

**CITY OF ELLISVILLE
COUNCIL MEETING**

FEBRUARY 16, 2022

Due to the Covid pandemic concerns the February 16, 2022 Regular Council meeting was held via live videoconference. *A link was provided on the City's website for all that wanted to participate in the videoconference.*

Mayor Roerman served opened this Regular Meeting at 7:00 p.m. In attendance were Council Members McGrath, Compton, Cahill, Duffy and Boggs.

Also present in person and via videoconference were: City Manager Schwer, City Attorney Restovich, City Planner Hood, and City Clerk Dohack.

All those in attendance via videoconference recited the Pledge of Allegiance led by Council Member McGrath.

APPROVAL OF AGENDA

Mayor Roerman moved to approve the evening's agenda, seconded by Council Member Cahill. The votes on the approval were all "AYES".

APPROVAL OF MINUTES

Mayor Roerman moved to approve the minutes from the February 2, 2022 Regular Council Meeting. The motion was seconded by Council Member Compton. The votes were: Roerman "AYE", McGrath "AYE", Compton "AYE", Cahill "AYE", Duffy "AYE", and Boggs "AYE".

PUBLIC COMMENTS I

Brook Dubman, property owner on Strecker Road, discussed the proposed environmental overlay district that was discussed that the February Planning and Zoning Commission meeting. (This public hearing was continued at the Planning and Zoning Commission meeting until March for further discussion). Mr. Dubman commented that an EPA report from approximately nine years ago included that \$7.4 million was spent on investigation and testing of the property and that there were minimal levels for dioxin noted in the report.

Nancy Bengtson, 1374 Parkview Estates, informed the Council that Planning and Zoning Commissioner Marilyn Niebling's husband passed away recently.

Mayor Roerman moved to suspend rules to address the last comment, seconded by Council Member Cahill. The votes were all "AYES". Mayor Roerman expressed sympathy for the loss of Mr. Niebling and asked staff to reach out to Commissioner Niebling. Mayor Roerman also thanked Ms. Bengtson for the information. The meeting was called back to order.

RECEIPT/FILING OF PLANNING AND ZONING COMMISSION

Mayor Roerman moved to receive and file of the following Planning and Zoning Commission's recommendations:

- A. Receipt and filing of Planning and Zoning Commission's positive recommendation dated February 10, 2022 relative to the petition of XGolf Indoor Golf Simulator for a conditional use permit to allow the operation of a retail beverage and retail entertainment establishment with the sale of liquor at the location known and numbered as 15382 Manchester Road within the C-3 Commercial Zoning District.
- B. Receipt and filing of Planning and Zoning Commission's negative recommendation dated February 10, 2022 relative to the petition of Vapor Maven MO, LLC for approval of a conditional use permit allow a retail tobacco store at 15639 Manchester Road within the C-3 Commercial Zoning District.

The motion was seconded by Council Member Compton. The votes were: Roemerman "AYE", McGrath "AYE", Compton "AYE", Cahill "AYE", Duffy "AYE", and Boggs "AYE".

PUBLIC HEARINGS

15382 Manchester Road (XGolf Indoor Golf Simulator), liquor and entertainment establishment conditional use permit

The Council will discuss and consider the petition of XGolf Indoor Golf Simulator for a conditional use permit to allow the operation of a retail beverage and retail entertainment establishment with the sale of liquor at the location known and numbered as 15832 Manchester Road within the C-3 Commercial Zoning District. *At the request of the petitioner, this public hearing was continued to the March 2, 2022 Council Meeting.*

15639 Manchester Road (Vapor Maven), retail tobacco store conditional use permit

Mayor Roemerman opened the public hearing pertaining to the petition of Vapor Maven MO, LLC for approval of a Conditional Use Permit allowing a Retail Tobacco Store at 15639 Manchester Road within the C-3 Commercial Zoning District. Atty. Restovich entered the following exhibit for purposes of this hearing: Exhibit 1, Certified copy of the Municipal Code; Exhibit 2, Zoning District Map; Exhibit 3, Comprehensive Plan; Exhibit 4, Notice published in *The Countian* on January 28, 2022; Exhibit 5, Public posting of Notice on January 31, 2022; Exhibit 6, Letter mailed to abutting property owners within 185 feet on January 28, 2022 ; Exhibit 7, Amended Application Cover Sheet received January 31, 2022; Exhibit 8, Amended Application for Conditional Use Permit received January 31, 2022, with attached plans; Exhibit 9, Email from City Attorney to Attorney Lum dated January 19, 2022; Exhibit 10, Email from Attorney Lum to City Planner dated January 31, 2022; Exhibit 11, Board of Adjustment Findings of Fact and Conclusions of Law for Vapor Maven Appeal dated November 23, 2021, with hearing exhibits 1-14; Exhibit 12, Public Hearing Presentation Packed received from Applicant February 16, 2022; Exhibit 13, Planning and Zoning Commission Report and Negative Recommendation dated February 10, 2022; Exhibit 14, City Planner's Memo dated December 9, 2021; Exhibit 15, and Email and attached letter from Attorney Lum dated February 16, 2022;.The following individuals were sworn in by City Clerk Dohack for the purpose of the public hearing: Attorney for the petitioner - Beth Lum, Real Estate representatives Patricia McKelvey and Kim Richter, Property Owner - Barry Thalden, Elijah Ulrich with Vapor Maven, City Manager Schwer and City Planner Hood.

Attorney Lum asked that the additional items be included with exhibits:

- The Zoom video recording from the November 23, 2021 Board of Adjustment hearing; and
- The Zoom video recording from the February 9, 2022 Planning and Zoning Commission public hearing; and
- The presentation from the February 16, 2022 Council public hearing; and
- The Zoom video recording from the February 16, 2022 public hearing.

Attorney Lum introduced the representatives from Vapor Maven and then began her presentation which outlined the property history. Kim Richter and Patricia McKelvey stated that this property has been vacant for a while and that they have been working on marketing the property, but there have been some difficulties. Attorney Lum also noted that this property was targeted as a redevelopment area and stated that the criteria for the conditional use permit has been met. Attorney Lum as part of the presentation outlined individually how all the criteria has been met. Attorney Lum concluded that the approval of the conditional use is an administrative act and that the use must be granted. Mr. Ulrich also noted that staff will be trained to identify underaged customers and all product will be in locked cabinets. Mr. Thalden, owner of the property, discussed the property and the vacancy, noting that he has made substantial investment in the property to get it filled.

Mayor Roemerman asked what other uses have looked at this property. It was noted that many businesses have looked at the space but not one has committed to lease, until this business. Council Member Duffy asked when Vapor Maven approached the City with an application for business. It was noted that the process for Vapor Maven began in September of 2021. Ms. Richter noted that the first contact with the City was in March or April of 2021. Council Member McGrath asked if kratom or Jule products would be sold at the store. Mr. Ulrich stated that the company does not have a partnership with the Jule company and will follow the City's regulations for kratom products. Discussion also took place pertaining to signage and it was noted that all sign codes will be followed.

There were no public comments at this time.

Mayor Roemerman polled Ellisville residents and property owners regarding the petition as presented: No resident was in favor and two (2) residents were opposed. Mayor Roemerman closed the public hearing.

LEGISLATION

Bill #3734, 15382 Manchester Road (XGolf Indoor Golf Simulator), liquor and entertainment conditional use permit

AN ORDINANCE AUTHORIZING ISSUANCE OF A CONDITIONAL USE PERMIT AND LIQUOR LICENSE TO XGOLF INDOOR GOLF SIMULATOR TO ALLOW THE OPERATION OF A RETAIL ENTERTAINMENT ESTABLISHMENT WITH LIQUOR SALES AT THE LOCATION KNOWN AND NUMBERED AS 15382 MANCHESTER ROAD, WITHIN THE C-3 COMMERCIAL ZONING DISTRICT OF THE CITY OF ELLISVILLE, MISSOURI. *This item will be continued to the March 2, 2022 for consideration after the public hearing.*

Ord. #3503, 15639 Manchester Road (Vapor Maven), retail tobacco store conditional use permit
Council Member McGrath introduced Bill #3735, AN ORDINANCE AUTHORIZING ISSUANCE OF A CONDITIONAL USE PERMIT TO VAPOR MAVEN TO ALLOW THE OPERATION OF A RETAIL TOBACCO STORE AT THE LOCATION KNOWN AND NUMBERED AS 15369 MANCHESTER ROAD, WITHIN THE C-3 COMMERCIAL ZONING DISTRICT OF THE CITY OF ELLISVILLE, MISSOURI. Council Member McGrath moved for consideration and perfection of Bill #3735, seconded by Mayor Roemerma.

Mayor Roemerma moved to amend Bill #3735 to prohibit the sale of kratom and Jule products. The motion to amend was seconded by Council Member McGrath. The votes were: Roemerma "AYE", McGrath "AYE", Compton "AYE", Cahill "AYE", Duffy "NAY", and Boggs "AYE". Council Member Duffy noted that is a store that sell kratom products one mile east of this site.

Mayor Roemerma noted that the presentation was long but felt that it was beneficial to the public to understand what the Council must consider for a conditional use application. Mayor Roemerma also noted that this is a challenged property but the additional parking spots will be helpful. Council Member Duffy stated that he is in favor of this business and encouraged the City to review procedures to speed up the process for a conditional use permit. Council Member Compton questioned if this section of the building has always been vacant and it was noted that there has never been a tenant.

The votes on the first reading of Bill #3735, as amended, were: Roemerma "AYE", McGrath "AYE", Compton "AYE", Cahill "NAY", Duffy "AYE", and Boggs "AYE". Council Member McGrath introduced Bill #3735, as amended, for final passage, AN ORDINANCE AUTHORIZING ISSUANCE OF A CONDITIONAL USE PERMIT TO VAPOR MAVEN TO ALLOW THE OPERATION OF A RETAIL TOBACCO STORE AS THE LOCATION KNOWN AND NUMBERED AS 15639 MANCHESTER ROAD, WITHIN THE C-3 COMMERCIAL ZONING DISTRICT OF THE CITY OF ELLISVILLE, MISSOURI. Council Member McGrath moved for final passage of Bill #3735, as amended, seconded by Council Member Duffy. The votes on the second reading were: Roemerma "AYE", McGrath "AYE", Compton "AYE", Cahill "NAY", Duffy "AYE", and Boggs "AYE". Bill #3735 becomes ORDINANCE #3503.

Ord. #3504, City Attorney Legal Services Agreement with Brian Malone and Lashly & Baer, P.C.
Council Member Duffy introduced Bill #3736, AN ORDINANCE AUTHORIZING AND DIRECTING CITY MANAGER BILL SCHWER TO EXECUTE ON BEHALF OF THE CITY OF ELLISVILLE A LEGAL SERVICES AGREEMENT BETWEEN THE CITY OF ELLISVILLE AND LASHLY & BAER, P.C. FOR THE PROVISION OF CITY ATTORNEY LEGAL SERVICES TO THE CITY OF ELLISVILLE, MISSOURI. Council Member Duffy moved for consideration and perfection of Bill #3736, seconded by Council Member Cahill.

Mayor Roemerma and Council Member Compton thanked City Attorney George Restovich for the work and service to the City of Ellisville.

The votes on the first reading of Bill #3736 were: Roemerma "AYE", McGrath "AYE", Compton "AYE", Cahill "AYE", Duffy "AYE", and Boggs "AYE". Council Member Duffy introduced Bill #3735 for final passage, AN ORDINANCE AUTHORIZING AND DIRECTING CITY MANAGER BILL SCHWER TO EXECUTE ON BEHALF OF THE CITY OF ELLISVILLE A

LEGAL SERVICES AGREEMENT BETWEEN THE CITY OF ELLISVILLE AND LASHLY & BAER, P.C. FO THE PROVISION OF CITY ATTORNEY LEGAL SERVICES TO THE CITY OF ELLISVILLE, MISSOURI. Council Member Duffy moved for final passage of Bill #3736, seconded by Council Member Compton. The votes on the second reading were: Roerman "AYE", McGrath "AYE", Compton "AYE", Cahill "AYE", Duffy "AYE", and Boggs "AYE". Bill #3736 becomes ORDINANCE #3504.

Ord. #3505, Prosecuting Attorney Contract with George Restovich and Restovich & Associates, LLC

Council Member Cahill introduced Bill #3737, AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A CONTRACT BY CITY MANAGER BILL SCHWER ON BEHALF OF THE CITY OF ELLSIVILLE, MISSOURI WITH GEORGE B. RESTOVICH AND RESTOVICH & ASSOCIATES, LLC TO ACT AS PROSECUTING ATTORNEY. Council Member Cahill moved for consideration and perfection of Bill #3737, seconded by Mayor Roerman.

Council Member Cahill thanked Attorney Restovich for taking on this position and noted that he is looking forward to Attorney Restovich's continued work with the City. Attorney Restovich thanked the Council for the opportunity to continue working as the Prosecuting Attorney.

The votes on the first reading of Bill #3737 were: Roerman "AYE", McGrath "AYE", Compton "AYE", Cahill "AYE", Duffy "AYE", and Boggs "AYE". Council Member McGrath introduced Bill #3736 for final passage, AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A CONTRACT BY CITY MANAGER BILL SCHWER ON BEHALF OF THE CITY OF ELLISVILLE, MISSOURI WITH GEORGE B. RESTOVICH AND RESTOVICH & ASSOCIATES LLC TO ACT AS PROSECUTING ATTORNEY. Council Member Cahill moved for final passage of Bill #3737, seconded by Council Member McGrath. The votes on the second reading were: Roerman "AYE", McGrath "AYE", Compton "AYE", Cahill "AYE", Duffy "AYE", and Boggs "AYE". Bill #3737 becomes ORDINANCE #3505.

Ord. #3506, Special Legal Counsel Services with Curtis, Heinz, Garrett, & O'Keefe, P.C.

Council Member Compton introduced Bill #3738, AN ORDINANCE AUTHORIZING AND DIRECTING CITY MANAGER BILL SCHWER TO EXECUTE ON BEHALF OF THE CITY OF ELLISVILLE A CONTRACT FOR SPECIAL COUNSEL SERVICES BETWEEN CURTIS, HEINZ, GARRETT & O'KEEFE, P.C. AND THE CITY OF ELLISVILLE, MISSOURI. Council Member Compton moved for consideration and perfection of Bill #3738, seconded by Council Member Cahill. The votes on the first reading of Bill #3738 were: Roerman "AYE", McGrath "AYE", Compton "AYE", Cahill "AYE", Duffy "AYE", and Boggs "AYE". Council Member Cahill introduced Bill #3738 for final passage, AN ORDINANCE AUTHORIZING AND DIRECTING CITY MANAGER BILL SCHWER TO EXECUTE ON BEHALF OF THE CITY OF ELLISVILLE A CONTRACT FOR SPECIAL COUNSEL SERVICES BETWEEN CURTIS, HEINZ GARRETT & O'KEEFE, P.C. AND THE CITY OF ELLISVILLE, MISSOURI. Council Member Compton moved for final passage of Bill #3738, seconded by Council Member McGrath. The votes on the second reading were: Roerman "AYE", McGrath "AYE", Compton "AYE", Cahill "AYE", Duffy "AYE", and Boggs "AYE". Bill #3738 becomes ORDINANCE #3506.

Resolution #02-16-2022, Hazardous Moving Violations Enforcement Grant Application

Mayor Roemerma introduced Res.#02-16-2022, A RESOLUTION AUTHORIZING THE COUNCIL TO EXECUTE A GRANT APPLICATION ON BEHALF OF THE CITY OF ELLISVILLE WITH THE MISSOURI DEPARTMENT OF TRANSPORTATION HIGHWAY SAFETY DIVISION FOR HAZARDOUS MOVING VIOLATIONS ENFORCEMENT. Mayor Roemerma moved for consideration and perfection of Res. #02-16-2022, seconded by Council Member McGrath. Council Member McGrath asked if this could be used for pedestrian enforcement and Chief Lewis noted that it could be utilized for any dangerous situations. The votes were: McGrath "AYE", Compton "AYE", Cahill "AYE", Duffy "AYE", Boggs "AYE", and Roemerma "AYE". The resolution was approved.

PUBLIC COMMENTS

There were no public comments.

MAYOR/COUNCIL BUSINESS/REPORTS

Mayor Roemerma commented that he attended the Missouri Municipal League's Legislative Update Conference and noted that Ellisville is now served by only one state representative seat, which is up for election.

Council Member Cahill noted that Administrative Assistant Kathy Schneider will be retiring at the end of this month and thanked her for her service to the City.

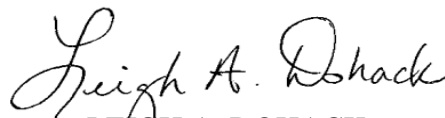
It was noted that there are two vacant positions on Economic Development Commission and one vacant position on the Park Board.

ACTIVE COMMITTEE STATUS/UDPATES

There were no comments.

he meeting adjourned at 8:40 p.m.

Respectfully submitted,



LEIGH A. DOHACK
City Clerk