

# SMITHVILLE BOARD OF ALDERMAN

## WORK SESSION

September 21, 2021, 5:15 p.m.  
City Hall Council Chambers

**Due to the COVID-19 pandemic this meeting was held via teleconference.**

**The meeting was streamed live on the city's FaceBook page.**

### **1. Call to Order**

Mayor Boley, present via Zoom, called the meeting to order at 5:17 p.m. A quorum of the Board was present via Zoom meeting: Steve Sarver, Kelly Kobylski, Dan Ulledahl, John Chevalier and Dan Hartman. Marv Atkins joined at 5:26 p.m.

Staff present via Zoom: Cynthia Wagner, Anna Mitchell, Chuck Soules, Chief Lockridge, Matt Denton, Stephen Larson, Jack Hendrix, Linda Drummond, Bob Lemley and Gina Pate.

### **2. Adjournment to Executive Session Pursuant Section 610.021(1)RSMo.**

Alderman Hartman moved to adjourn to executive session pursuant Section 610.021(1)RSMO. Alderman Sarver seconded the motion.

Upon roll call vote:

Alderman Atkins – Absent, Alderman Kobylski – Aye, Alderman Hartman – Aye, Alderman Ulledahl – Aye, Alderman Chevalier – Aye, Alderman Sarver – Aye

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared the Work Session temporarily adjourned at 5:18 p.m.

Work Session Reconvene at 5:49 p.m.

### **3. COVID Response Discussion**

City Administrator, Cynthia Wagner highlighted some information included in the packet. At the meeting on September 7, the Board requested that staff provide information on current response from an employee perspective to COVID, specifically related to information to assist the Board and to review vaccine requirements for other city employees.

Currently we are requiring employees to wear masks any time that they are away from their desk or cannot maintain six feet distance in a closed setting. Outdoors, we are not requiring masks unless employees come in contact with the public. If two employees ride in the same vehicle, they are required to wear their masks. We are trying to reduce the number of in-person meetings by recommending Zoom and

other formats to address those meetings. In group meetings at City Hall, we are requiring masks.

We currently have no requirements related to the vaccine. Staff has been allowed to take time to receive the vaccines and in the case of any adverse reaction to the vaccine, employees have been allowed time off.

Cynthia noted that at the beginning of the pandemic there was leave time required by federal law. That required leave time expired at the end of last year, but the City extended that leave time through this summer and it has now been eliminated.

We do continue to follow CDC guidelines related to quarantine. In following the CDC information, if an employee has close contact with a COVID positive individual, close contact for CDC guidelines right now is defined as within six feet for a period of 15 minutes cumulative over a 24-hour period, vaccinated employees are not required to quarantine, unvaccinated individuals are required to quarantine. So, at this point if an employee has a close exposure and they are vaccinated they do return to work, but the CDC does require masking in those instances. If an employee is not vaccinated, they are required to quarantine at home. At this point in time because we eliminated the administrative leave, any situation where someone has to quarantine or has tested positive, they are using their own approved sick or vacation time.

Mayor Boley asked if we have any corrective action for people that are not that are not masking or consistently not properly wearing a mask?

Cynthia explained that we have not been very strict, but for the most part when staff is reminded, they become compliant.

Mayor Boley asked how the numbers of cases has been this year, is anyone quarantined now, or have we had quite a few this year that have been quarantined?

Cynthia noted that we have had employees quarantined and now we have one due to an exposure and one that was symptomatic but took a test and it came back negative so when their symptoms resolve they will be able to come back. She also noted that it had been a while since we have had anyone quarantined. We have had situations where we have had employees quarantined or had exposure in every department in the organization. Most of those exposures were outside of work, or at work related activities. Cynthia thought the last time we had one employee who was exposed at a work related meeting was in August. She estimated that we average probably one to three a month. Cynthia explained that we did earlier this summer have two employees in one department who were out sick with COVID.

Cynthia went on to outline some of the information in the packet. Currently we have 63% of employees citywide who are vaccinated, and she believes it is a good percentage compared to Clay County and the State of Missouri. She noted that as of

last Thursday 37.5 percent of Clay County were fully vaccinated and just under 47% of Missourians are fully vaccinated. So, our 63% is significantly higher. Cynthia noted that in conversation between department managers and staff, a handful of employees have indicated they have plans to be vaccinated. Another small group of employees indicated that they would if they were offered some type of incentive. Another group indicated that they could potentially seriously consider resignation if a mandate was instituted.

Cynthia explained that she, Anna and Linda had reached out to contacts in their network across the state and Kansas City metro area to survey them on their City's status the vaccine mandate. Responses are in the packet. At this time, there are only two counties in the in the metro area that have mandated the vaccine and that is Johnson County on the Kansas side and Jackson County on the Missouri side. From the research we learned that only two municipalities in Missouri have mandated the vaccine and that is Maryland Heights and Webster Grove, both are located on the St. Louis side. Those mandates were adopted and take effect at the end of this month to allow employees to get vaccinated.

Cynthia noted that on Friday she learned that the City of Lawrence Kansas will be reinstating COVID leave time for vaccinated employees who happen to contract COVID. They will also soon be implementing a requirement for testing for all unvaccinated employees although they have not yet worked out the details on how that will work.

Cynthia explained that there were a couple of things the Board would need to consider if they do mandate the vaccine. The City must pay for the vaccine as well as the time to get the vaccine, which we have done previously through non-mandated requirements. If an employee does have a negative reaction to the vaccine, it would likely be covered under workers compensation. If an employee does opt out or if there is a requirement for testing, the employer would need to cover any cost related to that requirement. She noted that if a vaccine mandate were something that the Board would like to proceed with, staff would like to ensure that we have a timeline outlined on that and what proof will be required in those type of issues. Cynthia said that she had outlined some other considerations in the staff memo. Cynthia noted that from staff perspective and administratively, she had concerns with implementation of a vaccine mandate. While her personal beliefs are that as many people that can be vaccinated should be, she has concerns about employee morale and employee response to a mandate, particularly when we are trying to recruit employees. She explained that she would prefer that we try to encourage vaccination through other means. She personally likes what the City of Lawrence is doing to incentivize vaccinations by encouraging employees to do the right thing. Cynthia added that testing potentially could be an option.

Alderman Kobylski noted that she agreed with Cynthia, that people should be vaccinated but if we were to make it a mandate and someone has an adverse effect and have chronic long-term issues, she does not want to be responsible for that.

Alderman Atkins agreed that we do not need a mandate.

Alderman Hartman agreed with no mandate but added that he would like to see testing on a regular basis for those who have not been vaccinated.

Alderman Chevalier said he is not necessarily in favor of a mandate for general staff. The one area that he is really torn on is with the police. He explained that they go into people's homes, and they have more interaction with the community. He noted that other avenues of life like for nurses in hospitals they are mandating the vaccine for similar reasons. While he knows the Board probably does not feel the mandate is required or necessary, he really thinks that we need to increase some sort of penalties for those that are not wearing masks on a regular basis when they are out in public. Also maybe look at some other things like reinstating the COVID leave for those are vaccinated and obviously weekly testing for those not vaccinated. He suggested maybe we can do into a medical discount on premiums or for those who are vaccinated or some other kind of benefit discounts.

John Reddoch, City Attorney explained that a medical discount could be problematic and that he is skeptical that we can do that. The City is not the insurer and trying to implement something like that would be a potential issue.

Alderman Chevalier explained that on the Officer Down Memorial page they list a tally of the officers that have been killed in the in the line of duty or died in the line of duty. In 2018, there were 187 deaths, 2019 there were 151 deaths. In the year 2020 there were 372 deaths and 243 of those were COVID related. In 2021 there were 282 and 167 were COVID related. Alderman Chevalier said that is why we need to take care of our officers and make sure they are safe.

Alderman Atkins said that he appreciated Alderman Chevalier's statistics, but people need to be allowed to make their own decisions.

Alderman Sarver stated that he is for mandating the vaccine. He noted that six months ago people were starting to get vaccines, we were still wearing masks and still social distancing and we started seeing the numbers going down. The experts have said we have to get a certain number of people vaccinated and if we do not another variant is going to come. Now a few months down the road we have a new variant, and it is more transmissible, especially to children. Luckily our vaccines work so the vaccinated people are not dying from it. He also noted that 99% of people in our hospitals with COVID are unvaccinated. If we do not get people vaccinated, are we going to keep getting another variant, is the next going to be more transmissible? He said maybe the vaccine will not work on the next or maybe it will be worse for children, we just do not know, but as long as there is a large number of unvaccinated people out there the variants could keep coming. Alderman Sarver said that he hoped he was wrong but at some point, we have to face the facts and have to do something to stop this.

Alderman Ulledahl stated that at this time he is not for forcing anyone to vaccinated. He does believe it would be in their best interests to get vaccinated. He noted that he is vaccinated now but was one of the guys that said he was not going to get the vaccine until some time had passed. He said that now some time has passed, and more factual data has come out as to what is in the vaccine. A lot of the people he has talked to are still saying the same thing, that they do not want to put that in their body. People need to see the light and get this taken care of.

Mayor Boley asked if the Board would be opposed to a first step staff working on a draft policy similar to what the City of Lawrence is doing?

The Board all agreed that staff begin working on a draft policy similar to the City of Lawrence.

#### **4. Discussion of Park Land Use**

Assistant City Administrator, Anna Mitchell explained that earlier this year staff was approached by a developer to have an outdoor area in our Courtyard Park. The area that is 111 North Bridge Street known as the alleyway, which is not necessarily an Alleyway right next to Humphreys. The proposal submitted is included in the packet that was sent as well as a map of the area that is being considered for the situation. Staff came to the Board in May at a work session to talk about different options. The Board directed staff to research different options of how to approach the situation. Through that research staff was able to come up with three possible situations for Board review. The proposed land is City land that is part of the adjacent Courtyard Park. The proposal is to construct a patio with no financial help from the City. The assumption with this is that this would be a private use only not a public use area. This proposal has also been reviewed by both the Parks and Recreation committee as well as the Main Street group, with favorable comments coming from both of those groups. Both groups are okay with moving forward in some form or fashion. The three possible paths forward include an option to lease the property, an option to sell the property and an option to do nothing.

*Option 1: Lease the property: An RFP would be posted for the lease of the property and a bid process completed.*

##### Pros

- *Any improvement on the property would be accepted as City property at the end of any lease.*
- *Any structure built on the property would be subject to approval from the board*
- *If the restaurant and or owner no longer have an interest in the property, it will still remain the City's property*
- *Insurance and Maintenance would be solely on the private business with the City listed as an additional insured.*
- *Revenue generated according to a lease agreement.*

##### Cons

- *The land is currently park land where alcohol is not permitted except on a temporary basis for short term events. To allow for the consumption of alcohol on the premises, our legal team would have to do further research as there is no clear way to allow it at this time.*
- *The construction of the patio will decrease parking and ease of accessibility to the parking behind the Courtyard Park Stage.*

Option 2: Sale of property: *An RFP would be posted for the sale of the property and a bid process completed.*

Pros

- *As the property would no longer be public land, the process of doing private business on public land would not be necessary.*
- *Revenue generated according to a purchase agreement.*

Cons

- *The City would not have any say, other than codes set by Planning and Zoning, on what happens with the property.*
- *The construction of the patio will decrease parking and ease of accessibility to the parking behind the Courtyard Park Stage.*
- *New property lot lines would need to be drawn to accommodate the sale.*

Option 3: Do nothing/provide alternatives: *Staff is willing to discuss other alternatives to a patio that is on that specific portion of land. Options may include using the space behind the building or converting the rooftop into outdoor seating.*

Pros

- *Parking would not be decreased, access continues*
- *Existing space that is available is being used by the property owner*
- *Future complications due to possible new restaurant/owner is minimized if not eliminated altogether.*

Cons

- *If the property owner decides not to go with any of the alternatives, the outdoor dining feature would not be available for this restaurant.*

Anna asked for direction from the Board on how they would like staff to proceed.

Alderman Hartman said he was pretty sure there is a separate owner of the building currently and the operator of the business and asked if he was correct?

Anna said he was correct.

Mayor Boley noted that a lot of this parking space is sometimes used by one of the other adjacent businesses for broken down cars. Our other City lots have some rules, and this one does not because it is parkland. The Mayor said Humphrey's customers do use those parking spots, so they are well aware of what they are giving up. He added that two weekends ago we had an incident where someone

had pulled out of that alley and hit a child. Mayor Boley stated that he is all for selling it. That selling it is the easiest cleanest way to do it. He said with all the towns he has visited in the last month looking at the downtowns in the smaller communities in Colorado, Kansas and Missouri, people are dining more outdoors. In Rona Zosa a lot of people enjoy the outdoor dining, the 54th Street Grill is getting ready to expand, they are taking the park behind them and turning in to outdoor dining.

Alderman Kobylski asked if we did decide to go the lease route, how hard would it legally be to change the alcohol use there?

John Reddoch noted that would be an issue. You cannot issue in a general sense an Ordinance that applies to only certain locations.

Alderman Kobylski asked if it could be deemed not parkland?

John Reddoch said if the City sells it.

Mayor Boley noted that alcohol not being allowed was part of the reason the American Legion moved from Heritage Park out to the highway.

Alderman Kobylski said she was all for selling it but wondered what would happen if the developer goes belly-up. Who would be responsible for it?

John Reddoch said it would be no different than any other piece of land.

Mayor Boley suggested the City could buy it back at a discount.

Alderman Chevalier stated he did not have a problem selling it. His issue is that it is really close to the stage and he does not want to see any conflicts. If they hold some sort of an event or something and it coincides with an event at the Courtyard, we would not have any way to prevent that and he thinks that might be a problem.

Mayor Boley noted that has already happened with events at the Courtyard and the Distillery going on at the same time.

Alderman Sarver said that he is okay with selling it and thinks it would be a great addition to our downtown.

Alderman Atkins noted that he liked the selling of the land but if the Board decided to lease it the City would be responsible to take care of what that business left behind, which will be an additional cost to the City. He added that if the Board decides to sell the land, he would like some of the proceeds go toward some sort of partition behind the stage to block the view of the businesses.

Alderman Chevalier asked if the Board decided to sell the land, could a stipulation be added that the purchaser have to build exactly what they are planning?

Mayor Boley said that would be part of the RFP process.

John Reddoch added that if the City sold it in fee the buyer would have all ownership of the land. However, what is built would be subject to the City's zoning regulations. He also clarified that the land would have to be put out to bid (RFP) and then the City will accept the best bid.

Mayor Boley asked if it is done as a land sell then it would not have to be done as a project?

John Reddoch said that was correct. He also explained that if the Board decided to add language that the land would revert back to the City, he could draft the RFP language as such but said that the land would not be worth as much.

Mayor Boley noted that he felt that selling it as a land sell would be the cleanest way.

Alderman Hartman agrees that it should be sold. He asked if there is such a thing as a First Right of Refusal if the landowner closes the doors, or the building changes hands, would there be an opportunity for the City to purchase it back?

John Reddoch said it could be done with the First Right of Refusal or a revision of interest. He again stated that the price paid for the land would be less if requiring that the City buy it back by adding a First Right of Refusal on the sale, meaning if they give up ownership, they have to give the City the right to buy it back at an offered previously agreed price or at least match an offer they received from a third party.

Alderman Kobylski said that she would be for adding the First Right of Refusal.

Alderman Chevalier noted that he believes anything the Board could do to protect the Courtyard stage area should be done. He has concerns if something happens to the business it could impact the events in the Courtyard.

John Reddoch explained that if the City wanted to be able to control the activities on the land a development agreement in a lease for the land would be best.

Alderman Hartman said that he thought that the City's zoning regulations and Ordinances should be able to protect the City's best interests from any disturbances.

Jack Hendrix, Development Director noted that he first thought if the City sold the land, we may have issues trying to do a subdivision of the property to sell that tract separately. In checking the B4 regulations we can do a separate subdivision so that parcel of land would be restricted. Jack explained that the easiest way to do this would be if the land was sold directly to the adjacent property owners to do and we would just to a boundary line adjustment and not a subdivision of land. Jack said he

agreed with John Reddoch that adding the First Right of Refusal would kill the value of the land. He added that if anyone builds a building or structure of any kind there are zoning regulations in place that they will have to follow for construction to make sure that they meet our standards. He explained the City noise ordinance is not enforced until 11:00 p.m.

John Reddoch asked Jack if we use the Right of Refusal or the reversionary clause and we combine the lots, what does that do to those options?

Jack said that if the lots are combined it abrogates the opportunity to the reversion clause because it now becomes one big lot and we have changed the boundaries. To put the reversion clause in the lots would need to be subdivided. He also explained that there is no minimum lot size so the lot could sell to anyone wanting to buy a 20-foot strip of land that is 120-foot long.

Mayor Boley clarified for staff direction that an RFP be drafted to sell the land with the Right of Refusal language added in.

## **5. Discussion of Ward Boundaries**

Jack Hendrix, Development Director, noted that based on the Board work session meeting in August, staff divided the City into three wards, north, south and center. Jack explained that the first step once we received the census data was to add together the current ward numbers to see if we had a deviation greater than the maximum amount of ten percent. Jack said that the current ward boundaries as they set with the 2020 census data are: Ward One - 3,425, Ward Two - 3,088 and Ward Three - 3,893. He explained that the ideal population division per ward would be 3,469.

Jack presented the three options for the ward boundaries outlined in the staff memo.

*The first map (Exhibit 1) that followed the natural "north, central and south" layout that the Board directed is shown in the first map. That map used (roughly) 180th Street as the dividing line for the proposed new Ward 2. That map included a total of 3,031 in the new Ward 2, which was significantly over the maximum deviation allowed of 10%. Working from the south, the New Ward 3 could nearly match the existing Ward 3 boundary and contain a total of 3,480. This new Ward 3 boundary was close enough to the ideal ward (+11) that it was used in all new map considerations, which left just Ward 1 and 2 boundary lines to be adjusted to approach 3,469 in each.*

*The second map (Exhibit 2) added to the proposed Ward 2 the area that included Greyhawk subdivision and adjusted the western line somewhat to reach a new total of 3,485. While this map certainly met the standard deviation goal of less than 10%, it would isolate the Harborview subdivision (in the new Ward 1) away from and not contiguous to other portions of Ward 1. This map seems to be similar to the existing map concerns expressed by the Board.*

*As a result, a third map was drawn. That map captured the Harborview subdivision population into the new Ward 2 and removed the Wildflower subdivision. Additional adjustments were made on the western side of the new line to make it easier to describe in an ordinance that would allow future annexations without needing to adjust the Ward Boundaries in the future. This third map (Exhibit 3) also made the ward sizes closer than the second map, with a new total in each as follows:*

*Ward 1           3,476*

*Ward 2           3,450*

*Ward 3           3,480*

*Exhibit 3 approaches near equality in population of each Ward; the districts are relatively compact and contiguous; does not impact existing neighborhood boundaries; retains the Ward 3 boundary as close as possible; and does not impact incumbency of any Alderman. As a result, staff recommends the map in Exhibit 3 become the new Ward Boundaries.*

Jack asked for direction from the Board on which exhibit they would recommend and explained that staff would have an Ordinance to bring forward for Board approval in October.

Alderman Hartman thanked Jack for all the work he did on this. He likes how exhibit three falls into place.

Alderman Kobylski agreed that exhibit three was the best plan.

Alderman Atkins agreed with exhibit three.

Alderman Chevalier agreed with exhibit three but asked if we were allowed to consider future growth in this?

Jack stated that we are not allowed. He explained that we can not say where the future growth will be or what ward it will be in.

Mayor Boley noted that if someone built an apartment complex with a lot of units, we have the potential of the population numbers go up in the ward it was built in.

Alderman Sarver noted he is okay with exhibit three.

Jack said that staff will bring the Ordinance before the Board at the October 5 Board meeting for first reading.

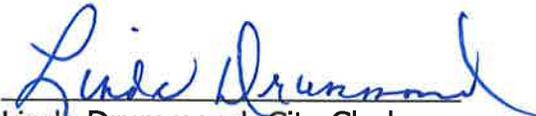
Mayor Boley noted that this will need to be completed before candidate filing in December.

Jack said that the goal is to have this done well in advance of the December filing date so candidates will know what ward they need to file in. Jack also noted that with the new ward boundaries there will be no ward changes for the current Board.

**6. Adjourn**

Alderman Hartman moved to adjourn. Alderman Atkins seconded the motion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared the Work Session adjourned at 6:47 p.m.

  
Linda Drummond, City Clerk

  
Damien Boley, Mayor