



## BOARD OF ALDERMEN

### Meeting Agenda

AUGUST 24, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

- 1. Call to Order**
- 2. Roll Call**
- 3. Pledge of Allegiance**
- 4. Approval of Minutes:**
  - a. July 27, 2020 Board of Aldermen Meeting Minutes
  - b. July 27, 2020 Board of Aldermen Closed Meeting Minutes
- 5. Citizen Comments**
- 6. Old Business (Next Ordinance #20-15)**
  - a. Bill 4067 – Cell Tower
- 7. Legislation**
  - a. Bill 4068 – Missouri Highway and Transportation Commission – New Ballwin Rd.
  - b. Bill 4069 – Elco Chevrolet
  - c. Bill 4070 – Panera
  - d. Bill 4071 – BeerSauce
- 8. Consent Items:**
  - a. Liquor License Renewals – Craft Beer Festival; St. Louis Taco and Pita Grill
  - b. Public Works – Salt Recommendation
- 9. Mayor's Report**
- 10. City Administrator's Report**
- 11. Staff Reports**
  - a. Administration – Budget Calendar for Fiscal Year 2021
- 12. City Attorney's Report**
- 13. Aldermanic Comments**
- 14. Closed Session** – Pursuant to Section 610.022 RSMo, the Board of Aldermen will vote to close the public meeting and move to closed session to discuss real estate matters under Section 610.021 (2).
- 15. Adjourn**

NOTE: Due to ongoing City business, all meeting agendas should be considered tentative. Additional issues may be introduced during the course of the meeting.

CLOSED SESSION: Pursuant to Section 610.022 RSMo., The Board of Aldermen could, at any time during the meeting, vote to close the public meeting and move to closed session to discuss matters relating to litigation, legal actions, and/or communications from the City Attorney, as provided under Section 610.021(1) RSMo., and/or personnel matters under Section 610.021(13) RSMo., and/or employee matters under Section 610.021(3) RSMo., and/or real estate matters under Section 610.021 (2) or other matters as permitted by Chapter 610.



## BOARD OF ALDERMEN

### Meeting Briefs

AUGUST 24, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

This meeting of the Ballwin Board of Aldermen will be conducted live in accordance with the assembly guidelines limiting attendance to 25% of room capacity. The meeting room has been set up to insure social distancing. To ensure compliance, staff and/or members of the general public may be required to wait in the lobby and adjacent spaces.

**MINUTES** Enclosed, please find the minutes from the July 27, 2020 Board of Aldermen Meeting and the Closed Meeting Minutes from the July 27, 2020 Board of Aldermen Meeting.

## OLD BUSINESS

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**Bill 4067 - AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO NETWORK REAL ESTATE ON BEHALF OF AT&T MOBILITY FOR A COMMUNICATIONS TOWER AT 15407 CLAYTON ROAD.**

## LEGISLATION

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**Bill 4068 - AN ORDINANCE TO AUTHORIZE THE MAYOR TO EXECUTE A CONTRACT BETWEEN THE CITY OF BALLWIN, MISSOURI AND THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION PROVIDING FOR ROADWAY IMPROVEMENTS ON NEW BALLWIN ROAD FROM MANCHESTER ROAD TO TWIGWOOD DRIVE.**

This ordinance will authorize the Mayor to execute a contract with Missouri Highways and Transportation Commission for road improvements.

**Bill 4069 - AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION FOR AN AMENDED SITE DEVELOPMENT PLAN TO MSH ELCO CHEVROLET CADILLAC INC. FOR PROPERTY AT 15110 MANCHESTER ROAD.**

MSH Elco Chevrolet Cadillac Inc. submitted a Petition for a special use exception for an amended site development plan to change the showroom footprint for the property at 15110 Manchester Rd.



## BOARD OF ALDERMEN

### Meeting Briefs

AUGUST 24, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

#### **Bill 4070 - AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO PANERA BREAD FOR FRONT YARD PARKING AND OPERATION OF A RESTAURANT WITH OUTDOOR SEATING AND A DRIVE-THROUGH SERVICE WINDOW.**

Panera Bread requested the use of certain property for front yard parking and operation of a restaurant with outdoor seating and a drive-through window.

#### **Bill 4071 - AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO BEER SAUCE SHOP FOR FRONT YARD PARKING AND OPERATION OF A RESTAURANT WITH PACKAGE LIQUOR AND BY THE DRINK.**

BeerSauce Shop has requested the use of certain property for front yard parking and operation of a restaurant with package liquor and liquor by the drink.

### CONSENT ITEMS

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#### **ADMINISTRATION – Liquor License Renewals**

Liquor license renewals for the Craft Beer Festival and St. Louis Taco and Pita Grill are presented for the Board's approval.

#### **PUBLIC WORKS– Salt Recommendation**

Staff recommendations for salt purchases are presented for the Board's approval.

### MAYOR'S REPORT

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### CITY ADMINISTRATOR'S REPORT

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### STAFF REPORTS

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#### **ADMINISTRATION – Budget Calendar for Fiscal Year 2021**

The budget calendar for fiscal year 2021 is presented for the Board's approval.

### CITY ATTORNEY'S REPORT

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## **BOARD OF ALDERMEN**

### **Meeting Briefs**

AUGUST 24, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

### **ALDERMANIC COMMENTS**

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### **CLOSED SESSION**

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**DRAFT MINUTES**  
**BOARD OF ALDERMEN**  
**Meeting Minutes**

JULY 27, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

THE MINUTES ARE PREPARED IN SUMMARY TO REFLECT THE OVERALL DISCUSSIONS, NOT VERBATIM QUOTES.

The meeting was called to order by Board President Frank Fleming at 6:58 p.m.

**ROLL CALL**

Present

Alderman Michael Finley  
Alderman Kevin M. Roach  
Alderman Mark Stallmann  
Alderman Frank Fleming  
Alderman Jim Leahy  
Alderman Ross Bullington  
Alderman Raymond Kerlagon  
City Administrator Bob Kuntz  
City Attorney Kate Henry

Absent

Mayor Tim Pogue (family obligation)  
Alderman Mike Utt (family obligation)

**MINUTES**

The Minutes from the June 22, 2020, Board of Aldermen meeting were submitted for approval. ***A motion was made*** by Alderman Stallmann and seconded by Alderman Bullington to approve the minutes from the June 22, 2020 Board of Aldermen meeting. A voice vote was taken with a unanimous affirmative result and the motion passed.

The minutes from the June 22, 2020, Board of Aldermen closed meeting were submitted for approval. A motion was made by Alderman Bullington and seconded by Alderman Stallmann to approve the minutes from the June 22, 2020 Board of Aldermen closed meeting. A voice vote was taken with a unanimous affirmative result and the motion passed.



**DRAFT MINUTES**  
**BOARD OF ALDERMEN**  
**Meeting Minutes**

JULY 27, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

**LEGISLATION**

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**Bill 4065 – AN ORDINANCE ACCEPTING FRED KEMP COURT FOR PUBLIC MAINTENANCE AS PROVIDED FOR IN THE CODE OF ORDINANCES OF THE CITY OF BALLWIN.**

A motion was made by Alderman Roach and seconded by Alderman Leahy for a first reading of Bill 4065, title only. A voice vote was taken with unanimous affirmative result and Bill 4065 was read for the first time.

In discussion of Bill 4065:

None

A motion was made by Alderman Stallmann and seconded by Alderman Bullington for a second reading of Bill 4065. A voice vote was taken with unanimous affirmative result and Bill 4065 was read for a second time.

A roll call vote was taken for passage and approval of Bill No. 4065 with the following results:

Ayes – Aldermen Finley, Roach, Stallmann, Fleming, Leahy, Bullington, Kerlagon

Nays -- None.

Bill No. 4065 was approved and became Ordinance No. 20-13

**Bill 4066 - AN ORDINANCE AMENDING SECTION 15-480 (SCHEDULE E) OF ARTICLE XII OF CHAPTER 15 OF THE ORDINANCES OF THE CITY OF BALLWIN WITH RESPECT TO A NEW STOP SIGN.**

A motion was made by Alderman Finley and seconded by Alderman Roach for a first reading of Bill 4066, title only. A voice vote was taken with unanimous affirmative result and Bill 4066 was read for the first time.

In discussion of Bill 4066:

Alderman Finley asked if comments or concerns had been voiced by Ballwin Manor or citizens; City Administrator Bob Kuntz replied that none had been received. Alderman Finley stated he had not received any either.

A motion was made by Alderman Roach and seconded by Alderman Finley for a second reading of Bill 4066. A voice vote was taken with unanimous affirmative result and Bill 4066 was read for a second time.

A roll call vote was taken for passage and approval of Bill No. 4066 with the following results:



**DRAFT MINUTES**  
**BOARD OF ALDERMEN**  
**Meeting Minutes**

JULY 27, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

Ayes – Aldermen Finley, Roach, Stallmann, Fleming, Leahy, Bullington, Kerlagon

Nays -- None.

Bill No. 4066 was approved and became Ordinance No. 20-14

**Bill 4067 - AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO NETWORK REAL ESTATE ON BEHALF OF AT&T MOBILITY FOR A COMMUNICATIONS TOWER AT 15407 CLAYTON ROAD.**

A motion was made by Alderman Bullington and seconded by Alderman Kerlagon for a first reading of Bill 4067, title only. A voice vote was taken with unanimous affirmative result and Bill 4067 was read for the first time.

In discussion of Bill 4067:

Alderman Finley asked if Alderman Roach had any questions or comments as he had attended the Planning and Zoning meeting during which this had been discussed. Alderman Roach stated his greatest concern was gaining public comment, but there wasn't any. Alderman Finley stated that Planning and Zoning Secretary Zimmerman's concern was the 5G aspect. Alderman Fleming stated the petitioner was in attendance and asked him to come forward; Matt Schlichter addressed the Board regarding concerns. Alderman Leahy stated he would be abstaining from the vote as his brother works for the company.

A motion was made by Alderman Bullington and seconded by Alderman Leahy for a second reading of Bill 4067. A voice vote was taken with five affirmative votes, one vote abstaining, and one negative vote (Alderman Roach) and Bill 4067 will be held over for the August 24, 2020 Board meeting.

**CONSENT ITEMS**

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**ADMINISTRATION – Six-Month Financial Statement**

The City's six-month financial statement is presented for the Board's approval.

Discussion:

None

A motion was made by Alderman Bullington and seconded by Alderman Stallmann to approve the six month financial statement. A voice vote was taken with unanimous affirmative result and the motion passed.



**DRAFT MINUTES**  
**BOARD OF ALDERMEN**  
**Meeting Minutes**

JULY 27, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

**ADMINISTRATION – Liquor License - BeerSauce**

The liquor license for Ballwin restaurant, BeerSauce, is presented for the Board's approval.

**Discussion:**

Alderman Roach stated he and Alderman Finley did not find information in their packets and had some questions. Alderman Fleming stated he had the license information which was signed by Chief Doug Schaeffler and passed the license application to Alderman Finley for review. After reviewing, Alderman Finley stated there was information which caused him to want further discussion with the Chief. Alderman Fleming asked City Attorney Kate Henry if they could go into closed session to discuss Alderman Finley's concerns. Alderman Leahy stated he would like to see this resolved at this meeting as the business community is struggling and we should have a sense of urgency on this matter. Alderman Stallmann agreed, especially since the next Board meeting is not until the end of August. Alderman Bullington also agreed.

A motion was made by Alderman Roach and seconded by Alderman Bullington to go into closed session as authorized by Revised Statutes of Missouri, Section 610.022. A roll call vote was taken with unanimous affirmative result and the Board moved to closed session at 7:22 p.m.

A motion was made by Alderman Bullington and seconded by Alderman Stallmann to reconvene. The motion passed by unanimous affirmative vote and the meeting reconvened at 7:28 p.m.

A motion was made by Alderman Bullington and seconded by Alderman Stallmann to approve the liquor license. A voice vote was taken with six affirmative votes and one negative vote (Alderman Finley) and the motion passed.

**MAYOR'S REPORT**

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Nothing to Report

**CITY ADMINISTRATOR'S REPORT**

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City Administrator Bob Kuntz stated the St. Louis County Boundary Commission would hold a Zoom public meeting on July 28 at 7:00 p.m. regarding the City's petition to annex Waterford subdivision.

Mr. Kuntz also shared that Public Works employee Mike Fink retired after 25 years with the City. He was unable to attend the meeting due to health concerns, but Mr. Kuntz shared Mike was a great employee and the City wishes him the best.



**DRAFT MINUTES**  
**BOARD OF ALDERMEN**  
**Meeting Minutes**

JULY 27, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

## **STAFF REPORTS**

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### **PUBLIC WORKS – New Ballwin Rd.**

Public Works is recommending the Board of Alderman approve legislation to give the City Administrator the authority to sign the federal grant agreements for New Ballwin Road STP project number 4939.

#### **Discussion:**

Public Works Director Jim Link stated this is required by MODOT.

A motion was made by Alderman Bullington and seconded by Alderman Stallmann to draft legislation. A voice vote was taken with unanimous affirmative result and the motion passed.

### **PUBLIC WORKS – Slabs/Sidewalk Replacement**

Public Works is recommending the Board approve increasing the total contract, not to exceed \$815,000, to Kelpo Contracting, Inc. This contract was originally awarded on March 9, 2020.

#### **Discussion:**

Mr. Link stated that Public Works has been looking at asphalt overlays and Maymont Dr in particular. Maymont is deteriorating so much that it has been determined it would be better to tear everything out and replace the concrete. He is asking that funds be diverted from asphalt programs to the concrete program. City Administrator Kuntz also provided some feedback to the Board. Alderman Fleming stated this is not uncommon to find with areas that have been annexed from St. Louis County.

A motion was made by Alderman Roach and seconded by Alderman Kerlagon to approve the staff recommendation. A voice vote was taken with unanimous affirmative result and the motion passed.

## **CITY ATTORNEY'S REPORT**

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Nothing to report



**DRAFT MINUTES**  
**BOARD OF ALDERMEN**  
**Meeting Minutes**

JULY 27, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

**ALDERMANIC COMMENTS**

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Alderman Fleming thanked City Administrator Bob Kuntz for his service and guidance to the City, as this is his last Board meeting as the City Administrator.

Alderman Bullington thanked Mr. Kuntz as well, stating his heartfelt dedication to the City has been appreciated.

Alderman Stallmann also conveyed his thanks and best wishes to Mr. Kuntz.

Alderman Finley thanked Mr. Kuntz again for his distinguished service to the City.

Alderman Roach thanked Mr. Kuntz, stating that he has twice now left the City better than he found it.

**OPEN SESSION**

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A motion was made by Alderman Finley and seconded by Alderman Stallmann to adjourn. The motion was passed by unanimous affirmative voice vote and the meeting adjourned at 7:33 p.m.

\_\_\_\_\_  
TIM POGUE, MAYOR

ATTEST:

\_\_\_\_\_  
POLLY MOORE, CITY CLERK

**MINUTES OF THE CLOSED SESSION – JULY 27, 2020**  
**BALLWIN BOARD OF ALDERMEN**

The Ballwin Board of Aldermen convened in closed session on July 27, 2020 at 7:25 PM at 1 Government Center. Present were Aldermen Finley, Kerlagon, Fleming, Stallmann, Bullington, Leahy, Roach, Police Chief Doug Schaeffler and Acting City Attorney Kate Henry.



A motion was made by Alderman Fleming to adjourn the closed session. The motion was seconded by Alderman Stallmann.

The following vote was recorded:

|                     |     |
|---------------------|-----|
| Alderman Stallmann  | aye |
| Alderman Fleming    | aye |
| Alderman Finley     | aye |
| Alderman Roach      | aye |
| Alderman Bullington | aye |
| Alderman Kerlagon   | aye |
| Alderman Leahy      | aye |

The closed session adjourned at 7:30 PM.

/s/ Kate Henry  
Kate Henry  
Acting Secretary



**Bill No. 4067**

**Ordinance No. \_\_\_\_\_**

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

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AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO NETWORK REAL ESTATE ON BEHALF OF AT&T MOBILITY FOR A COMMUNICATIONS TOWER AT 15407 CLAYTON ROAD.

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WHEREAS, Network Real Estate on behalf of AT&T Mobility submitted a Petition for a special use exception to erect a communications tower at 15407 Clayton Road in the City of Ballwin; and

WHEREAS, a public hearing was duly noticed and held before the Planning & Zoning Commission on July 6, 2020; and

WHEREAS, the Planning & Zoning Commission recommended approval of the Petition submitted by Network Mobility on behalf of AT&T Mobility; and

WHEREAS, the Board of Aldermen has determined that the special use exception, under certain conditions, would not substantially increase traffic hazards or congestion; would not adversely affect the character of the neighborhood; would not adversely affect the general welfare of the community; would not over-tax public utilities; would not adversely affect public safety and health; is consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses in the District; and can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and

WHEREAS, in determining the location for the proposed structure, and in keeping with RSMO. Section 67.5094 with regard to new wireless infrastructure deployment, AT&T Mobility conducted an analysis of available collocation opportunities on existing wireless towers inside their search areas but did not find any suitable opportunities to meet their needs.

WHEREAS, all applicable matters in Appendix A, "The Zoning Ordinance," have been adequately provided for:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. A special use exception, subject to the conditions hereinafter specifically set forth in the addendum attached hereto and incorporated herewith as Exhibit One, is hereby granted to Network Real Estate on behalf of AT&T Mobility to use the premises in the City of Ballwin, Missouri known as 15407 Clayton Road for erection of a communications tower.

Section 2. The special use exception hereby issued, and referred to in Section 1, is issued to the named permittee only and shall not be assigned or transferred, without the permission of the Board of Aldermen of the City of Ballwin.

Section 3. The special use exception hereby issued and referred to in Section 1, shall be



**Bill No. 4067**

valid only if the conditions set forth in the Addendum, attached hereto as Exhibit 1 made a part hereof , are observed by permittee.

Section 4. This Ordinance shall take effect and be in full force from and after its passage and approval.

**PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
***TIM POGUE, MAYOR***

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
***TIM POGUE, MAYOR***

**ATTEST:** \_\_\_\_\_

***ROBERT KUNTZ, CITY ADMINISTRATOR***

**ORDINANCE NO. \_\_\_\_\_****EXHIBIT ONE**

The permittee granted a Special Use Exception per the ordinance hereby appended to, their assignees and successors, as authorized and approved by the Board of Aldermen of the City of Ballwin, agree to abide by the following provisions, the provisions of all ordinances of the City of Ballwin, and all applicable laws of St. Louis County, the State of Missouri and of the United States of America and to require all licensees, franchisees, and lessees to similarly abide by said ordinances, laws and provisions, as appropriate to such special use exception. In addition, the following provisions, as appropriate, shall apply:

1. There is no outdoor storage, display or sale of any merchandise, equipment, vehicle, supplies or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin.

2. There is no servicing, repair, cleaning, maintenance or other work on any merchandise, equipment, vehicle, materials, supplies, or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin, except within a fully enclosed building which shall not include carports, porte-cocheres, accessory structures or temporary coverings and/or enclosures such as tents, tarpaulins, flies, or other similar structures.

3. Any violation of the laws, statutes, ordinances, codes, policies and regulations of the City of Ballwin, St. Louis County, the State of Missouri, or the United States of America by the permittee, its agents, servants or employees shall be cause for the revocation of the Special Use Exception hereby granted.

4. That the site, premises and/or land use described by the permittee in the application and subsequently approved by this ordinance is developed and operated in accordance with the final approved development plan and the provisions of this ordinance, and any failure to do so shall be cause for the revocation of the Special Use Exception hereby granted.

5. All new utility and other service laterals and connections on the site and/or premises, and all connections to site improvements and fixtures installed outside of a fully enclosed building shall be installed underground.

6. All sign illumination and other lighting is selected and arranged so as not to cast light upon, and/or be a nuisance, to any right-of-way or any other property.

7. The permittee and their approved assignees or successors, if any, shall install plantings native to the State of Missouri, subject to review and approval by City staff and shall preserve, maintain and care for all plantings, and landscaped and planted areas on the site and/or premises, in accordance with the landscape and site plans of this ordinance. Such maintenance, preservation and care shall include all planted and landscaped rights-of-way adjacent to the site and/or premises addressed and approved by the Special Use Exception hereby granted.

8. Trash and debris shall not be allowed to accumulate and the site/premises shall at all times be kept clean and free of all refuse, debris, leakage and recyclable material accumulation.

9. Unless otherwise provided by this Special Use Exception or other ordinances of the City of Ballwin, no vehicles, equipment or property may be parked or stored on the premises for which



this permit is issued except non-commercial vehicles as defined by the Ballwin Ordinances and one fully operational and licensed delivery/service vehicle per business or tenant or use operated on the premises.

10. No changes or departures from the approved final development plan may be made without the approval of the Board of Aldermen in accordance with the provisions of Article XIV, Section 3, of the Ballwin Zoning Ordinance.

11. This Special Use Exception shall terminate three months following the non-renewal of the business license for the business associated with the location for which the Exception is granted.

12. The final site development plan shall comply with all recommendations of the Petition Review Report for Petition No. SUE 20-04.

13. The Simtek wall shall be constructed to a height of 8 feet, and any equipment buildings will be lower than the 8 foot height of the wall.



**Bill No. 4068**

**Ordinance No. \_\_\_\_\_**

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: STP-4939(609)  
Award Year: 2022  
Federal Agency: Federal Highway Administration, Department of Transportation

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

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AN ORDINANCE TO AUTHORIZE THE MAYOR TO EXECUTE A CONTRACT BETWEEN THE CITY OF BALLWIN, MISSOURI AND THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION PROVIDING FOR ROADWAY IMPROVEMENTS ON NEW BALLWIN ROAD FROM MANCHESTER ROAD TO TWIGWOOD DRIVE.

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Section 1. That the Mayor is hereby authorized to execute on behalf of the City of Ballwin a contract with the Missouri Highways and Transportation Commission providing for roadway improvements on New Ballwin Road from Manchester Road to Twigwood Drive.

Section 2. That all ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed.

Section 3. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
**TIM POGUE, MAYOR**

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
**TIM POGUE, MAYOR**

ATTEST: \_\_\_\_\_

**ERIC STERMAN, CITY ADMINISTRATOR**

CCO Form: FS11  
Approved: 07/96 (KMH)  
Revised: 03/17 (MWH)  
Modified:

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: STP-4939(609)  
Award Year: 2022  
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
STP-URBAN PROGRAM AGREEMENT**

THIS STP-URBAN AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Ballwin, St. Louis County, Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, the Fixing America's Surface Transportation Act (FAST) 23 U.S.C. §133, authorizes a Surface Transportation Program (STP) to fund transportation related projects; and

WHEREAS, the City desires to construct certain improvements, more specifically described below, using such STP funding; and

WHEREAS, those improvements are to be designed and constructed in compliance with the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The purpose of this Agreement is to grant the use of STP funds to the City. The improvement contemplated by this Agreement and designated as Project STP-4939(609) involves:

Resurfacing, curb ramps, pedestrian signals and street lighting on New Ballwin Road from Manchester Road to Twigwood Drive.

The City shall be responsible for all aspects of the construction of the improvement.

(2) LOCATION: The contemplated improvement designated as Project STP-4939(609) by the Commission is within the city limits of Ballwin, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows:

New Ballwin Road from Manchester Road to Twigwood Drive

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency (LPA) Manual and the final deadline specified in Exhibit B attached hereto and incorporated herein by reference. In the event, the LPA Manual and the final deadline within Exhibit B conflict, the final deadline within Exhibit B controls. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) LIMITS OF SYSTEM: The limits of the surface transportation system for the City shall correspond to its geographical area as encompassed by the urban boundaries of the City as fixed cooperatively by the parties subject to approval by the Federal Highway Administration (FHWA).

(5) ROUTES TO BE INCLUDED: The City shall select the high traffic volume arterial and collector routes to be included in the surface transportation system, to be concurred with by the Commission, subject to approval by the FHWA. It is understood by the parties that surface transportation system projects will be limited to the said surface transportation system, but that streets and arterial routes may be added to the surface transportation system, including transfers from other federal aid systems.

(6) INVENTORY AND INSPECTION: The City shall:

(A) Furnish annually, upon request from the Commission or FHWA, information concerning conditions on streets included in the STP system under local jurisdiction indicating miles of system by pavement width, surface type, number of lanes and traffic volume category.

(B) Inspect and provide inventories of all bridges on that portion of the federal-aid highway systems under the jurisdiction of the City in accordance with the Federal Special Bridge Program, as set forth in 23 U.S.C. §144, and applicable amendments or regulations promulgated thereunder.

(7) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of

the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by the Commission will be turned over to the Commission upon completion of the project for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(8) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the City shall defend, indemnify and hold harmless the Commission, including its members and the Missouri Department of Transportation (MoDOT or Department) employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the City's wrongful or negligent performance of its obligations under this Agreement.

(B) The City will require any contractor procured by the City to work under this Agreement:

1. To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and MoDOT and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo. The City shall cause insurer to increase the insurance amounts in accordance with those published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(9) CONSTRUCTION SPECIFICATIONS: Parties agree that all construction under the STP for the City will be constructed in accordance with current MoDOT design criteria/specifications for urban construction unless separate standards for the surface transportation system have been established by the City and the Commission subject to the approval of the FHWA.

(10) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(11) ACQUISITION OF RIGHT OF WAY: No acquisition of additional right of way is anticipated in connection with Project STP-4939(609) or contemplated by this Agreement.

(12) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. The federal share for this project will be 80 percent not to exceed \$652,863. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(13) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(14) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the Manual of Uniform Traffic Control Devices (MUTCD).

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project STP-4939(609) will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work.

(16) DISADVANTAGED BUSINESS ENTERPRISES (DBEs): At time of processing the required project agreements with the FHWA, the Commission will advise the City of any required goals for participation by DBEs to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a DBE goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(17) NOTICE TO BIDDERS: The City shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(18) PROGRESS PAYMENTS: The City may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly. All progress payment requests must be submitted for reimbursement within 90 days of the project completion date for the final phase of work. The City shall repay any progress payments which involve ineligible costs.

(19) PROMPT PAYMENTS: Progress invoices submitted to MoDOT for reimbursement more than thirty (30) calendar days after the date of the vendor invoice shall also include documentation that the vendor was paid in full for the work identified in the progress invoice. Examples of proof of payment may include a letter or e-mail from the vendor, lien waiver or copies of cancelled checks. Reimbursement will not be made on these submittals until proof of payment is provided. Progress invoices submitted to MoDOT for reimbursement within thirty (30) calendar days of the date on the vendor invoice will be processed for reimbursement without proof of payment to the vendor. If the City has not paid the vendor prior to receiving reimbursement, the City must pay the vendor within two (2) business days of receipt of funds from MoDOT.

(20) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any STP improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any

privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(21) FINAL AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(22) AUDIT REQUIREMENT: If the City expend(s) seven hundred fifty thousand dollars (\$750,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of 2 CFR Part 200, if the City expend(s) less than seven hundred fifty thousand dollars (\$750,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(23) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The City shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 C.F.R. Part 170.

(24) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(25) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(26) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(27) COMMISSION REPRESENTATIVE: The Commission's St. Louis District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(28) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

- (A) To the City:  
14811 Manchester Road  
Ballwin, MO 63011
- (B) To the Commission:  
1590 Woodlake Drive  
Chesterfield, MO 63017  
Facsimile No.: 537-522-6475

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(29) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, et seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, et seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or
2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (29) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(30) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the Commission.

(31) CONFLICT OF INTEREST: The City shall comply with conflict of interest policies identified in 23 CFR 1.33. A conflict of interest occurs when an entity has a financial or personal interest in a federally funded project.

(32) MANDATORY DISCLOSURES: The City shall comply with 2 CFR 200.113 and disclose, in a timely manner, in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed by the Commission this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF BALLWIN

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Secretary to the Commission

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

By \_\_\_\_\_

Title \_\_\_\_\_

Ordinance No: \_\_\_\_\_



**Bill No. 4069**

**Ordinance No. \_\_\_\_\_**

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

---

AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION FOR AN AMENDED SITE DEVELOPMENT PLAN TO MSH ELCO CHEVROLET CADILLAC INC. FOR PROPERTY AT 15110 MANCHESTER ROAD.

---

WHEREAS, MSH Elco Chevrolet Cadillac Inc. submitted a Petition for a special use exception for an amended site development plan to change the showroom footprint for the property at 15110 Manchester Road; and

WHEREAS, a public hearing was duly noticed and held before the Planning & Zoning Commission on August 3, 2020; and

WHEREAS, the Planning & Zoning Commission recommended approval of the Petition submitted by MSH Elco Chevrolet Cadillac Inc.; and

WHEREAS, the Board of Aldermen has determined that the special use exception, under certain conditions, would not substantially increase traffic hazards or congestion; would not adversely affect the character of the neighborhood; would not adversely affect the general welfare of the community; would not over-tax public utilities; would not adversely affect public safety and health; is consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses in the District; and can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and

WHEREAS, all applicable matters in Section 2 of Article XIV of Ordinance No. 557, "The Zoning Ordinance," have been adequately provided for:

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

Section 1. A special use exception, subject to the conditions hereinafter specifically set forth in the addendum attached hereto and incorporated herewith as Exhibit One, is hereby granted MSH Elco Chevrolet Cadillac Inc. for an amended site development plan to change the showroom footprint for the property at 15110 Manchester Road.

Section 2. The special use exception hereby issued, and referred to in Section 1, is issued to the named permittee only and shall not be assigned or transferred, without the permission of the Board of Aldermen of the City of Ballwin.

Section 3. The special use exception hereby issued and referred to in Section 1, shall be valid only if the conditions set forth in the Addendum, attached hereto as Exhibit 1 made a part hereof, are observed by permittee.

Section 4. This Ordinance shall take effect and be in full force from and after its passage



**Bill No. 4069**

and approval.

**PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
***TIM POGUE, MAYOR***

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
***TIM POGUE, MAYOR***

**ATTEST:** \_\_\_\_\_  
***ERIC STERMAN, CITY ADMINISTRATOR***

**BILL NO. 4069****ORDINANCE NO. \_\_\_\_\_****EXHIBIT ONE**

The permittee granted a Special Use Exception per the ordinance hereby appended to, their assignees and successors, as authorized and approved by the Board of Aldermen of the City of Ballwin, agree to abide by the following provisions, the provisions of all ordinances of the City of Ballwin, and all applicable laws of St. Louis County, the State of Missouri and of the United States of America and to require all licensees, franchisees, and lessees to similarly abide by said ordinances, laws and provisions, as appropriate to such special use exception. In addition, the following provisions, as appropriate, shall apply:

1. There is no outdoor storage, display or sale of any merchandise, equipment, vehicle, supplies or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin.

2. There is no servicing, repair, cleaning, maintenance or other work on any merchandise, equipment, vehicle, materials, supplies, or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin, except within a fully enclosed building which shall not include carports, porte-cocheres, accessory structures or temporary coverings and/or enclosures such as tents, tarpaulins, flies, or other similar structures.

3. Any violation of the laws, statutes, ordinances, codes, policies and regulations of the City of Ballwin, St. Louis County, the State of Missouri, or the United States of America by the permittee, its agents, servants or employees shall be cause for the revocation of the Special Use Exception hereby granted.

4. That the site, premises and/or land use described by the permittee in the application and subsequently approved by this ordinance is developed and operated in accordance with the final approved development plan and the provisions of this ordinance, and any failure to do so shall be cause for the revocation of the Special Use Exception hereby granted.

5. All new utility and other service laterals and connections on the site and/or premises, and all connections to site improvements and fixtures installed outside of a fully enclosed building shall be installed underground.

6. The permittee and their approved assignees or successors, if any, shall install plantings native to the State of Missouri, subject to review and approval by City staff and shall preserve, maintain and care for all plantings, and landscaped and planted areas on the site and/or premises, in accordance with the landscape and site plans of this ordinance. Such maintenance, preservation and care shall include all planted and landscaped rights-of-way adjacent to the site and/or premises addressed and approved by the Special Use Exception hereby granted.

7. Trash and debris shall not be allowed to accumulate and the site/premises shall at all times be kept clean and free of all refuse, debris, leakage and recyclable material accumulation.



Bill No. 4070

Ordinance No. \_\_\_\_\_

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

---

AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO PANERA BREAD FOR FRONT YARD PARKING AND OPERATION OF A RESTAURANT WITH OUTDOOR SEATING AND A DRIVE-THROUGH SERVICE WINDOW.

---

WHEREAS, a petition has been received from Panera Bread, requesting the use of certain property for front yard parking and operation of a restaurant with outdoor seating and a drive-through service window;

WHEREAS, said petition was duly referred to the Planning and Zoning Commission for its investigation and report; and

WHEREAS, due notice of a public hearing before the Planning and Zoning Commission upon said petition was published and posted according to law and ordinance; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on August 3, 2020, upon said petition; and

WHEREAS, the Planning and Zoning Commission has submitted its report recommending approval to the Board of Aldermen; and

WHEREAS, the Board of Aldermen has determined that an establishment for the purposes disclosed above, under certain conditions, would not substantially increase traffic hazards or congestion; would not adversely affect the character of the neighborhood; would not adversely affect the general welfare of the community; would not over-tax public utilities; would not adversely affect public safety and health; is consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses in the District; and can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and

WHEREAS, all applicable matters in Section 2 of Article XIV of Appendix A, "The Zoning Ordinance," have been adequately provided for:

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

Section 1. A special use exception, subject to the conditions hereinafter specifically set forth, is hereby granted to Panera Bread, to use the premises in the City of Ballwin, Missouri, known as 14646 Manchester Road for front yard parking and operation of a restaurant with outdoor seating and a drive-through service window in a commercial district, as is made and provided for in Article XIV of Appendix A.

Section 2. The special use exception hereby issued, and referred to in Section 1, is issued to the named permittee only and shall not be assigned or transferred, without the permission of the Board of Aldermen of the City of Ballwin.



**Bill No. 4070**

Section 3. The special use exception hereby issued and referred to in Section 1, shall be valid only if the conditions set forth in the Addendum, attached hereto as Exhibit 1 and made a part hereof, are observed by permittee.

Section 4. This Ordinance shall take effect and be in full force from and after its passage and approval.

**PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
***TIM POGUE, MAYOR***

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
***TIM POGUE, MAYOR***

**ATTEST:** \_\_\_\_\_  
***ERIC STERMAN, CITY ADMINISTRATOR***



BILL NO. 4070

ORDINANCE NO. \_\_\_\_\_

EXHIBIT ONE

The permittee granted a Special Use Exception per the ordinance hereby appended to, their assignees and successors, as authorized and approved by the Board of Aldermen of the City of Ballwin, agree to abide by the following provisions, the provisions of all ordinances of the City of Ballwin, and all applicable laws of St. Louis County, the State of Missouri and of the United States of America and to require all licensees, franchisees, and lessees to similarly abide by said ordinances, laws and provisions, as appropriate to such special use exception. In addition, the following provisions, as appropriate, shall apply:

1. There is no outdoor storage, display or sale of any merchandise, equipment, vehicle, supplies or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin.

2. There is no servicing, repair, cleaning, maintenance or other work on any merchandise, equipment, vehicle, materials, supplies, or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin, except within a fully enclosed building which shall not include carports, porte-cocheres, accessory structures or temporary coverings and/or enclosures such as tents, tarpaulins, flies, or other similar structures.

3. No food or beverage of any kind is delivered outside of a building shown on the accompanying site plan by the permittee, its agents, servants or employees except for purposes of off-site delivery or as otherwise provided in this Special Use Exception.

4. No food or beverage of any kind is served or dispensed to persons inside of automobiles or other vehicles by the permittee, its agents, servants or employees except from a drive-through window and/or designated waiting spaces specified on the accompanying site plan. Under no circumstances is drive-in curb service permitted.

5. Any violation of the laws, statutes, ordinances, codes, policies and regulations of the City of Ballwin, St. Louis County, the State of Missouri, or the United States of America by the permittee, its agents, servants or employees shall be cause for the revocation of the Special Use Exception hereby granted.

6. That a detailed final development plan, meeting the requirements of the Board of Aldermen and The Zoning Commission as outlined in the final staff report and public meeting minutes, shall be submitted to the Building Commissioner within thirty (30) days of passage and approval of this ordinance by the Board of Aldermen.

7. That the site, premises and/or land use described by the permittee in the application and subsequently approved by this ordinance is developed and operated in accordance with the final approved development plan and the provisions of this ordinance, and any failure to do so shall be cause for the revocation of the Special Use Exception hereby granted.

8. All new utility and other service laterals and connections on the site and/or premises, and all connections to site improvements and fixtures installed outside of a fully enclosed building shall be installed underground.

9. All sign illumination and other lighting is selected and arranged so as not to cast light upon, and/or be a nuisance, to any right-of-way or any other property.

10. The permittee and their approved assignees or successors, if any, shall preserve, maintain and care for all plantings, and landscaped and planted areas on the site and/or premises, in accordance with the landscape and site plans of this ordinance. Such maintenance, preservation and care shall include all planted and landscaped rights-of-way adjacent to the site and/or premises addressed and approved by the Special Use Exception hereby granted.

11. Trash and debris shall not be allowed to accumulate and the site/premises shall at all times be kept clean and free of all refuse, debris, leakage and recyclable material accumulation.

12. All trash dumpsters and recyclable material storage areas shall be screened with a 100% opaque screen which shall totally obscure any visibility of the dumpster and recyclables container. Such screening shall be permanent in nature and architecturally compatible with the associated development. Said enclosure and screening may not be located within any front yard and shall not interfere with driver visibility or any loading, parking or vehicular circulation.

13. Unless otherwise provided by this Special Use Exception or other ordinances of the City of Ballwin, no vehicles, equipment or property may be parked or stored on the premises for which this permit is issued except non-commercial vehicles as defined by the Ballwin Ordinances and one fully operational and licensed delivery/service vehicle per business or tenant or use operated on the premises.

14. No changes or departures from the approved final development plan may be made without the approval of the Board of Aldermen in accordance with the provisions of Article XIV, Section 3, of the Ballwin Zoning Ordinance.

15. This Special Use Exception shall terminate three months following the non-renewal of the business license for the business associated with the location for which the Exception is granted.

16. The permittee shall provide an illumination study and shall place adequate shields on all lights to prevent light pollution.

17. Outdoor seating shall only be allowed on the west side of the building.

18. No live music shall be allowed.







Bill No. 4071

Ordinance No. \_\_\_\_\_

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

---

AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO BEER SAUCE SHOP FOR FRONT YARD PARKING AND OPERATION OF A RESTAURANT WITH PACKAGE LIQUOR AND BY THE DRINK.

---

WHEREAS, a petition has been received from Beer Sauce Shop, requesting the use of certain property for front yard parking and operation of a restaurant with package liquor and liquor by the drink;

WHEREAS, said petition was duly referred to the Planning and Zoning Commission for its investigation and report; and

WHEREAS, due notice of a public hearing before the Planning and Zoning Commission upon said petition was published and posted according to law and ordinance; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on August 3, 2020, upon said petition; and

WHEREAS, the Planning and Zoning Commission has submitted its report recommending approval to the Board of Aldermen; and

WHEREAS, the Board of Aldermen has determined that an establishment for the purposes disclosed above, under certain conditions, would not substantially increase traffic hazards or congestion; would not adversely affect the character of the neighborhood; would not adversely affect the general welfare of the community; would not over-tax public utilities; would not adversely affect public safety and health; is consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses in the District; and can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and

WHEREAS, all applicable matters in Section 2 of Article XIV of Appendix A, "The Zoning Ordinance," have been adequately provided for:

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

Section 1. A special use exception, subject to the conditions hereinafter specifically set forth, is hereby granted to Beer Sauce Shop, to use the premises in the City of Ballwin, Missouri, known as 14738-B Manchester Road for front yard parking and operation of a restaurant with package liquor and liquor by the drink in a commercial district, as is made and provided for in Article XIV of Appendix A.

Section 2. The special use exception hereby issued, and referred to in Section 1, is issued to the named permittee only and shall not be assigned or transferred, without the permission of the Board of Aldermen of the City of Ballwin.



**Bill No. 4071**

Section 3. The special use exception hereby issued and referred to in Section 1, shall be valid only if the conditions set forth in the Addendum, attached hereto as Exhibit 1 and made a part hereof, are observed by permittee.

Section 4. This Ordinance shall take effect and be in full force from and after its passage and approval.

**PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
***TIM POGUE, MAYOR***

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
***TIM POGUE, MAYOR***

**ATTEST:** \_\_\_\_\_

***ERIC STERMAN, CITY ADMINISTRATOR***



BILL NO. 4071

ORDINANCE NO. \_\_\_\_\_

EXHIBIT ONE

The permittee granted a Special Use Exception per the ordinance hereby appended to, their assignees and successors, as authorized and approved by the Board of Aldermen of the City of Ballwin, agree to abide by the following provisions, the provisions of all ordinances of the City of Ballwin, and all applicable laws of St. Louis County, the State of Missouri and of the United States of America and to require all licensees, franchisees, and lessees to similarly abide by said ordinances, laws and provisions, as appropriate to such special use exception. In addition, the following provisions, as appropriate, shall apply:

1. There is no outdoor storage, display or sale of any merchandise, equipment, vehicle, supplies or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin.

2. There is no servicing, repair, cleaning, maintenance or other work on any merchandise, equipment, vehicle, materials, supplies, or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin, except within a fully enclosed building which shall not include carports, porte-cocheres, accessory structures or temporary coverings and/or enclosures such as tents, tarpaulins, flies, or other similar structures.

3. No food or beverage of any kind is delivered outside of a building shown on the accompanying site plan by the permittee, its agents, servants or employees except for purposes of off-site delivery.

4. No food or beverage of any kind is served or dispensed to persons inside of automobiles or other vehicles by the permittee, its agents, servants or employees except from a drive-through window and/or designated waiting spaces specified on the accompanying site plan. Under no circumstances is drive-in curb service permitted.

5. Any violation of the laws, statutes, ordinances, codes, policies and regulations of the City of Ballwin, St. Louis County, the State of Missouri, or the United States of America by the permittee, its agents, servants or employees shall be cause for the revocation of the Special Use Exception hereby granted.

6. That a detailed final development plan, meeting the requirements of the Board of Aldermen and The Zoning Commission as outlined in the final staff report and public meeting minutes, shall be submitted to the Building Commissioner within thirty (30) days of passage and approval of this ordinance by the Board of Aldermen.

7. That the site, premises and/or land use described by the permittee in the application and subsequently approved by this ordinance is developed and operated in accordance with the final approved development plan and the provisions of this ordinance, and any failure to do so shall be cause for the revocation of the Special Use Exception hereby granted.

8. All new utility and other service laterals and connections on the site and/or premises, and all connections to site improvements and fixtures installed outside of a fully enclosed building shall be installed underground.

9. All sign illumination and other lighting is selected and arranged so as not to cast light upon, and/or be a nuisance, to any right-of-way or any other property.

10. The permittee and their approved assignees or successors, if any, shall preserve, maintain and care for all plantings, and landscaped and planted areas on the site and/or premises, in accordance with the landscape and site plans of this ordinance. Such maintenance, preservation and care shall include all planted and landscaped rights-of-way adjacent to the site and/or premises addressed and approved by the Special Use Exception hereby granted.

11. Trash and debris shall not be allowed to accumulate and the site/premises shall at all times be kept clean and free of all refuse, debris, leakage and recyclable material accumulation.

12. All trash dumpsters and recyclable material storage areas shall be screened with a 100% opaque screen which shall totally obscure any visibility of the dumpster and recyclables container. Such screening shall be permanent in nature and architecturally compatible with the associated development. Said enclosure and screening may not be located within any front yard and shall not interfere with driver visibility or any loading, parking or vehicular circulation.

13. Unless otherwise provided by this Special Use Exception or other ordinances of the City of Ballwin, no vehicles, equipment or property may be parked or stored on the premises for which this permit is issued except non-commercial vehicles as defined by the Ballwin Ordinances and one fully operational and licensed delivery/service vehicle per business or tenant or use operated on the premises.

14. No changes or departures from the approved final development plan may be made without the approval of the Board of Aldermen in accordance with the provisions of Article XIV, Section 3, of the Ballwin Zoning Ordinance.

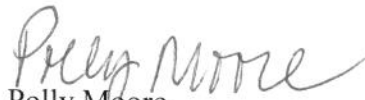
15. This Special Use Exception shall terminate three months following the non-renewal of the business license for the business associated with the location for which the Exception is granted.



TO: Mayor Tim Pogue  
Board of Aldermen

RE: Liquor License – Ballwin Visual & Performing Arts (Craft Beer Festival)

The liquor license renewal for the Craft Beer Festival is included in this packet for approval. This license renewal was delayed because the Festival date has changed from September to November 14, 2020.

  
Polly Moore

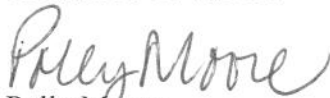
City Clerk



TO: Mayor Tim Pogue  
Board of Aldermen

RE: Liquor License Renewal – St. Louis Taco & Pita Grill

The liquor license renewal for St. Louis Taco & Pita Grill, 15493 Manchester Rd., is included in this packet for approval. This license renewal was delayed due to the restaurant being closed because of Covid-19.

  
Polly Moore

City Clerk



## Consent Item

**RE:** Secondary Salt

**Department/Program:** Snow and Ice Control

**Recommendation:** We recommend buying 2100 tons of salt through the co-op for the fall of 2020 not to exceed \$180,000. We would also recommend purchasing 800 tons for the spring of 2021, not to exceed \$50,000.

| TABLE 1                   | SERVICE PROVIDED      | CONTRACT UNIT PRICE |
|---------------------------|-----------------------|---------------------|
| Compass Minerals-co-op    | Furnishing Salt       | \$46.39             |
| Beelman Logistics-co-op   | Hauling/Delivery      | \$10.27             |
| Total Cost per ton –co-op |                       | \$56.66             |
|                           |                       |                     |
| Morton Salt               | Salt/Delivery-Per ton | \$60.92             |
| Compass Minerals          | Salt/Delivery-Per ton | \$65.98             |
|                           |                       |                     |

**Explanation:** Since 2003, we have supplemented the St. Louis Salt Co-Op with our own secondary supplier when bid prices were favorable. We advertised in the St. Louis Business journal and on our website. On August 7, 2020, we opened two bids from secondary salt suppliers. Twenty-one hundred (2100) tons will bring our salt supply to full capacity at 5000 tons.

Salt history Unit Cost per ton below.

| 2013-14 | 2014-15 | 2015-2016 | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
|---------|---------|-----------|---------|---------|---------|---------|
| \$49.20 | \$67.96 | \$62.36   | \$56.42 | \$57.65 | \$59.98 | \$72.63 |

**Budget is \$180,000 for the 2020 budget year**

Submitted By: Jim Link, Director of Public Works

Date: 8-17-2020

## Budget Calendar Fiscal Year 2021

| DATE                           | ACTION                                                                                                               |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------|
| July 16, 2020                  | Finance Officer holds initial budget preparation meeting with department heads                                       |
| August 3, 2020                 | Provide departmental access to 2021 Budget System                                                                    |
| September 14, 2020             | Present employee compensation to Board of Aldermen                                                                   |
| September 28, 2020             | Present Capital Improvement Plan and General Fund Budget Revenues to Board of Aldermen                               |
| September 29 – October 1, 2020 | City Administrator and Finance Officer meet with individual department heads to review departmental budgets          |
| October 12, 2020               | Conduct Budget Work Session with Board of Aldermen; present General Fund Budget Expenditures                         |
| October 26, 2020               | Present Comprehensive Proposed Budget for all funds to Board of Aldermen                                             |
| November 23, 2020              | Present 2020 Budget Re-appropriation to Board of Aldermen                                                            |
| December 2, 2020               | Publish Public Hearing Notice                                                                                        |
| December 7, 2020               | Present Capital Improvement Plan for approval at Planning & Zoning Commission Meeting (as required by State Statute) |
| December 14, 2020              | Conduct Public Hearing on Proposed Budget; Adopt Budget                                                              |
| December 15, 2020              | Distribute Approved Budget                                                                                           |