

**PUBLIC HEARING
JUNE 9, 2020 AT 6PM AT ELSBERRY CITY HALL
PRIOR TO THE
REGULAR SESSION JUNE BOARD MEETING AT 6:30PM**

A **PUBLIC HEARING** was held at Elsberry City Hall at 6PM to hear public comment on, and to consider, a proposed ordinance to amend the existing ordinances concerning zoning for Residential R-1 for Fraternal Use by replacing §41.130 of the Elsberry Municipal Code with a new §41.130.

The application was heard by the Elsberry Planning & Zoning Commission in a public meeting on Monday, May 4, 2020 at 6:00PM at Elsberry City Hall and it was recommended to be approved for this public hearing.

City Attorney Guinness read aloud the Public Hearing agenda based upon the proposed ordinance change including a request to re-build an outbuilding (shed) that was dilapidated behind the residential property at 401 S. 2nd Street in Elsberry, MO that will be voted on later in the meeting. City Attorney Guinness asked if there were representatives present from the Elsberry VFW Post #9064. There were a couple of people present from the Elsberry VFW that explained to the board that the VFW had purchased this residential property along with the shed in the back of the property to hold their fraternal meetings and to use the shed as storage for the VFW. The shed was dilapidated and torn down and they would like to re-build the shed with new plans from Collins Construction on the existing foundation. They are petitioning to have this R-1 fraternal ordinance change and they are re-building the shed as an improvement to the property and to the community. Alderman Hartley thanked the representatives from the Elsberry VFW for investing in our community. City Attorney Guinness asked if there was anyone present from the Planning & Zoning Committee who would like to share their recommendation to the board. Chairman Adam Driesewerd was present and stated that the Planning & Zoning Committee met on Monday May 4, 2020 at 6PM at City Hall and voted to recommend the proposed ordinance change and approved the plans to re-build the dilapidated shed on its current foundation as storage for the VFW. City Attorney Guinness asked if there was any other comment either in favor of, or in opposition, to the proposed ordinance and there was no public comment.

Mayor Michael Short announced that the Public Hearing was closed at 6:06PM.

**CITY OF ELSBERRY
REGULAR SESSION
JUNE 9, 2020
ELSBERRY CITY HALL**

The Board of Aldermen of the City of Elsberry met on the evening of the above date at Elsberry City Hall, 6:30pm. Mayor Wilch presided over the meeting. Present were Alderman Short, Alderman Davis, Alderman Robinson, Alderman Harper, Alderman Rockwell, Alderman Hartley, City Attorney Rob Guinness, City Clerk Sue Hogarth, City Treasurer Tammy Sharpe, City Collector Rachel Reed and Chief Randy Davis. Also present were Justin Reaves and Ron Smith of Alliance Water Resources and Jim Bensman with MECO Engineering.

Mayor Wilch called the meeting to order and led in the pledge to the flag. Roll call deemed a quorum present.

PRIOR MEETING MINUTES APPROVAL

A motion was made by Alderman Hartley to approve meeting minutes from May 2020, seconded by Alderman Harper.

AYES – Alderman Hartley, Alderman Harper, Alderman Rockwell, Alderman Davis, Alderman Robinson NAYS – 0 ABSTAIN – Alderman Short Motion carried

APPROVAL OF UNPAID BILLS REPORT

Motion was made by Alderman Rockwell to approve the unpaid bills, seconded by Alderman Davis.

AYES – All in Favor NAYS – 0 Motion carried

Presentation of Certified Election Results from June 2, 2020 Election

- City Clerk Sue Hogarth

City Clerk Sue Hogarth presented and read aloud the Certified Election Results received from the Lincoln County Clerk's office from the June 2, 2020 election. Michael Short was elected as Mayor, Terrie Harper was elected for Alderman – Ward 1, Scott Miller was elected for Alderman – Ward 2 and Teresa Davis was elected for Alderman– Ward 3.

A motion was made by Alderman Short to approve the certified election results, seconded by Alderman Hartley.

AYES – All in Favor NAYS – 0 Motion carried

Swearing in for new City Officials / Oath of Office

- City Clerk Sue Hogarth

City Clerk Sue Hogarth asked Michael Short, Terrie Harper, Scott Miller and Teresa Davis to stand before the board of aldermen and they took the Oath of Office and were sworn in. City Clerk Sue Hogarth had the mayor and each alderman sign their Oath of Office.

Appointment to Fulfill Term for Alderman Ward 2

- Mayor Short

Mayor Short appointed William “Sonny” Taylor to fill his Alderman – Ward 2 position to fulfill the remaining (10) months of his term. A motion was made by Alderman Rockwell to approve the appointment, seconded by Alderman Davis.

AYES – Alderman Rockwell, Alderman Davis, Alderman Miller, Alderman Harper,
Alderman Robinson NAYS – 0 Motion carried

City Clerk Sue Hogarth asked William “Sonny” Taylor to stand before the board of aldermen and take the Oath of Office. He was sworn in and signed his Oath of Office.

Appointment of City Clerk & Mayor Pro Tem by the new Board of Aldermen

A motion was made by Alderman Rockwell to appoint Sue Hogarth as City Clerk, seconded by Alderman Harper.

AYES – All in Favor NAYS – 0 Motion carried

A motion was made by Alderman Davis to appoint Alderman Rockwell as Mayor Pro Tem, seconded by Alderman Harper.

AYES – All in Favor NAYS – 0 Motion carried

Appointment of City Treasurer, City Attorney, Municipal Court Judge, Building Inspector and Emergency Management Director

- Mayor Short

The following appointments were made by Mayor Short and voted on by the Board of Aldermen:

City Treasurer: Tammy Sharpe

A motion was made to accept the appointment by Alderman Rockwell, seconded by Alderman Davis. AYES – All in Favor NAYS – 0 Motion carried

City Attorney: Robert Guinness

A motion was made to accept the appointment by Alderman Rockwell, seconded by Alderman Miller. AYES – All in Favor NAYS – 0 Motion carried

Municipal Judge: Steve Hillemann

A motion was made to accept the appointment by Alderman Harper, seconded by Alderman Robinson. AYES – All in Favor NAYS – 0 Motion carried

Building Inspector: Don Slaughter

A motion was made to accept the appointment by Alderman Davis, seconded by Alderman Robinson. AYES – All in Favor NAYS – 0 Motion carried

Emergency Services Director: Paul Mueller

A motion was made to accept these appointments by Alderman Harper, seconded by Alderman Davis. AYES – All in Favor NAYS – 0 Motion carried

Committee Meeting Appointments
- Mayor Short

Mayor Short made the following 2020-2021 Committee Appointments for the City of Elsberry:

Emergency Services Committee: Alderman Davis, Alderman Taylor, Alderman Rockwell

A motion was made by Alderman Rockwell to approve these appointments, seconded by Alderman Miller. AYES – All in Favor NAYS – 0 Motion carried

Infrastructure Committee: Alderman Miller, Alderman Rockwell, Alderman Taylor

A motion was made by Alderman Harper to approve these appointments, seconded by Alderman Davis. AYES – All in Favor NAYS – 0 Motion carried

Cemetery / Parks Committee: Alderman Davis, Alderman Harper, Alderman Robinson

A motion was made by Alderman Davis to approve these appointments, seconded by Alderman Robinson. AYES – All in Favor NAYS – 0 Motion carried

Economic Development: Alderman Robinson, Alderman Miller, Alderman Harper

A motion was made by Alderman Rockwell to approve these appointments, seconded by Alderman Davis. AYES – All in Favor NAYS – 0 Motion carried

Planning & Zoning Committee: Alderman Rockwell (2022), Conrad Cheatham (2021), Adam Dreisewerd (2021), Justin Reaves/Alliance (2022), Steve Wilch (2022), Mayor Short (2022) and (1) Open Position TBD

A motion was made by Alderman Davis to approve these appointments, seconded by Alderman Robinson. AYES – All in Favor NAYS – 0 Motion carried

Library Representative: Alderman Robinson

A motion was made by Alderman Harper to approve these appointments, seconded by Alderman Davis. AYES – All in Favor NAYS – 0 Motion carried

Page Branch Park: Sarah Hunt, Amy Lowe, JoAnn Cordsiemon, Mayor Short, Curtissa Kerr-Hunter, Kimber Cordsiemon, Angie Toland

A motion was made by Alderman Davis to approve these appointments, seconded by Alderman Robinson. AYES – All in Favor NAYS – 0 Motion carried

Board of Adjustment: Kathy Crank (2022), Jim Jeans (2022), Susan Miller (2022), Brian Gnade (2021), Brent Hygard (2021)

A motion was made by Alderman Harper to approve these appointments, seconded by Alderman Davis. AYES – All in Favor NAYS – 0 Motion carried

Tree Board:

Mike Talbot (2022), Carolyn Lovelace (2022),
Brent Rockwell (2021), Terrie Harper (2022),
(2) positions TBD

A motion was made by Alderman Davis to approve these appointments, seconded by Alderman Rockwell. AYES – All in Favor NAYS – 0 Motion carried

Alderman Hartley and Mayor Wilch both made closing remarks and thanked the board and the community for entrusting them to be representatives for the City of Elsberry.

PROJECT UPDATES

Boonslick Regional Planning Commission Update – Chad Eggen

Chad Eggen from Boonslick was unable to attend since Boonslick is restricting attendance at any public meetings due to the COVID-19 outbreak. There were no new updates at this time.

Update from USDA – Rural Development – Michael Hartman

Michael Hartman from USDA was unable to attend due to restrictions at any public meetings due to the COVID-19 outbreak. There were no new updates at this time.

Update from MECO Engineering

- Jim Bensman w/MECO Engineering

Jim Bensman stated that MECO Engineering is in a holding mode right now since all the plans and documentation for the Wastewater Treatment Plant have been submitted to DNR, Boonslick and USDA. He asked the board if there were any questions and there were none.

PETITIONS, REMONSTRANCES, COMPLAINTS AND REQUESTS AND THE HEARING OF ANY PERSON OR GROUP DESIRING TO ADDRESS THE BOARD, EACH OF WHOM HAVE FILED PRIOR REQUESTS TO BE PLACED ON THE AGENDA IN COMPLIANCE WITH CITY CODE 24.105

- Presentation for Commercial Crime / Fidelity Bond Insurance with Travelers from the Daniel & Henry Company Insurance & Risk Management in St. Louis

- Amy Vernon DiBlasi & Lucas Signorelli with The Daniel & Henry Co.

Amy Vernon DiBlasi and Lucas Signorelli from Daniel & Henry Company in St. Louis provided the board with a proposal for commercial crime and fidelity bond insurance through Travelers Insurance for the City of Elsberry. They also stated that if the board would want to consider a 2nd option to increase coverage for all insured individuals from \$50,000 to \$100,000, the annual premium would only increase by \$207.00. A vote will be taken later in the meeting and the board thanked them for coming and for the presentation.

- Request from Ice House Fireworks for Retail Fireworks Sales Permit Application
- City Clerk Sue Hogarth for Thelma Livesay

A motion was made by Alderman Harper to approve the Fireworks Sales Permit for Ice House Fireworks, seconded by Alderman Robinson.

AYES – All in Favor NAYS – 0 Motion carried

- Request for Liquor License for AJ’s Tex-Mex & BBQ at 451 N. Main for “Light Wine & Malt Liquor (Beer) by the Drink (includes Sunday Sales)”
- City Clerk Sue Hogarth for AJ Benavidez

A motion was made by Alderman Rockwell to approve the Liquor License for AJ’s Tex-Mex & BBQ, seconded by Alderman Davis.

AYES – All in Favor NAYS – 0 Motion carried

Request for Liquor License Renewal for Abel’s Quik Stop for “Original Package Liquor – Retail Merchandise Store” and “Original Package Liquor – Sunday”
- City Clerk Sue Hogarth

A motion was made by Alderman Davis to approve the Liquor License for Abel’s Quik Stop, seconded by Alderman Rockwell.

AYES – All in Favor NAYS – 0 Motion carried

Request for Liquor License Renewal for Dollar General for “Original Package Liquor – Retail Merchandise Store”
- City Clerk Sue Hogarth

A motion was made by Alderman Harper to approve the Liquor License for Dollar General, seconded by Alderman Robinson.

AYES – All in Favor NAYS – 0 Motion carried

Request for Liquor License Renewal for Family Dollar for “Original Package Liquor – Retail Merchandise Store”
- City Clerk Sue Hogarth

A motion was made by Alderman Rockwell to approve the Liquor License for Family Dollar, seconded by Alderman Miller.

AYES – All in Favor NAYS – 0 Motion carried

Request for Liquor License Renewal for Casey’s General Store for “Original Package Liquor – Retail Merchandise Store” and “Original Package Liquor – Sunday”
- City Clerk Sue Hogarth

A motion was made by Alderman Davis to approve the Liquor License for Casey’s General Store, seconded by Alderman Taylor.

AYES – All in Favor NAYS – 0 Motion carried

Request for Liquor License Renewal for Elsberry IGA for “Original Package Liquor – Retail Merchandise Store”, “Original Package Liquor – Sunday” and “Original Package – Tasting Permit”

- City Clerk Sue Hogarth

A motion was made by Alderman Harper to approve the Liquor License for Elsberry IGA, seconded by Alderman Miller.

AYES – All in Favor NAYS – 0 Motion carried

Request for Liquor License Renewal for American Legion Post #226 for “Liquor by the Drink by Exempt Organizations” and “Liquor by the Drink – Sunday”

- City Clerk Sue Hogarth

A motion was made by Alderman Miller to approve the Liquor License for the American Legion Post #226, seconded by Alderman Harper.

AYES – All in Favor NAYS – 0 Motion carried

Request for Liquor License Renewal for Elsberry VFW Post #9064 for “Liquor by the Drink by Exempt Organizations” and “Liquor by the Drink – Sunday”

- City Clerk Sue Hogarth

A motion was made by Alderman Harper to approve the Liquor License for Elsberry VFW Post #9064, seconded by Alderman Taylor.

AYES – All in Favor NAYS – 0 Motion carried

Request for Liquor License Renewal for Dos Primos Mexican Restaurant for “Liquor by the Drink” and “Liquor by the Drink – Sunday”

- City Clerk Sue Hogarth

A motion was made by Alderman Miller to approve the Liquor License for Dos Primos Mexican Restaurant, seconded by Alderman Harper.

AYES – All in Favor NAYS – 0 Motion carried

Request for Liquor License Renewal for Shooters Saloon for “Liquor by the Drink” and “Liquor by the Drink – Sunday”

- City Clerk Sue Hogarth

A motion was made by Alderman Davis to approve the Liquor License for Shooters Saloon, seconded by Alderman Miller.

AYES – All in Favor NAYS – 0 Motion carried

Request to close the alley for (2) upcoming biker events at Shooters Saloon on Saturday June 20th, 2020 and Sunday July 12th, 2020

- City Clerk Sue Hogarth for Tracy Schroeder at Shooters Saloon

A motion was made by Alderman Harper to approve closing the alley next to Shooters Saloon for (2) biker events on 6/20/20 and 7/12/20, seconded by Alderman Miller.

AYES – All in Favor NAYS – 0 Motion carried

PUBLIC HEARING AS REQUIRED BY LAW OR ORDINANCE

Mayor Short announced that the **PUBLIC HEARING** took place at 6PM prior to the board meeting at 6:30PM.

UNFINISHED BUSINESS

- Update on letter to Dollar General construction company regarding traffic concerns on Brownsmill Road & Hwy 79 / Large Vehicle Permit

- City Attorney Guinness

City Attorney Guinness announced that there will be a meeting on Thursday June 11, 2020 at 8:30AM at the new Dollar General store on Brownsmill Road and Hwy 79. This meeting will be with MICOR, the construction company for Dollar General, and they will be discussing options on re-engineering the accessway into Dollar General. Alderman Miller suggested that Hwy P be taken into consideration at this meeting as well and City Attorney Guinness stated that Hwy P is controlled by MoDOT.

- Update on bid from an engineer regarding a Dangerous Building Order for 314 Broadway

- City Attorney Guinness

There are bricks falling off into the alley from the deteriorating building located at 314 Broadway that is owned by Jason Gladney. There was previous discussion about having the city hire an engineer to inspect the building as a possible “dangerous building” to have it demolished. City Attorney Guinness received a bid from Curt who is a building engineer at Cochran Engineering for \$1,000 and he is waiting on a bid from George Boulder. A motion was made by Alderman Rockwell to hire Cochran Engineering for \$1,000, seconded by Alderman Taylor.

AYES – All in Favor NAYS – 0 Motion carried

- Update on the fence repair on the east side of the cemetery next to Straight Street

- City Clerk Sue Hogarth

City Clerk Sue Hogarth reached out to Jimmy Lovelace as recommended at the May board meeting to look at the fence and get a bid on repairs but has not heard back from him. The board asked to get an assessed cost of the fence damage.

NEW BUSINESS

- Presentation of (2) proposals for Bond Insurance for the City of Elsberry

- City Clerk Sue Hogarth

City Clerk Sue Hogarth received (2) bids for the bond insurance for the City of Elsberry. There was a third company contacted but they refused to bid. The first bid was from the presentation by Daniel & Henry for either Option A with \$50,000 coverage for \$1,425 annually or Option B with \$100,000 coverage for \$1,632. The second bid was from CNA Surety who had originally cancelled our policy after paying on the recent claim and then re-instated us through July 1, 2020. Their bid was only for fidelity bond coverage for \$50,000 for the City Clerk, Collector and Treasurer only for \$1,004.

A motion was made by Alderman Rockwell to choose the Option B coverage with Daniel & Henry, seconded by Alderman Taylor.

AYES – All in Favor NAYS – 0 Motion carried

- Blowdown Pump at the Water Treatment Plant

- Justin Reaves w/Alliance

There is a blowdown pump that recently sparked and shut down that pumps lime and will need to be repaired. Justin talked to Cardinal Pump who rebuilt this last time for \$1,800-\$2,000 and they will assess the repair. Justin is requesting approval not to exceed \$2,500 for repairs. A motion was made by Alderman Harper to fix the pump with approval to spend up to \$2,500, seconded by Alderman Miller.

AYES – All in Favor NAYS – 0 Motion carried

- Citizen Complaints regarding 510 Bailey Street

- City Attorney Guinness

City Attorney Guinness stated that there have been several complaints from residents about the property at 510 Bailey owned by Ray Robison. This property is in violation of many city ordinances and has been found guilty of many city ordinances. He is recommending that we apply for an injunction in Troy at the courthouse which can be ordered by the municipal judge under an administrative warrant. The circuit judge will order the injunction and can sue Mr Robison at 510 Bailey. If he is found in contempt of court, he would go to jail. Alderman Rockwell asked if this would be a better choice of success in this situation and asked about additional costs incurred by the city. City Attorney Guinness said only the litigation costs will be incurred by the city and this will be a more successful way to handle the situation. Alderman Taylor asked about possibly recouping these costs from Mr. Robison with the removal of property.

A motion was made by Alderman Harper to proceed with the injunction process to put the property in compliance, seconded by Alderman Rockwell.

AYES – All in Favor NAYS – 0 Motion carried

Mayor Short asked if we should continue to ticket Mr. Robison and City Attorney Guinness said yes.

INTRODUCTION AND READING OF BILLS FOR PASSAGE

- Bill 2020-05-001 - AN ORDINANCE RELATING TO, ADDING TO, AND AMENDING THE EXISTING ORDINANCES CONCERNING ZONING FOR RESIDENTIAL R-1 FOR FRATERNAL USE BY REPLACING §41.130 OF THE ELSBERRY MUNICIPAL CODE WITH A NEW §41.130.

Whereas a public hearing was held on Tuesday, June 9, 2020 at 6PM by the Elsberry Board of Aldermen concerning the adoption of this ordinance after due notice published in the Elsberry Democrat.

Whereas the Planning and Zoning Commission recommended that the Board of Aldermen approve this zoning ordinance at their meeting on Monday, May 4, 2020 at 6PM.

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

SECTION 1. The Elsberry Municipal Code is amended by replacing §41.130 of the Elsberry Municipal Code with a new §41.130 as follows:

“§41.130 ZONING DISTRICT R, RESIDENTIAL

1. There shall be two Residential Subdistricts: R-1 and R-2. The Residential zones shown on the maps are divided into two subdistricts. Areas marked as Residential that lie East of 7th Street and South of Brownsmill Road are zoned as R-1 residential; and all other city Residential lots are zoned R-2. Regulations applicable to residential zones without specifically referring to R-1 or R-2 shall apply to both R-1 and R-2 zoned properties. Regulations applicable to Residential zones without specifically referring to R-1 or R-2 shall apply to both R-1 and R-2 zoned properties.
2. Use Regulations. All buildings and land within an R Zoning District shall be limited to the following uses:
 - a. Single-family dwellings.
 - b. Accessory buildings customary, incidental, and subordinate to the use of the main buildings.
 - c. Churches.
 - d. Home occupations.
 - e. Public parks and playgrounds
 - f. Public buildings, facilities, and utilities.
 - g. Fraternal organization meeting places and storage facilities in R-1 zoned property but only if such property adjoins a property currently used by the same fraternal organization on a conforming property. Properties separated by a single street or alley shall be considered to be “adjoining” for purposes of this subsection only.
3. Set back Requirements. Main and accessory buildings shall comply with the dimensional requirements of Elsberry Mun. Code §41.200(1). However, the setbacks shall not apply to the reconstruction of an accessory building on a Residential R-1 lot that is demolished, suffers major damage, is or destroyed due to loss of structural integrity, fire, or other casualty – provided that the accessory building was built before 1980 on a permanent foundation, the building is reconstructed to its pre-damage dimensions on the pre-damage foundation, the lot is used solely for fraternal purposes, and the owner first obtains permission from the Board of Aldermen to rebuild the building. No such replacement may be made without first obtaining permission from the Board of Aldermen.

4. Lot Size Requirements: Minimum width, depth, and minimum lot size shall be provided in accordance with the requirements set forth in Elsberry Mun. Code §41.200(2).
5. Special Uses:
 - a. Notwithstanding any provisions of Elsberry Mun. Code §§41.120(3) and 41.200(2) to the contrary, any lot in an “R” Zoning District in existence as of January 1, 1997 that does not meet the lot size requirements of §§41.130(3) and 41.200(2), but has a minimum lot size of 50 feet by 100 feet or 5,000 square feet; may apply for a Special Use Permit to permit the use or construction of a residential building, structure, or improvement on the lot.
 - b. If there is an existing home on any size Residential lot, and it is destroyed or has major damage due to fire or other casualty, it may be rebuilt to its pre-damage dimensions on the pre-damage foundation and up to the set backs existing immediately prior to the damage; provided that the owner first obtains a Special Use Permit to permit the use or construction of a residential building, structure, or improvement on the lot.
6. Water Supply and Sewer System. Each lot within an R Zoning District shall be served by a public water supply and a public sewer system.

(Ord. 9-9-1997; 5-1-2005; 8-10-2006; 2019-08-001)

A motion was made by Alderman Rockwell to read the ordinance twice by title only, seconded by Alderman Taylor.

AYES – All in Favor NAYS – 0 Motion carried

The ordinance was read twice by title only by Attorney Guinness and a motion was made to adopt the ordinance by Alderman Rockwell, seconded by Alderman Davis.

AYES – All in Favor NAYS – 0 Motion carried

- Bill 2020-06-001 - AN ORDINANCE REGULATING MAINTENANCE OF ALLEYS, STREETS, AND EASEMENTS BY REPLACING SECTION 68.195 OF THE ELSBERRY MUNICIPAL CODE WITH A NEW SECTIONS 68.195 AND 68.196.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ELSBERRY, MISSOURI, AS FOLLOWS:

SECTION 1: The Elsberry City Code is amended by replacing §68.195 with new §68.195 and §68.196 as follows:

“§68.195. MAINTENANCE OF ALLEYS.

1. The City shall maintain the surface and subsurface of the alleys owned by the City; or dedicated to, and accepted by, the City.

2. The owner of a lot in the City, as well as any other person in possession of said lot, shall be responsible for maintaining any alley or easement area adjoining said lot such that it is free of any of the conditions defined as a nuisance by Sections 68.010 through and including 68.180 of this Chapter; and failing to do so shall itself be deemed a nuisance.
3. No person shall cause any damage to the surface or subsurface of any alley owned by the City; or dedicated to, and accepted by, the City; either by neglect, intentional acts, excessive wear, or other improper or inappropriate usage.
4. Without the City's express and specific written permission, no person shall remove any surfacing material from any alley owned by the City; or dedicated to, and accepted by, the City.

(Ord. 12-04-2007; 2020-)

§68.196. DEPOSIT, ROLL, FLOW OR WASH OF ANY SOIL, MATERIAL OR LIQUID UPON PUBLIC STREETS, ALLEYS, ROADS OR PUBLIC PROPERTY PROHIBITED.

1. No person shall engage in any land disturbing activity or any other action which causes or permits any soil, earth, sand, gravel, rock, stone, concrete, debris, building materials, or other materials, or liquids to be deposited upon or to roll, flow, or wash upon, in, or over any public street, street improvement, road, sewer, storm drain, watercourse, or right-of-way, or any other public property in a manner to damage, obstruct, or to interfere with the normal use of such property, or which creates a hazardous condition detrimental to the health, safety and welfare of the public or vehicular traffic.
2. No person shall when hauling soil, earth, sand, gravel, rock, stone, concrete, debris, building materials, or other material, or liquid over any public street, road, alley, or public property allow such materials or liquids to blow or spill over and upon such street, road, alley or public property. The operator of equipment engaged in hauling shall not permit soil, earth, rock or other materials to fall from the vehicle, including wheels of said vehicle, upon such street, road, alley or public property.
3. If any soil, earth, sand, gravel, rock, stone, concrete, debris, building materials, or other material, or liquid is caused to be deposited upon or to roll, flow or wash upon any public property in violation of Subsections (1) and (2) above, the person responsible shall be notified and shall cause the same to be removed from such property within four (4) hours, unless a longer period is granted by the Mayor or City Clerk. If a violation described above results from an active residential or nonresidential development, the person responsible shall be deemed either the vehicle operator, developer or prime contractor. In the event of an immediate danger to the public health, safety, or welfare, notice shall be given by the most expeditious means and the material or liquid shall be removed immediately. In the event it is not so removed, the City may cause such removal and the cost of such

removal by the City, or anyone contracted by the City, shall be paid to the City by the person who failed to so remove the material and shall be a debt due the City, and payable within thirty (30) days of said removal.

The cost of such removal, if not paid within thirty (30) days of said removal, shall be a lien upon all property and all rights to property, real or personal, of any person liable to pay the same. The cost of such removal shall be listed on the tax bill and shall be collected in the manner of said taxes. Provided however, that nothing contained in this Section shall be interpreted as prohibiting the City from proceeding directly with alternative enforcement procedures set forth in Subsection (1) of this Section.

4. Any person violating the provisions of this Section shall be guilty of an ordinance violation, and upon conviction, shall be subject to a fine and penalty as set forth in the City Code.”

There was some discussion on how to maintain the alleys on the surface and subsurface and if the owner would maintain any portion of the alley. Alderman Rockwell stated that there needs to be more discussion on this ordinance as well as discussion to see if there is money in the budget to go towards alley maintenance. The street maintenance needs to be prioritized over the alleys. Mayor Short suggested to table this discussion for an Infrastructure committee meeting with a recommendation to bring back to the full board with detailed wording on the ordinance.

A motion was made by Alderman Rockwell to table this for review at an Infrastructure Committee meeting, seconded by Alderman Taylor.

AYES – All in Favor NAYS – 0 Motion carried

Bill 2020-06-002 - AN ORDINANCE TO REGULATE THE OPERATION OF BICYCLES AND MOTORIZED BICYCLES BY REPEALING SECTIONS 75.297, 75.298, 76.647, AND 76.650 AND REPLACING THEM WITH NEW SECTIONS 76.300 TO 76.312; AND BY ADDING AN ADDITIONAL DEFINITION TO 76.010

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ELSBERRY, MISSOURI, AS FOLLOWS:

SECTION 1: The Elsberry City Code is amended by adding the following definition to §76.010:

§76.010 DEFINITIONS.

“Bicycle” means every vehicle propelled solely by human power upon which any person may ride, having two tandem wheels, or two parallel wheels and one or two forward or rear wheels, all of which are more than fourteen inches in diameter, except scooters and similar devices.”

SECTION 2: The Elsberry City Code is amended by repealing 75.297, 75.298, 76.647, and 76.650 and replacing them with new §§76.300 TO 76.312 as follows:

“§76.300. RIGHTS AND DUTIES OF BICYCLE AND MOTORIZED BICYCLE RIDERS.

Every person riding a bicycle or motorized bicycle upon a street or highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle as provided by chapter 304, except as to special regulations in sections 307.180 to 307.193 and except as to those provisions of chapter 304 which by their nature can have no application.

§76.301. RIDING TO RIGHT, REQUIRED FOR BICYCLES AND MOTORIZED BICYCLES.

Every person operating a bicycle or motorized bicycle at less than the posted speed or slower than the flow of traffic upon a street or highway shall ride as near to the right side of the roadway as safe, exercising due care when passing a standing vehicle or one proceeding in the same direction, except when making a left turn, when avoiding hazardous conditions, when the lane is too narrow to share with another vehicle, or when on a one-way street. Bicyclists may ride abreast when not impeding other vehicles.

§76.302. BICYCLE TO OPERATE ON THE SHOULDER ADJACENT TO ROADWAY WHEN OPERATING LESS THAN POSTED SPEED LIMIT OR FLOW OF TRAFFIC.

1. A person operating a bicycle at less than the posted speed or slower than the flow of traffic upon a street or highway may operate as described in §76.301 or may operate on the shoulder adjacent to the roadway.
2. A bicycle operated on a roadway, or on the shoulder adjacent to a roadway, shall be operated in the same direction as vehicles are required to be driven upon the roadway.
3. For purposes of this section and §76.301, "roadway" is defined as and means that portion of a street or highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

§76.303. BICYCLE OPERATOR REQUIRED TO GIVE HAND OR MECHANICAL SIGNALS.

The operator of a bicycle shall signal as required in §76.165, except that a signal by the hand and arm need not be given continuously if the hand is needed in the control or operation of or to control or operate the bicycle. An operator of a bicycle intending to turn the bicycle to the right shall signal as indicated in §76.165 or by extending such operator's right arm in a horizontal position so that the same may be seen in front of and in the rear of the bicycle.

§76.304. RIDING BICYCLES, SLEDS, ROLLER SKATES, BY ATTACHING TO ANOTHER VEHICLE, PROHIBITED – PULLING A RIDER BEHIND VEHICLE PROHIBITED.

No person riding upon any bicycle, motorized bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway. Neither shall the driver of a vehicle knowingly pull a rider behind a vehicle.

§76.305. RIDING BICYCLE ON SIDEWALKS, LIMITATIONS – MOTORIZED BICYCLES PROHIBITED.

1. No person shall ride a bicycle upon a sidewalk within a business district.
2. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.
3. No person shall ride a motorized bicycle upon a sidewalk.

(Ord. 6-2-2006)

§75.306. BRAKES REQUIRED ON BICYCLES AND MOTORIZED BICYCLES

- A. Every bicycle and motorized bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle or motorized bicycle within twenty-five (25) feet from a speed of ten (10) miles per hour on dry, level, clean pavement.
- B. No parent, custodian, or guardian of a minor shall allow or permit such minor to operate a bicycle without the proper brakes stated in this Section. This is an offense of absolute liability.

(9-01-2006)

§75.307. LIGHTS AND REFLECTORS, WHEN REQUIRED–STANDARDS TO BE MET

- A. Every bicycle and motorized bicycle when in use on a street or highway during the period from one-half (½) hour after sunset to one-half (½) hour before sunrise shall be equipped with the following:
 1. A front-facing lamp on the front or carried by the rider which shall emit a white light visible at night under normal atmospheric conditions on a straight, level, unlighted roadway at five hundred (500) feet;

2. A rear-facing red reflector, at least two (2) square inches in reflective surface area, or a rear-facing red lamp on the rear which shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lower beams of vehicle headlights at six hundred (600) feet;
 3. Reflective material and/or lights on any part of the bicyclist's pedals, crank arms, shoes or lower leg visible from the front and the rear at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at two hundred (200) feet; and
 4. Reflective material and/or lights visible on each side of the bicycle or bicyclist and visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at three hundred (300) feet. The provisions of this Subdivision shall not apply to motorized bicycles which comply with National Highway Traffic and Safety Administration regulations relating to reflectors on motorized bicycles.
- B. No parent, custodian, or guardian of a minor shall allow or permit such minor to operate a bicycle without the equipment stated in this Section. This is an offense of absolute liability.

(9-01-2006)

§75.310. PENALTY FOR VIOLATION

- A. Any person seventeen (17) years of age or older who violates any provision of §§ 76.300 to 76.303, 76.306, and 76.307 of this Code is guilty of an infraction and, upon conviction thereof, shall be punished by a fine of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00). Such an infraction does not constitute a crime and conviction shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.
- B. If any person under seventeen (17) years of age violates any provision of §76.300 to 76.303, 76.306 and 76.307, in the presence of a Peace Officer possessing the duty and power of arrest for violation of the general criminal laws of the State or for violation of Ordinances of Counties or municipalities of the State, that officer may impound the bicycle, in-line skates, roller skates, skateboards, motorized bicycle, or scooters or any similar two- or four- wheeled recreational devices being used in violation of §76.295, 76.300 to 76.303, 76.306, and 76.307. The impoundment shall be for a period not to exceed five (5) days. The officer shall issue receipt to the owner or child riding the bicycle, in-line skates, roller skates, skateboards, motorized bicycle, or scooters or any other similar two- or four-wheeled recreational devices.

- C. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of seventeen (17) years to knowingly permit or cause such minor to violate §§76.300 to 76.307.
- D. A "Parent" for purposes of this Chapter means any person who is over the age of eighteen (18) years and is either the natural or adoptive parent (whose parental rights have not been terminated) of a minor or the legal guardian or foster parent of a minor. Except as may be otherwise applicable, if the minor is illegitimate, "parent" shall mean the natural mother. As used herein, "parent" does not include any sibling or other relative, regardless of age, or relation, unless such person is the adoptive parent, foster parent or legal guardian of such minor.

§75.311. LICENSE REQUIRED TO OPERATE MOTORIZED BICYCLE

- 1. No person shall operate a motorized bicycle on any highway or street in this state unless the person has a valid license to operate a motor vehicle.
- 2. No parent, custodian, or guardian of a minor shall allow or permit such minor to operate a motorized bicycle without a license as stated in this Section. This is an offense of absolute liability.

§75.312. EQUIPMENT REQUIRED FOR MOTORIZED BICYCLE.

- 1. No person shall operate a motorized bicycle on any street or highway in this state unless it is equipped in accordance with the minimum requirements for construction and equipment of MOPEDS, Regulation VESC-17, approved July, 1977, as promulgated by the Vehicle Equipment Safety Commission.
- 2. No parent, custodian, or guardian of a minor shall allow or permit such minor to operate a motorized bicycle without a license as stated in this Section. This is an offense of absolute liability.

City Attorney Guinness stated that Chief Davis had recommended this ordinance to provide some regulation on bicycles and bicycle traffic. A bicycle needs to have safety equipment including lights, reflectors, etc. which is in conjunction with state statutes.

A motion was made by Alderman Rockwell to read the ordinance twice by title only, seconded by Alderman Harper.

AYES – All in Favor NAYS – 0 Motion carried

The ordinance was read twice by title only by Attorney Guinness and a motion was made to adopt the ordinance by Alderman Rockwell, seconded by Alderman Davis.

AYES – All in Favor NAYS – 0 ABSENT - 1 Motion carried

Alderman Miller asked a question about electric motor assist who seem to violate laws for traffic violations and this ordinance will address those issues.

REPORTS OF SPECIAL BOARDS & COMMITTEES

Library: Nothing to report

Cemetery / Parks: Nothing to report

Infrastructure: Nothing to report

Emergency Services: Nothing to report

Page Branch Park: Nothing to report

Old Glory Jubilee: Nothing to report

Tree Board: Nothing to report

REPORTS OF ALDERMEN AND MAYOR

Mayor Short: He would like to welcome Scott Miller and Sonny Taylor to the board. Thank you to everyone for checking in on him during his surgery and his recovery at home. He wants to be pro-active as a board and challenges everyone on the committees to come up with plans that will engage the community leading up to April 2021 with a 1-year and a 3-year plan.

Alderman Davis: A resident contacted her about potholes in the 100 & 200 block of North 6th Street.

Alderman Taylor: Thank you to Mayor Short for his appointment to Alderman - Ward 2 and he was thankful for the appreciation of the board. He will be focusing on code enforcement of our city ordinances.

Alderman Miller: He is thankful for the opportunity to be on the board.

Alderman Harper: She has received complaints about the potholes on 3rd Street. She wanted to thank Justin Reaves w/Alliance for always getting back to her on issues. He explains things thoroughly and has been very proactive. Alliance has not always gone above & beyond in the past so please keep up the good work and continue providing good maintenance.

Alderman Rockwell: He welcomed all the new board members.

Alderman Robinson: Reverend Doug Rome from the Apostolic Pentecostal Church in town recently received a ticket about tall grass. He wanted the board to know he would get the lawn mowed this week and had told Alderman Robinson that he thought the lawn was being taken care of and didn't know what to do since it hadn't been done.

REPORTS OF CITY DEPARTMENTS AND OFFICERS

Rob Guinness – Attorney – He thanked the mayor and board for his appointment and welcomed the new members to the board.

Justin Reaves – Alliance Water Resources – Alliance has been doing a lot of mowing especially at the city cemetery. They just completed the first hydrant flush for 2020. They did receive several calls about brown water issues and he tried to meet with everyone who called in with complaints and did flush some meters individually as well.

Chief Randy Davis – Congratulations to Mayor Short, Alderman Miller and Alderman Taylor on their new positions. He recently went to University City and picked up donated equipment for free including public safety equipment, radios, etc. that are being stored in the storage containers. He is working on ticketing ordinance violations and has received a lot of voluntary compliance as well.

Tammy Sharpe – Treasurer – Nothing to Report

Sue Hogarth – City Clerk – Thank you to the board for the appointment. The Old Glory Jubilee committee recently met and decided not to have fireworks on the 4th of July celebration in the park with the parade this year due to the COVID-19 pandemic. They will save their fireworks fund of \$4,000 to date and hope to have fundraisers next year for a bigger & better fireworks display in 2021.

Rachel Reed - City Collector – She is starting up disconnects again after putting a hold on them for the last 2 months because of COVID-19. She asked the board if she can approve payment plans for people that owe under \$300. Anyone who owes over the \$300 limit will be brought to the board for payment plan approval. A motion was made by Alderman Harper to have Rachel handle payment plans under \$300, seconded by Alderman Taylor.

AYES – All in Favor NAYS – 0 Motion carried

Rachel is also going to work on a policy & procedure book for the water department to have the board approve at the July board meeting.

PUBLIC COMMENT BY ANY PERSON OR GROUP DESIRING TO ADDRESS THE BOARD WHO HAS NOT FILED A PRIOR REQUEST TO BE PLACED ON THE AGENDA IN COMPLIANCE WITH CITY CODE 24.105

Patty Heatherly, wife of former Officer Christopher Heatherly, addressed the board and stated that her husband was fired from the Elsberry Police Department at the May board meeting and they have filed suit against Lincoln County Prosecutor Wood. She distributed some information to the board and to City Attorney Guinness for their review in regards to recent subpoenas that were issued to her husband to testify for cases at the county level along with some information on state statutes in regards to their suit.

A representative from a ministry based out of Troy, MO called Love Serving God Ministries addressed the board to see if there were any buildings in town that they could use as part of their 5013C non-profit organization either at no charge or with a minimal monthly rental fee to provide services to the Elsberry community.

They have received many requests recently from some Elsberry residents for food, clothing,

and furniture. The board asked if they could contact City Clerk Sue Hogarth and asked to be placed on the meeting agenda for the July board meeting to discuss their request.

AMENDMENT TO THE AGENDA – Add (3) Hiring, Firing, Disciplining or Promoting of Particular Employees by the City and (13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment

A motion was made by Alderman Rockwell to amend the agenda to include disclosure *(3) Hiring, Firing, Disciplining or Promoting of Particular Employees by the City* and *(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment* for Closed Session, seconded by Alderman Harper.

AYES – All in Favor NAYS – 0 Motion carried

VOTE TO TAKE UP BUSINESS TO BE CONDUCTED IN CLOSED SESSION

A motion was made by Alderman Taylor to go into closed session pursuant to RSMo Section 610.021 (1) Legal actions, causes of action, litigation, or confidential or privileged communications with its attorneys, (3) Hiring, firing, disciplining or promoting of particular employees by the city, (13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, and (14) Records which are protected from disclosure by law, seconded by Alderman Davis.

AYES – All in Favor NAYS – 0 Motion carried

Closed session started at 8:04PM.

RESUME OPEN SESSION

Mayor Short resumed the open session meeting at 8:14PM.

VOTE ON ELSBERRY VFW POST #9064 TO BUILD A SHED ON PROPERTY AT 401 S. 2ND STREET

A motion was made by Alderman Taylor to allow the Elsberry VFW Post #9064 to re-build a shed behind their residential “fraternal” property at 401 S. 2nd Street, seconded by Alderman Harper.

AYES – All in Favor NAYS – 0 Motion carried

ADJOURNMENT

A motion was made to adjourn the board meeting by Alderman Harper, seconded by Alderman Miller.

AYES – All in Favor NAYS – 0 Motion carried

Open session meeting was adjourned at 8:17PM.