



WHERE COMMUNITY AND SPIRIT MEET®

**City Council Meeting Minutes
Kirkwood City Hall
Thursday, April 20, 2023, 7:00 p.m.**

Pursuant to notice of meeting duly given by the Mayor, the City Council convened on Thursday, April 20, 2023, at 7:00 p.m. at Kirkwood City Hall, 139 South Kirkwood Road, Kirkwood, Missouri. Present were: Mayor Griffin, Council Members Duwe; Gibbons, Luetzow, Sears, Ward and Zimmer. Also in attendance were Chief Administrative Officer Russell Hawes, Assistant Chief Administrative Office David Weidler, City Clerk Laurie Asche, Deputy City Clerk Bridget Waters, City Attorney John Hessel, Planning and Development Director Jonathan Raiche, Planner II Amy Lowry, and Public Services Director Bill Bensing.

INTRODUCTIONS AND RECOGNITIONS

NONE

PRESENTATION

Mayor Griffin presented an Arbor Day Proclamation to City Forester Cory Meyer.

PUBLIC HEARINGS

Mayor Griffin recessed the meeting for the purpose of conducting a public hearing regarding a request for a Special Use Permit (comprehensive marijuana dispensary facility and accessory drive-through facility) and major Site Plan Review for New Growth Horizons, 10855 Manchester Road. Mr. Hessel entered the following exhibits into record: an Affidavit of Publication in the St. Louis Countian on March 31, 2023, as Exhibit 1; an Affidavit of Publication in the Webster-Kirkwood Times on March 31, 2023, as Exhibit 2; an aerial view map showing the subject property as well as surrounding properties, as Exhibit 3; a list of properties that were notified of the hearing, as Exhibit 4; the amended Subcommittee report of the Planning and Zoning Commission dated March 15, 2023 as Exhibit 5; the report of the Planning and Zoning Commission dated March 16, 2023 which by a vote 7-0 the commission recommended approval of a Special Use Permit as Exhibit 6; and the Kirkwood Code of Ordinances, as Exhibit 7.

City Attorney Mr. Hessel provided a brief explanation of the Constitutional amendment and the limitations of allowing these facilities in the State of Missouri. On November 8th, 2022; Missourians passed Amendment 3 that legalized the sale of Recreational Marijuana. The Constitution amendment does provide that there are very limited regulations that the city can adopt with respect to the sale and the subsequent use of recreational marijuana. The City Council, on recommendation of staff adopted the most rigorous regulation that you would have which is that a marijuana facility, whether it's a dispensary or manufacturing facility cannot be within a 1000 ft. of a school, place of worship, and a Daycare Center. The City Council took the most aggressive approach in identifying and limiting the locations to which recreational marijuana facilities could go in the City of Kirkwood. In addition to that the City Council passed an Ordinance back in February, dealing the use and possession of marijuana on how the City could regulate these kind of offenses that could take place. Mr. Hessel



then stated that this issue could be emotional to some that are opposed and still remain opposed to the fact that recreational marijuana can be sold. Amendment 3 was passed by the voters and we cannot change the outcome. The City Council is very limited in the regulations that it can't impose. The City of Kirkwood is allowing applicants to go through a Special Use Permit. The City cannot adopt regulations or conditions that would effectively ban or prohibit the sale of recreational marijuana through dispensaries. The City Council is limited in that regard. The only way the Council could ban these kind of marijuana facilities is by submitting that proposition to the voters, but that doesn't affect this applicant. You can't change the rules of the game by an applicant who's already submitted.

City Planner II Amy Lowry presented the matter to the Council:

- The applicant is requesting a Special Use Permit (comprehensive marijuana dispensary facility and accessory drive-through facility) and major Site Plan Review for New Growth Horizons, 10855 Manchester Road
- The property consists of 26,012 sq. ft.
- The building most recently housed National Tire and Battery and contains 8616 square feet with 3 drive through service bays. The property line is actually at the east wall of the building; the applicant will need a cross-access agreement with the adjacent property owner for circulation on the site. The existing curb cut from Clay Avenue is currently blocked with bollards and will be permanently closed. Current site has 22 angled parking spaces – 11 on Clay side and 11 on Manchester side.
- The 2 west drive-through bays and front canopy will be removed. One drive-through bay will remain for pick-up orders only. The use-specific standards mandate that operations of dispensing must be conducted entirely within an enclosed building, and consumption or smoking of marijuana products shall be prohibited on the premises.
- The hours of operation will be from 8 a.m. to 9 p.m. daily. The P&Z requested a dumpster and dumpster enclosure as well as uniform sound mitigating and sight proof fencing along the north and western property lines. The applicant is proposing an 8-foot high fence in the rear of the property, a guard rail atop the retaining wall on the west with a 4-foot high fence
- With regard to parking, they are achieving more spaces with 90-degree parking. They are also creating 4 new parking spaces where the 2 west bays were located for 28 total spaces. They are required to have 16. They are providing one required bike rack.
- The 2 routes from the closest point of the proposed marijuana dispensary to the lot line of the Korean Church measure as follows: North (red line) Route = 1076 feet; South (blue line) route = 1082 feet. The distance is supposed to be measured under the published regulations issued by the State of Missouri - which call for the distance to be "measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church" and "measurements shall be made along the shortest path between the demarcation points that can



be lawfully traveled by foot." The measurement is made from the wall of the modified National Tire building.

- The queueing is proposed as counterclockwise around the building and there will be 160' of queueing length for the drive-through bay. Our code does not require a minimum queueing length, but rather such length is to be determined by the Director of Public Services. 9' by 160' is the required queueing length for a restaurant. The drive-through is for pre-order pickup as governed by the State of Missouri with no menu board or customer window, or speakers external to the building. Average wait time is estimated at 4-7 minutes.
 - The internal pickup window will be similar to that at a pharmacy where a speaker will be necessary
- The site changes do not trigger landscape requirements as the building is being reduced in size and only 4 parking spaces are being added (landscaping is required with the addition of 7 or more spaces). The tree study shows that an ash tree will be removed in the rear of the lot with 8 eastern red cedars to remain on City ROW along Clay.
- The lighting plan meets the City's regulations with new parking lot pole lights and wall packs on the building.

Petitioner Reese Williams from Armstrong Teasdale, along with his team members were in attendance to make a presentation and discuss the request for Special Use Permit with the Council. Some of the discussion that took place is as follows:

- "Marijuana Facility" is a permitted Special Use in District B-3. § 25-35(a), Table 35-1, as amended by Ordinance 10788. "Drive-through facilities" are a permitted Special Accessory Use in District B-3. § 25-44, Table 44-1
- The facility will comply with the marijuana facility use-specific standards in §25-36(t)(1)-(5), as amended by Ordinance 10788.
- David Bohnenburger, Director of Security & Compliance for the New Growth Horizon provided details of security measures the company will have in place.

A discussion took place. Some of the discussion that took place is as follows:

- Concern was raised about what operations will be taking place inside the building
- Questioned why the letter from applicant's states closing at 8pm and the legislation states 9pm.
 - The closing time was corrected at the P&Z meeting to reflect closing at 9 pm
- Questioned the curb-cuts and are both curb-cuts needed
 - Fire access requires the two means of ingress and egress to circulate and the curbs themselves are wide enough to accommodate a vehicle
- Questioned the covered windows on the building
- Concern was raised about the amount of security at the facility
- Suggested to add more landscaping to enhance the green space
- Suggestion to change verbiage in hours of operation to "shall not exceed 8 am- 9 pm."



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- Council would like data for crime levels in states that have had recreation marijuana legalized longer than Missouri
- Questioned if proposed lighting is satisfactory

Comments from Citizens:

1. Megan Scharr, 216 Avery Dr.; concerned about increase of traffic in the area
2. Craig Spohr, 718 Evans Ave; opposed to the Special Use Permit (comprehensive marijuana dispensary facility and accessory drive-through facility)
3. Rebecca Donaldson, 148 Doorack Ln; opposed to the Special Use Permit (comprehensive marijuana dispensary facility and accessory drive-through facility)
4. Ellen Parkus, 184 Doorack Ln; opposed to the Special Use Permit (comprehensive marijuana dispensary facility and accessory drive-through facility), concerned about proposal backing up to residential property, and increase in the traffic
5. Ed Pfeifer, 190 Doorack Ln.; concerned about the lighting being on all night, request a large privacy fence be added, and increase in traffic

The bill will be placed on the May 4, 2023 agenda for first reading consideration.

PUBLIC COMMENTS

1. Jarrid Snyder, Program Director at Alpine Shop 440 N. Kirkwood Rd., invited the Council to the celebration of 50 years in business and to make sure parking does not harm staff and guests.

CONSENT AGENDA

Motion was made by Council Member Zimmer and seconded by Council Member Duwe to approve the Consent Agenda. The Consent Agenda was unanimously approved.

- a) Approval of the April 6, 2023 Council Meeting Minutes
- b) Resolution 44-2023, accepting the bid of Public Safety Solutions MO, LLC in the amount of \$64,594.95 (pursuant to NCPA Cooperative Contract) for the purchase of 14 mobile data terminals for the Fire Department and authorizing and directing the Director of Procurement to issue a Purchase Order
- c) Resolution 45-2023, accepting the bid Bazan Painting Co. in the amount of \$38,995 for Aquatic Center Pool Painting for the Parks and Recreation Department and authorizing and directing the Mayor to enter into a contract

UNFINISHED BUSINESS

Bill 10971, amending the provisions of the Municipal Code, Chapter 25 – Zoning and Subdivision and Chapter 20 – Streets and Sidewalks, regarding revisions to requirements for outdoor dining and outdoor seating areas was brought before the City Council.

Roll Call:

Mayor Griffin

“Yes”



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Deputy Mayor Duwe	“Yes”
Council Member Gibbons	“Yes”
Council Member Luetzow	“Yes”
Council Member Sears	“Yes”
Council Member Ward	“Yes”
Council Member Zimmer	“Yes”

The bill, having received majority approval of the Council, was adopted and became Ordinance 10799.

Bill 10972, appropriating \$65,000 from the General Fund Fund Balance to the Police Department Overtime Account due to increased operating expenses in the Police Department for Fiscal Year 2022/2023 was brought before the City Council.

Roll Call:

Mayor Griffin	“Yes”
Deputy Mayor Duwe	“Yes”
Council Member Gibbons	“Yes”
Council Member Luetzow	“Yes”
Council Member Sears	“Yes”
Council Member Ward	“Yes”
Council Member Zimmer	“Yes”

The bill, having received majority approval of the Council, was adopted and became Ordinance 10800.

Bill 10973, reappropriating \$62,350 from the Capital Improvement Fund Balance to multiple Facilities accounts was brought before the City Council.

Roll Call:

Mayor Griffin	“Yes”
Deputy Mayor Duwe	“Yes”
Council Member Gibbons	“Yes”
Council Member Luetzow	“Yes”
Council Member Sears	“Yes”
Council Member Ward	“Yes”
Council Member Zimmer	“Yes”

The bill, having received majority approval of the Council, was adopted and became Ordinance 10801.

Bill 10974, appropriating \$14,711 from the Certificates of Participation Series 2022 to the Fire Department Rolling Stock Account, Project #FD2308, and amending the Purchase Order with Sentinel Emergency Solutions, LLC in the amount of \$14,711



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for a total amount of \$939,865 for the purchase of a Rosenbauer Rescue Pumper for the Fire Department and authorizing and directing the Director of Procurement to issue an amended Purchase Order was brought before the City Council. Discussion took place.

Roll Call:

Mayor Griffin	“Yes”
Deputy Mayor Duwe	“Yes”
Council Member Gibbons	“Yes”
Council Member Luetzow	“Yes”
Council Member Sears	“Yes”
Council Member Ward	“Yes”
Council Member Zimmer	“Yes”

The bill, having received majority approval of the Council, was adopted and became Ordinance 10802.

Bill 10975, amending and readopting the provisions of Appendix E, “Personnel Rules and Regulations” of the Kirkwood Code of Ordinances was brought before the City Council.

Roll Call:

Mayor Griffin	“Yes”
Deputy Mayor Duwe	“Yes”
Council Member Gibbons	“Yes”
Council Member Luetzow	“Yes”
Council Member Sears	“Yes”
Council Member Ward	“Yes”
Council Member Zimmer	“Yes”

The bill, having received majority approval of the Council, was adopted and became Ordinance 10803.

NEW BUSINESS

Bill 10976, vacating an 10’ wide easement that exists on Lot 1 of Woodlawn County Club Grounds, as recorded in Plat Book 37, Page 3 of the St. Louis County Recorder of Deeds, located in the City of Kirkwood, St. Louis County, Missouri, and more particularly described on Exhibits A and B was brought before the City Council. Motion was made by Council Member Zimmer and seconded by Council Member Duwe to accept the Bill as read.

The bill received first reading approval and was held over.

Bill 10977, vacating a variable width easement that exists on the tract of land on the 10230 and 10240 Manchester Road Consolidation Plat in the City of Kirkwood, as



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recorded in Plat Book 370, Page 409 of the St. Louis County Recorder of Deeds, located in the City of Kirkwood, St. Louis County, Missouri, and more particularly described on Exhibit A was brought before the City Council. Motion was made by Council Member Gibbons and seconded by Council Member Zimmer to accept the Bill as read.

The bill received first reading approval and was held over.

Bill 10978, amending the Kirkwood Code of Ordinances, Chapter 3, Article II. "Intoxicating Liquor", Divisions 1 and 2 was brought before the City Council. Motion was made by Council Member Sears and seconded by Council Member Gibbons to accept the Bill as read.

The bill received first reading approval and was held over.

Bill 10979, appropriating \$25,221 from the Equitable Sharing Fund Balance to the Police Department Machinery and Equipment Account, accepting the bid of Public Safety Solutions MO, LLC in the amount of \$25,221 (pursuant to NCPA Cooperative Contract) for the purchase of a CAD Router System for the Police Department and authorizing and directing the Director of Procurement to issue a Purchase Order was brought before the City Council. Motion was made by Council Member Zimmer and seconded by Council Member Duwe to accept the Bill as read. Discussion took place.

The bill received first reading approval and was held over.

Bill 10980, appropriating \$16,800 from the Equitable Sharing Fund Balance to the Police Department Machinery and Equipment Account, accepting the single source proposal of FileOnQ in the amount of \$16,800 for Evidence Management Software for the Police Department and authorizing and directing the Mayor to enter into a contract was brought before the City Council. Motion was made by Council Member Duwe and seconded by Council Member Gibbons to accept the Bill as read.

The bill received first reading approval and was held over.

Resolution 46-2023, accepting the bid of RTM Contracting at the rates provided in the bid tab sheet, amount not to exceed budgeted funds, for Infrastructure Restoration and Repair Services for the Water and Engineering Departments, for an initial term of 12 months with the option to renew for up to four additional 12 month terms pending budgetary approval, and authorizing and directing the Mayor to enter into a contract was brought before the City Council. Motion was made by Council Member Zimmer and seconded by Council Member Gibbons to accept the Resolution as read. Discussion took place.

Roll Call:

Mayor Griffin

"Yes"



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Deputy Mayor Duwe	“Yes”
Council Member Gibbons	“Yes”
Council Member Luetzow	“Yes”
Council Member Sears	“Yes”
Council Member Ward	“Yes”
Council Member Zimmer	“Yes”

Resolution 47-2023, accepting the bid of JL Contracting, LLC in the not to exceed amount of \$571,876.80 (which includes a contingency of \$51,988.80) for the Clay Avenue Bridge Rehabilitation Project and authorizing and directing the Mayor to enter into a contract was brought before the City Council. Motion was made by Council Member Luetzow and seconded by Council Member Gibbons to accept the Resolution as read. Discussion took place.

Roll Call:

Mayor Griffin	“Yes”
Deputy Mayor Duwe	“Yes”
Council Member Gibbons	“Yes”
Council Member Luetzow	“Yes”
Council Member Sears	“Yes”
Council Member Ward	“Yes”
Council Member Zimmer	“Yes”

Resolution 48-2023, accepting the bid of J.W. Bommarito Construction in the not to exceed amount of \$1,203,589 (which includes a contingency of \$109,417) for the West Essex Water Main Replacement and authorizing and directing the Mayor to enter into a contract was brought before the City Council. Motion was made by Council Member Duwe and seconded by Council Member Sears to accept the Resolution as read.

Roll Call:

Mayor Griffin	“Yes”
Deputy Mayor Duwe	“Yes”
Council Member Gibbons	“Yes”
Council Member Luetzow	“Yes”
Council Member Sears	“Yes”
Council Member Ward	“Yes”
Council Member Zimmer	“Yes”

Resolution 49-2023, granting the Chief Administrative Officer with the authority to execute contracts for the procurement of professional services for the Kirkwood Performing Arts Center, not to exceed the adopted budgetary appropriation was brought before the City Council. Motion was made by Council Member Zimmer and seconded by Council Member Luetzow to accept the Resolution as read. Discussion took place.



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Roll Call:

Mayor Griffin	“Yes”
Deputy Mayor Duwe	“Yes”
Council Member Gibbons	“Yes”
Council Member Luetzow	“Yes”
Council Member Sears	“Yes”
Council Member Ward	“Yes”
Council Member Zimmer	“Yes”

CONSENT AGENDA ITEMS FOR DISCUSSION
NONE

CITY COUNCIL REPORTS

Council Member Luetzow reminded the Council about the Arbor Day event, Saturday April 29, 2023 starting at 9 am in Downtown Kirkwood. There will be tree planting, food booths and entertainment. Urban Forestry is looking for volunteer to help plant trees.

Council Member Gibbons mentioned the Art show at KPAC ends on May 12, 2023 and suggested the Council should go before it ends. Council Member Gibbons stated the KPAC is completely booked every Friday and Saturday now through December. Council Member Gibbons also attended a MoDOT meeting and informed the Council that Kirkwood Train station will be getting a new platform.

CHIEF ADMINISTRATIVE OFFICER REPORT

Mr. Hawes reported that the City of Kirkwood received an Application for Liquor License, Picnic License, from 4 Hands Brewing C., for the Kirkwood Beer Run on April 29, 2023 was brought before the City Council. Motion was made by Council Member Zimmer and seconded by Council Member Luetzow. Motion passed unanimously.

Mr. Hawes reported that the City of Kirkwood received an application for Temporary Outdoor Promotional Variance from Wal-Mart, Inc., 1202 S. Kirkwood Road, to have an outdoor display of mulch, potting soil, fertilizer, etc. from April 22, 2023 through September 22, 2023 was brought before the Council. Motion was made by Council Member Luetzow and seconded by Duwe. Motion passed unanimously.

CITY ATTORNEY REPORT

Mr. Hessel had nothing to report.



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CITY CLERK REPORT

Ms. Asche presented to the Council the official certification of the Election Results from the April 4, 2023 Election. Proposition M; Shall the City of Kirkwood Missouri, impose a sales tax of three percent (3%) on all retail sales of adult use marijuana sold in the City of Kirkwood, Missouri?

Results as follows:

Yes: 1,999

No: 830

Proposition M passed

ADJOURNMENT

There being no further business to come before the Council, the formal meeting was adjourned at 8:49 p.m. The next regular meeting of the Kirkwood City Council will take place at 7:00 p.m. on May 4, 2023.

Laurie Asche
City Clerk

Approved: