including current grant pass throughs of \$30,752.60. Motion seconded by Alderman Leahy. Unanimous vote in favor taken; **MOTION PASSED.**

**REPORTS OF COMMITTEES AND DEPARTMENT HEADS**

**Mayor Kelly** reported the official opening and ribbon cutting of the BoneFish Grill earlier today. They are also having a special event tomorrow in support of Make a Wish Foundation; 50% all of the proceeds are being donated.

He assured the board and the public that the police and fire chiefs have been meeting on a regular basis to communicate with counter parts in regards to that case in Ferguson and contingency planning regarding the court ruling. They have also met with businesses to address their concerns.

After announcing his plans to be in New York November 2<sup>nd</sup>, Alderman Harper made a motion to cancel the November 3<sup>rd</sup> Board of Aldermen meeting. Motion seconded by Alderman Wynn. **ROLL CALL:** Alderman Harper – yes; Alderman Wynn – yes; Alderman Robertson – yes; Alderman Kramer – yes; Alderman Toohey – yes; Alderman Leahy – yes; Alderwoman Manestar – yes; Alderwoman Saunders – yes; **MOTION PASSED.**

There is a request from a producer to shoot a video for Rawlings at Brentwood Park; they will be at the park at 6am for a photo shoot. This should not impact any of its surroundings.

**Public Safety Committee,** Alderman Wynn had no new report.

**Public Works Committee,** Alderman Robertson had no new report.

**Director of Planning & Development,** Director Wyse had no new report.

**Ways and Means Committee,** Alderman Kramer announced that the committee is looking to schedule the next meeting between now and November 11<sup>th</sup>. Mayor Kelly asked if ways and means would consider discussing the recodification and bring back to the board any final changes for approval. Alderman Leahy reminded that the motion was made to hold a special meeting of the board of aldermen and reiterated his belief that a full board needs to participate in the action of revising the code. November 3<sup>rd</sup> was proposed to hold the special meeting and later removed as an option; Mayor Kelly will work to schedule a special meeting date. Everyone was asked to submit any questions/concerns to the city administrator in preparation of this meeting.

**City Attorney Albrecht** had no new report.

**City Clerk/Administrator** had no new report.

**Library,** Alderman Wynn had no new report.

**Municipal League,** Mayor Kelly had no new report.

**Historical Society,** Chief Fitzgerald reported that Sunday, November 16<sup>th</sup> the Historical Society will have their Tea Party.

**Closed Meeting,** none

**UNFINISHED BUSINESS**

After request of an update of the status of Einstein Bagels, it was noted that they are making slow but deliberate progress and do not yet have a target date.

Mayor Kelly asked that a letter is sent to Chris Thornton regarding their project on White and Brentwood letting them know that we are happy they are proceeding, however, they need to go through the P&Z process at this point.

Alderwoman Saunders announced receipt of complaints regarding the white boards on Hanley @ Manchester. It was clarified that there are no code violations and the request to remove was presented to the Public Works Committee who agreed that they were allowed to remain.

Alderman Leahy clarified that most of the times items are moved from the committee to the full board but are not necessarily an approval and he asked that moving forward the synopsis of bills is written to reflect this.

### **NEW BUSINESS**

Alderman Leahy announced that the Ward 3 meeting for November will be held Tuesday, October 28<sup>th</sup>; all are welcomed. He also asked that everyone exercise caution on Halloween, October 31<sup>st</sup>; reminded everyone of the national election on Tuesday, November 4<sup>th</sup> and encouraged everyone to participate; lastly he asked the we honor our veterans on Veteran's Day and suggested taking a veteran to lunch.

### **HEARING OF ANY MATTER OF PUBLIC INTEREST UPON REQUEST OF ANY PERSON PRESENT**

**Karen Smith, Harrison,** encouraged serious consideration of the code of ordinances as it is how we run our city. She asked who owns the small land across from Bobolink (MoDOT) and suggested it is used to make the development more accessible for deliveries. Lastly she commented in regards to the Meridian, within the agreement includes a statement that the city agrees that the city shall not amend the agreement; she asked if the city is bound by this agreement if the other parties do not agree.

Mayor Kelly responded that the city is bound to this now by the settlement agreement entered into in court; this is putting the official documents in place so that the developer can close on the properties. This was agreed through arbitration in September 2011, if for some reason they don't move the ordinance is moot; it would go to court and a separate decision would be made at the court level. With respect to the MoDOT property, there is another piece of property adjacent that is owned by Town & Country and they would need agreements from them as well; MoDOT has, however stated that they would not support this. Alderman Toohey added that the developer is willing to work with the city to be a good neighbor and has said they will attempt to be on Eager as little as possible. Alderman Kramer stated that he has done some research and learned that FHA governs MoDOT and for the adjacent federally funded highway to have a special road would require FHA approval and they would not.

### **ADJOURNMENT**

Alderman Wynn made a motion to adjourn the meeting at 9:35 p.m. Motion seconded by Alderman Leahy. Unanimous vote in favor taken; **MOTION PASSED.**

**Approved as submitted this 17<sup>th</sup> of November , 2014.**

Attest:

\_\_\_\_\_  
Pat Kelly, Mayor

\_\_\_\_\_  
Bola Akande, City Clerk/Administrator