

**City of Elsberry
Regular Session
December 13th, 2022
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 Short presided over the meeting. Present were Alderman Rockwell, Alderman Wilch, Alderman Meyer, Alderman Davis, City Attorney Rob Guinness, City Clerk Rachel Reed, City Treasurer Lisa Grumich and Police Chief Randy Davis. Also present were Kenny Claus and Brian Pieper of Alliance Water Resources. Alderman Harper and Alderman Taylor were absent.

Mayor Short called the meeting to order. The pledge of Allegiance was said and roll call deemed a quorum present.

Alderman Wilch made a motion to amend the agenda to discuss the snowplow purchase that was approved last month.

Alderman Meyer seconded the motion

Ayes- Alderman Rockwell, Alderman Wilch, Alderman Meyer, Alderman Davis

Nayes-0

Absent-2

Motion Carried.

Reading and acting are unapproved minutes from previous meetings

Alderman Wilch made motion to approve the unapproved minutes.

Alderman Davis seconded the motion.

Ayes- Alderman Rockwell, Alderman Wilch, Alderman Meyer, Alderman Davis

Nayes-0

Absent-2

Motion Carried.

Reading of unpaid bills approval to pay report

Alderman Davis made a motion to pay unpaid bills.

Alderman Wilch seconded the motion.

Ayes- Alderman Rockwell, Alderman Wilch, Alderman Meyer, Alderman Davis

Nayes-0

Absent-2

Motion Carried.

Project updates

Boonslick Regional Planning- nothing

USDA- nothing

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

Richard Sadler-payment agreement

Mr. Sadler would like to ask for a payment agreement of \$75 per week plus his monthly bill.

Alderman Rockwell made a motion to approve

Alderman Meyer seconded the motion.

Dennis Etchason- abatement and payment agreement

Mr. Etchason would like to ask for an abatement and payment agreement after a water leak that he had. City Collector Tashua Chiodini said the abatement would be in the amount of \$146.51 this would make his bill \$835.86. He would also like a 12-month payment plan and it would be \$69.66 per month plus he regular bill.

Alderman Rockwell made a motion to approve the 12-month payment plan of \$69.66 plus his monthly bill.

Alderman Wilch seconded the motion.

Ayes- Alderman Rockwell, Alderman Wilch, Alderman Meyer, Alderman Davis

Nayes-0

Absent-2

Motion Carried

Alderman Meyer made a motion to approve the abatement of \$146.51.

Alderman Rockwell seconded the motion.

Ayes- Alderman Rockwell, Alderman Wilch, Alderman Meyer, Alderman Davis

Nayes-0

Absent-2

Motion Carried.

Sam Byers-ECGA

Not present

PUBLIC HEARING A REQUIRED BY LAW OR ORDINANCE

No public hearing

ACTING ON UNFINISHED BUSINESS

No unfinished business

NEW BUSINESS

Snow Plow purchase

Alderman Wilch said that Knapheide is not going to install the plow on the truck because it is a 2 wheel drive truck. Alderman Wilch talked to Kevin Haley and he will install the wiring for \$300. Alderman Wilch will volunteer his welding services to install the blade. He would like to go ahead purchase the plow.

Alderman Rockwell made a motion to approve
Alderman Davis seconded the motion.

Ayes- Alderman Rockwell, Alderman Wilch, Alderman Meyer, Alderman Davis
Nays-0
Absent-2
Motion Carried

Repainting stripes on Broadway

Chief Davis would like to ask for permission to approach MODOT about repainting the parking stripes on Broadway.

Alderman Wilch made a motion to allow the Chief to approach MODOT about repainting the stripes.
Alderman Davis seconded the motion.

Ayes- Alderman Rockwell, Alderman Wilch, Alderman Meyer, Alderman Davis
Nays-0
Absent-2
Motion Carried.

Lowering speed limit to 20 mph on Broadway from 5th to Main St and adding flashing lights in the lower zone.

Chief Davis would like to ask for permission from MODOT to lower the speed limit on Broadway from Main to 5th st to 20 mph. Alderman Wilch said that he would be fine with going all the way to where the 25 mph starts on Broadway.

Alderman Rockwell made a motion to approve.
Alderman Meyer seconded the motion.

Ayes- Alderman Rockwell, Alderman Wilch, Alderman Meyer, Alderman Davis
Nays-0
Absent-2
Motion Carried.

Purchasing tasers for \$1900

Chief Davis would like to purchase 2 tasers. Mayor Short that it doesn't make sense to purchase the tasers when the budgets income is not where it should be.

Alderman Rockwell made a motion to approve the purchase of 2 tasers.

Motion dies due to lack of a second.

Mobile Printers for \$650

Chief Davis said that the board approved the mobile printers but when it was time to purchase them the price had went up. The computers cost over \$500 and we would have to have 3 bids.

No action was taken.

Budget 2023

City Clerk Rachel Reed had a couple questions about the Cemetery budget. They were not able to have a meeting due to illness. She needed to know what the cemetery committee would like to get in the budget. Alderman Davis said she would like to have tuckpointing the front entrance, leveling headstones and a new computer for Pam in the budget.

READING OF BILLS REQUIRING ONLY A FINAL READING FOR PASSAGE

None

INTRODUCTION AND READING OF BILLS FOR PASSAGE

The board considered bill 2022-12-001

AN ORDINANCE TO PROHIBIT PARKING ON THE EAST SIDE OF SOUTH THIRD STREET BY AMENDING SECTION 76.070(A) OF THE ELSBERRY MUNICIPAL CODE.

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

SECTION 1: Section 76.070(A) of the Elsberry Municipal Code is amended to add the following in sequential order in §76.070(A):

“The East side of South Third Street”

SECTION 2: Severability. The provisions of this Ordinance shall be severable. In the event

that any provision of this Ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this Ordinance are valid unless the Court finds the valid provisions of this ordinance are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the Board of Aldermen would have enacted the valid provisions without the void ones or unless the Court finds that the valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

SECTION 3. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: Effective Upon Passage. This ordinance shall be in full force and effect from and after the date of its passage.

SECTION 5: Incorporation into the Municipal Code. The City Clerk shall incorporate the terms of this Ordinance into the official City of Elsberry Municipal Code with all due dispatch.

Alderman Davis made a motion to read Bill 2022-12-001 two times by title only.

Alderman Meyer seconded the motion.

Roll call vote

Alderman Rockwell-yes, Alderman Wilch-yes, Alderman Meyer-yes, Alderman Davis- yes

Motion Carried.

City Attorney read bill 2022-12-001 twice by title only.

Alderman Davis made a motion to adopt bill 2022-12-001

Alderman Wilch seconded the motion.

Roll Call vote

Alderman Wilch-yes, Alderman Meyer-yes, Alderman Rockwell-yes , Alderman Wilch-yes

Motion carried.

The board considered bill 2022-12-002

AN ORDINANCE REGULATING MARIJUANA CULTIVATION, MANUFACTURING, SALES, USE, AND DISTRIBUTION, INCLUDING PENALTIES FOR VIOLATIONS, BY AMENDING SECTION 75.080 OF THE ELSBERRY CITY CODE AND ADDING A NEW SECTION 75.085 TO THE ELSBERRY CITY CODE.

WHEREAS, the City of Elsberry, Missouri (“the City”) is a fourth class city and political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri; and

WHEREAS, the voters of the State of Missouri approved an amendment to the State Constitution legalizing certain possession, uses, production, distribution, sale, and purchase of marijuana, effective December 8, 2022; and

WHEREAS, the City desires to amend the existing Elsberry City Municipal Code to regarding marijuana in accordance with the purposes of the State Constitution; and

WHEREAS, the City desires to protect the public health and safety by establishing reasonable regulations marijuana consistent with the Missouri Constitution.

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

SECTION 1: Section 75.080 of the Elsberry City Code is hereby amended as follows:

“§75.080. MARIJUANA.

1. The definitions used in this Section shall be the same as used in Missouri Constitution Section 2 Amendment XIV.

2, It shall be unlawful to:

- (a) Deliver or distribute marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one years of age;
- (b) Purchase, possess, use, or transport marijuana or marijuana accessories by a person younger than twenty-one years of age;
- (c) Consume marijuana by a person younger than twenty-one years of age;
- (d) Operate or be in physical control of any motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana. Notwithstanding the foregoing, a conviction of a person who is at least twenty-one years of age for any applicable offenses shall require evidence that the person was in fact under the influence of marijuana at the time the person was in physical control of the motorized form of transport and not solely on the presence of tetrahydrocannabinol (THC) or THC metabolites, or a combination thereof, in the person's system;
- (e) Consume marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- (f) Smoke marijuana within a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- (g) Possess or consume marijuana or possess marijuana accessories on the grounds of a public or private preschool, elementary or secondary school, institution of higher education, in a school bus, or on the grounds of any correctional facility;

- (h) Smoke or burn marijuana in a location where smoking tobacco is prohibited;
- (i) Consume, smoke, or burn marijuana in a public place or public building, other than in an area licensed by the Board of Aldermen;
- (j) Undertake any task while under the influence of marijuana, if doing so would constitute negligence, recklessness, or professional malpractice or would endanger others; or
- (k) Perform solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol, unless licensed for this activity by the State of Missouri.
- (l) Possess or consume marijuana, or possess marijuana accessories, on the grounds of any City owned property, park, or building.
- (m) Consume, smoke, or burn marijuana in a restaurant, an establishment holding any liquor license, or any place of public accommodation.
- (n) Cultivate flowering marijuana plants, nonflowering marijuana plants (over fourteen inches tall), or clones for private use without a valid Missouri private cultivation registration card authorizing such cultivation.
- (o) Cultivate flowering marijuana plants, nonflowering marijuana plants (over fourteen inches tall), or clones (plants under fourteen inches tall) for private use in excess of the amounts permitted authorized by a a valid Missouri private cultivation registration card.
- (p) Keeping twelve or more flowering marijuana plants, twelve or more nonflowering marijuana plants (over fourteen inches tall), or twelve or more clones (plants under fourteen inches tall) in or on the grounds of a private residence at one time.
- (q) Keeping in, or on, the grounds of a private residence an excess of three ounces of marijuana produced by privately cultivated plants, in an unlocked space, or that is visible by normal, unaided vision from a public place.
- (r) Purchasing, possessing, consuming, using, ingesting, inhaling, processing, transporting, delivering without consideration, or distributing without consideration dried, unprocessed marijuana, or its equivalent in excess of three ounces (except as may be permitted by a person validly licensed by the State of Missouri to do so).
- (s) Cultivating marijuana plants that are visible by normal, unaided vision from a public place.
- (t) Violating the terms of any marijuana license issued by the State of Missouri.

- (u) Conducting any activities, or engaging in any conduct involving or relating to marijuana that requires a license from the State of Missouri, without a valid license for such conduct or activity.

SECTION 2. A new §75.085 is added to the Elsberry City Code, as follows:

“§75.085. HASHISH AND SYNTHETIC CANNABINOIDS.

1. It shall be unlawful to possess, sell, distribute, lend, rent, lease, give, exchange, display for sale, or transfer the following substances in the following quantities:
 - a. Hashish in the amount of 5 grams or less;
 - b. Synthetic Cannabinoids;
 - c. MDPV.
2. It shall be an affirmative defense to any violation of subsection 1 if the possession, sale, distribution, or transfer, is in usual course of business or practice, or in the performance of their official duties by the following persons:
 - a. Persons licensed under the provisions of RSMo. Chapters 330, 332, 334, 335, 338 and 340 .
 - b. Persons who procure controlled substances:
 - I. For handling by or under the supervision of persons employed by them, who are licensed under the provisions of RSMo. Chapters 330, 332, 334, 335, 338 and 340.
 - ii. For the purpose of lawful research, teaching or testing and not for resale.
 - c. Hospitals and other institutions which procure controlled substances for lawful administration by persons described in Subsection 1.
 - d. Officers or employees or appropriate enforcement agencies of federal, state or local governments, pursuant to their duties in enforcing the provisions of this Chapter.
 - e. Lawfully licensed manufacturers and wholesalers of controlled substances.
 - f. Carriers and warehousemen lawfully handling or distributing lawful controlled substances or drugs.
4. Definitions

“MDPV” means any substance containing the following, regardless of whether the

substance is marketed as bath salts or otherwise:

3,4-Methylenedioxyprovalerone;

Methylone;

Mephedrone;

4-methoxymethcathinone;

4-Fluoromethcathinone; or

3-Fluoromethcathinone;

MDPV is commonly known by a number of names including, but not limited to, White Rush, Cloud 9, Ivory Wave, Ocean, Charge, Plus, White Lightning, Scarface, Hurricane Charlie, red Dove or White Dove

"Synthetic cannabinoid" means any natural or synthetic material, compound, mixture, or preparation, whether described as tobacco, herbs, incense, "Spice," "K2" or any blend thereof, that contains any quantity of a substance that is a cannabinoid receptor agonist, including but not limited to any substance listed in RSMo. §195.017 .2(4)(II) and any analogues, homologues; isomers, whether optical, positional, or geometric; esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible within the specific chemical designation, including

2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol (also known as CP47,497) and homologues;

(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[c]chromen-1-ol)(also known as HY-211 or Dexanabinol);

1-Pentyl-3-(1-naphthoyl)indole (also known as Jwh-018); or

Butyl-3-(1-naphthoyl)indole (also known as JWH-073)."

SECTION 3. Severability. The provisions of this Ordinance shall be severable. In the event that any provision of this Ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this Ordinance are valid unless the Court finds the valid provisions of this ordinance are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the Board of Aldermen would have enacted the valid provisions without the void ones or unless the Court finds that the valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

SECTION 4. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: Effective Upon Passage. This ordinance shall be in full force and effect from and after the date of its passage.

SECTION 6: Incorporation into the Municipal Code. The City Clerk shall incorporate the terms of this Ordinance into the official City of Elsberry Municipal Code with all due dispatch.

Alderman Wilch made a motion to read Bill 2022-12-002 two times by title only

Alderman Davis seconded the motion.

Roll call vote

Alderman Meyer-yes, Alderman Davis-yes, Alderman Rockwell-yes, Alderman Wilch-yes

City Attorney Robert Guinness read bill 2022-12-002 twice by title only.

Alderman Wilch made a motion to adopt.

Alderman Davis seconded the motion.

Roll Call vote

Alderman Davis- yes, Alderman Meyer-yes, Alderman Wilch-yes, Alderman-Rockwell- yes

RESOLUTIONS WHICH REQUIRE ACTION OF THE BOARD

REPORTS OF SPECIAL BOARDS AND 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

Tree Board- nothing to report

REPORTS OF ALDERMAN AND MAYOR

Mayor Short- nothing

Alderman Harper- absent

Alderman Taylor- absent

Alderman Rockwell- nothing to report

Alderman Meyer- nothing to report

Alderman Wilch- Alderman Wilch thanks Rachel for all the work that was done to get that 5 million dollar grant. He also wanted to thanks Rachel, Tashua and all the people who helped with the Christmas in the park. He also wanted to let Alliance know that there Rick Wood's

Repair had reached to him about some unpaid bills from Alliance. He would like them to take care if this as soon as possible.

Alderman Davis- Alderman Davis said that that street sign at Highway 79 and Hillcrest Drive is laying over. She also wanted to ask about 713 Lincoln and if tickets had been written. Chief Davis said he would look into it. She also wanted to thank Rachel and Tashua and the other girls for the Christmas in the Park.

REPORTS OF CITY DEPARTMENTS AND OFFICERS

City Attorney Robert Guinness- There is zoning that needs to be addressed due to the changes in the marijuana laws. The board should consider an ordinance to have the planning and zoning committee to consider and then report back.

Alliance Manager Kenny Claus- Alliance has hired 2 new employees.

Police Chief Randy Davis- Chief Davis went over his packet. He also said that he is looking into grants.

City Clerk Rachel Reed- Rachel wanted to thank Alderman Harper and Alderman Wilch for helping with the Christmas in the Park. She also thanked Alderman Wilch, Harper, and Steen's Power washing for making donations. There needs to be a special meeting scheduled to get the budget approved for 2023.

The board set up a meeting for December 27th at 6:00 pm

City Collector Tashua Chiodini- Tashua also wanted to thank everyone who came and helped with Christmas in the Park.

City Treasurer Lisa Grumich-nothing to report

MISCELLANEOUS BUSINESS

None

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

Vote to take up business to be conducted in closed session.

Alderman Wilch made a motion to close pursuant to RSMo Section 610.021 (1) Legal actions, causes of action, litigation, or confidential or privileged communications with its attorneys (14) Records which are protected from disclosure by law.

Alderman Harper seconded the motion.

Roll Call vote

Alderamn Rockwell-yes, Alderman Wilch-yes, Alderman Meyer-yes, Alderman Davis-yes

Open session resumed at 7:26 pm.

ADJOURNMENT

Alderman Davis made a motion to adjourn.

Alderman Wilch seconded that motion.

Ayes- Rockwell, Wilch, Meyer, Davis

Motion Carried.

Open session meeting was adjourned at 7:26 P.M.