

**SPECIAL
CITY COUNCIL MEETING
MINUTES – June 3, 2020**

Mayor Gallo called the Council meeting via Zoom Teleconferencing to order at 7:30 p.m.

ROLL CALL:

Present: Cannon, Budmats, O’Brien, Vinezeano, Bisesi, D’Astice, Sanoica
Absent: 0

With 7 present and 0 absent there is a quorum.

Members of the virtual audience are reminded that these proceedings are being recorded for current and future broadcast.

Staff Members Present Remotely: City Manager Barry Krumstok, Finance Director Melissa Gallagher, Deputy City Clerk Judy Brose, Police Chief John Nowacki, Deputy Fire Chief Jeff Moxley, Director Public Works Rob Horne, Assistant Director Public Works Jo Ellen Charlton, Business Advocate Martha Corner, City Attorney Melissa Wolf

Members of the public will be afforded the opportunity for public comment as long as they provided their contact credentials and the subject matter for which they would like to speak about before the deadline as noted on tonight’s agenda. In addition, written comments that were submitted prior to the meeting will also be read.

MEETING OPEN TO THE PUBLIC FOR 20 MINUTES:

The next step is to open the meeting to the public but the Deputy City Clerk didn’t receive any requests for public comment or any written comments so we will move on.

➤ **ORDINANCES:**

The next item on the agenda are the Ordinances. It consists of one (1) item, item A.

Staff is requesting a waiver of 1st reading for item A so this Ordinance can be approved immediately. Is there an Alderman willing to make a motion to waive the 1st reading for this Ordinance? Alderman O’Brien has made the motion and it has been seconded by Alderman Vinezeano.

A) Ordinance No. 20-23 – Amend Chapter 22 “Businesses” of the Code of Ordinances (1st Reading)

Is there any discussion? Seeing none, the question is shall the Ordinance be moved forward for final approval? Will the Clerk please call the Roll.

AYES: D’Astice, Sanoica, Cannon, Budmats, O’Brien, Vinezeano, Bisesi*
NAYS: 0
ABSENT: 0

*written and non-verbal due to technical audio difficulties.

With 7 in favor and 0 opposed, the Ordinance does move forward for final approval.

Ordinance No. 20-23 is now back for final approval. Is there a motion to adopt this Ordinance? Alderman Cannon has made the motion and it has been seconded by Alderman D'Astice. Is there any discussion?

Alderman O'Brien – I just had one quick question that I wanted to my peers thoughts on and I talked with staff about it earlier today. On page 4, it does says that tents are currently not permitted. I personally am not in favor of not allowing tents. I certainly think that if Council agreed we would give staff leniency to make sure it's a safety perspective. Our intent is to make sure we get all of these businesses up and running as quickly as we can and in any manner that we can, all knowing that safety and well-being must come first. I clearly don't want tents that have sides because I know that's prohibited and that would be like eating inside. That's the one part that caught my eye and I wanted to see what the other Councilmembers thoughts were about allowing tents and giving staff the leniency on a safety perspective.

Alderman Vinezeano – I have couple items for discussion. In Section 2, item #7, I thought I would ask the question and let staff answer it. It says that there should be five feet of sidewalk if tables are on the sidewalk, what is the average width/dimensions of the Rolling Meadows sidewalks to make this feasible for some of the businesses to have the tables on the sidewalk or are we eliminating a majority of our businesses based on the average sidewalk width?

Jo Ellen Charlton, Assistant Director Public Works - The 5 foot separation is something that comes from the requirements that we already have on the books for the zoning ordinance requirement when outdoor seating is on sidewalks adjoining outdoor dining. I don't know if we have necessarily an average that's available, we can look through the community and see different things happening but typically you have at least 5 feet of separation. Many of the strip centers, for example, it allows for them to put one table immediately next to the business and still have that 5 foot of separation. Again, this is when it's adjacent to a drive aisle so we're trying to create separation between seated patrons and driving traffic. If it's not a drive aisle then it can go within a distance of permitted by the Illinois Accessibility Code which is 36 inches or 3 feet. A couple of different things coming into play but we can measure that as we're evaluating it on a case-by-case basis.

Alderman Vinezeano - Just to understand, for the most part a table would fit on our sidewalks and still meet this requirement?

Jo Ellen Charlton, Assistant Director Public Works - Yes, in many cases. Bigby's, for example, if you could picture the size of that sidewalk on the side of their building permits a small table to be pushed up next to the window and still have 5 feet of sidewalk before the drive aisle. It wouldn't allow them to put more because that drive aisle exists but it does give them some room for tables.

Alderman Vinezeano - In section 2, #8, what is deemed public property?

Jo Ellen Charlton, Assistant Director Public Works – This particular ordinance is very closely fashioned to our existing Zoning Code regulations. We don't have a lot of that in Rolling Meadows but it's intended that in any shopping centers that were close to the public sidewalk. Again, we don't have a lot of that in Rolling Meadows but if it were to occur these regulations would apply in that instance if someone wanted to extend the dining out into the public right of way.

Alderman Vinezeano – Can you give me an example?

Jo Ellen Charlton, Assistant Director Public Works – An example I could think of would be something that Fratellos recently has requested to extend an area close to the sidewalk but it's on their side of the sidewalk that they might want to pave. We've had some discussions with them early in the season before COVID happened, to discuss that opportunity and what would be required. Unfortunately, we didn't get very far because of COVID and the expense associated with paving it and doing other things to make it code compliant. That's an example where something like that would be located.

Alderman Vinezeano – To piggyback off of that, for an example like Grande Jake's, if they own the building is it more often than not that these businesses own the parking lot that their buildings are on or is that not the case? I'm really unfamiliar with how that works.

Jo Ellen Charlton, Assistant Director Public Works – Grande Jakes and Red Apple those are instances where you have a single use tenant building on a property which they own or that they're renting but they have the whole property they're not sharing it with someone else. In that instance, I don't think the public property would apply because they have plenty of parking lot that we would prefer that they utilize before we would want to support them going out into the public right-of-way. That's the situation that we've described more in the second scenario where we talk about going into the parking lot. The first scenario really talks about strip shopping centers where you have multitenant buildings sharing common sidewalks along the frontage and common parking. Those sidewalks in front of that, for example at Rep's and the Jewel Shopping Center, those are the areas that we would look to restrict or limit the location that they could be on that sidewalk so you could have passage from the tenants that are on each side of the business as well as keeping out of the traveling of traffic.

Alderman Vinezeano - My next one is item #16, regarding the furniture, tables and chairs that they're allowed to be up during the permitted time, what is the permitted time? Is that the April 1 to November 1? Or the daily hours permitted time? That was a bit confusing to me. I know some of our businesses, for instance Rep's they have a designated outdoor eating area and in its blocked off all summer so how does that work?

Jo Ellen Charlton, Assistant Director Public Works – Again, this is copied from our existing zoning regulations, the intent of the code is that it would be heavy enough to withstand wind pressure but that things would come in or be skirt together at the end of the day not just left out to be windblown or stolen or vandalized overnight.

Alderman Vinezeano - The intention is the daily permitted time?

Jo Ellen Charlton, Assistant Director Public Works – Correct. The amount of time in the year is also regulated but that particular provision is the daily provision.

Alderman Vinezeano - My last one is #19, I'm curious as to why this is in here. I thought this list in the ordinance is pretty extensive and I thought it covered everything on why we needed to have #19 in here? My fear is that something comes up that doesn't quite fit in the box that we can use this line item #19 as we're going to throw it in this hat and cause some problems for our businesses. My question is, what is the intention of #19?

Jo Ellen Charlton, Assistant Director Public Works – Again, #19 is something that is also in our zoning code as we regulate outdoor dining currently. The intent is that we can't think of every possible situation that could come up. When we get these applications in a non-COVID situation we're passing them around to various staff members including the Police Department and others who will take a look at it from their own individual perspective and hopefully it fits into one of the boxes that we've designated but if it doesn't

this gives the City Manager the authority to create that additional requirement if a department head member or a staff person has identified a legitimate reason to provide that additional regulation.

Alderman Vinezeano – Thank you, that’s all the questions I have at this time.

Alderman Budmats - Seeing that this is a response to COVID-19, and I read in here that this expires on November 1 or that these outdoor regulations expire on November 1, it seems to me that the changes we are making are in direct response to COVID-19 and so that I would make a motion to amend this to place a sunset provision on this that it expires on November 1, 2020. That the changes we are making expire on November 1, 2020 and that next year, assuming there is no COVID-19 pandemic, we can go back to business as usual and our ordinance as originally written. That’s my motion.

Mayor Gallo - Thank you Alderman Budmats for your motion to amend these changes that are made to sunset by November 1, 2020. Is there a second? Alderman Vinezeano seconded the motion. Is there any discussion on this amendment?

Alderman Sanoica - I just wanted to clarify that this does currently say November 1 or it doesn’t?

Mayor Gallo - It does currently say November 1 in line item #15.

Alderman Sanoica - I guess I would want some clarification on the sunset provision, is that to state that this would come back before us again it wouldn’t just fall off the face of the earth and then we wouldn’t discuss it anymore, is that the distinction between the sunset versus how it’s currently written?

Alderman Budmats - Outdoor seating is not allowed after November 1 in Rolling Meadows. I’m saying that the changes that we’re making are temporary in nature and if it were necessary for us to make those changes again next outdoor eating season that we could do that again but seeing that these changes are really COVID-19 emergency based it seems to me that when the outdoor eating season is over we should go back to the way it used to be. That’s why I’m saying to add a sunset provision that expires when our outdoor eating season expires this year. Is that clear?

Alderman Sanoica - I think so. I have no issue with this.

Melissa Wolf, City Attorney - As of now, what we’re doing here is creating up provision in the City’s Code of Ordinances. I think what Alderman Budmats is requiring a sunset so that code provisions are not applicable automatically in April 2021 which if they stayed on the books they would be applicable unless we took some action as a City Council to rescind those provisions of the Code.

Mayor Gallo - Any further questions on this motion to amend these changes which were made to sunset after this November 1 date is reached? If there aren’t any questions or comments, will the Clerk please call the Roll.

AYES: Sanoica, Cannon, Budmats, O’Brien, Vinezeano, Bisesi*, D’Astice
NAYS: 0
ABSENT: 0

*written and non-verbal due to technical audio difficulties.

With 7 in favor and 0 opposed. The motion to add a sunset provision is approved.

Alderman D'Astice – I agree with Alderman O'Brien. I think we should remove the tent restriction. The businesses should be able to do that and many others are. The second thing I have is item #16, I would like a little more clarification on that. It says that furniture, tables and chairs are to be removed at the end of the permitted time and not stored outside. I'm opposed to having to make the restaurateurs remove all the furniture every night and bring it in the restaurant and find a place to store it and then bring it back out the next day, it's very labor-intensive. I'm opposed to that and I would like to find out what the intent is on #16 before make a motion.

Jo Ellen Charlton, Assistant Director Public Works - Looking at why it's there in the current zoning ordinance, it's there right now primarily to regulate the sidewalk area immediately adjoining when someone just wants to put it out without going through this special use process. If someone goes through the special use process and has outdoor dining that's enclosed in a fence and we do an ordinance that's looked at by the Council those restrictions don't typically apply. We already have a provision that it's heavy enough that it's not going to be a windblown hazard, the intent is to remove the barriers for pedestrians during the day and make sure it's not vandalized or used as a weapon to crash in windows or anything like that. If there's a desire to remove that it's overly burdensome because we are now trying to encourage people to go beyond just a small area right outside their establishments and into a broader area, we could talk about doing that but maybe asking them to pull them together or just leave them. I really don't have an objection to it but I do believe the intent was to secure them from vandalism and other potential issues and that's what we've done when it's been limited to the 12 tables or less.

Alderman D'Astice - I don't necessarily disagree with what you said, can we put the burden on the shop owner to send an email that they understand and they'd like to leave the furniture out overnight and they would take whatever responsibility. They could bring it in if they want and take it out every day but they just need to notify the City if their intent is to leave it out overnight. Would that be acceptable?

Jo Ellen Charlton, Assistant Director Public Works - We certainly could include that question on the application so that we know the individual's intent was. I guess I would ask Attorney Wolf whether the indemnification agreement that we have prepared would cover any liability issues that might come up if something bad would happen.

Melissa Wolf, City Attorney - One of the requirements for this process is that the City be held harmless for anything related to the outdoor seating so I believe that the City would be protected in that vein. I also think that there's a question with respect to how to read this being the permitted time period whether that be the date or whether that be, as Alderman Vinezeano said, the day 6 AM to 10 PM, is it hours or is it dates? If we have some information that it's practically applied for that time period being April 1 to November 1 there may be no need to change this or the practice that's been implemented by the City. Jo Ellen, do you have any practical knowledge or maybe the City Manager has some knowledge?

Rob Horne, Director Public Works - The only thing I was going to suggest, it's fairly obvious to staff what the Council wants for this item. I don't think it's the intent to have the restaurateurs pick up all their tables and chairs and bring them in every night, we can simply add the requirement or work with the City Attorney to make a minor change to this regulation that the furniture be secured and we could figure out some language to say group together or put away for the night. I'm aware that most of the restaurants that have had outdoor seating over the previous years have kept their furniture outside overnight. Just in the interest of time, I think it's clear to staff what City Council wants on this item.

Melissa Wolf, City Attorney - We can interpret this restriction to be the duration of time from April 1 to November 1 and then staff can make sure they have the appropriate regulations for security and safety of tables and chairs outside.

Barry Krumstok, City Manager - It is for safety and security, most places stack them up and secure them. The worst thing is vandalism using the chairs because the tables are too heavy. It's part of our current code and we do look at each of the locations. As long as they're safe and secure so they can't be used to vandalize the shopping centers or windows or utilize them for something else. We used to have one location that used plastic chairs and when the weather would change they would start blowing away and we would find them on the street. That is why the language in there but we understand what the Council is trying to say we just want make sure they're secured every night.

Mayor Gallo – Alderman D'Astice, does this satisfy...?

Alderman D'Astice - I'm fine with that, so long as we're not making the restaurateurs do a lot more work. If they stack it up and lock it, that's fine. They should be doing that anyway, that's pretty standard. My last question was on page 4, item #2, it says the remainder of the area shall be completely surrounded with jersey barriers. What is a jersey barrier?

Rob Horne, Director Public Works - They're made of either plastic or concrete. You generally see them lining the sides of interstates to separate traffic. Nowadays they use plastic ones and fill them with water so they can't be moved. It's a vehicular deterrent that can be put in a traffic area like a parking lot or a drive aisle in a parking area.

Alderman D'Astice - Do you have any idea how much they cost? Are they purchased or rented?

Rob Horne, Director Public Works - I don't have the rental cost but most who have the need for those would rent them. I know Jo Ellen has had to field several calls regarding people who are already proceeding with that so my guess is that they're not terribly expensive but unfortunately I have no clue as to how much they cost to rent.

Barry Krumstok, City Manager - We would also allow the jersey barrier or something similar (large planters) as long as it is safe and secure to protect the patrons and employees in the outdoor seating area.

Mayor Gallo – Alderman D'Astice, any further comments or discussion items?

Alderman D'Astice – No, not from me but I think we need to get tent issue resolved. I would like to make a motion that we allow outdoor tents to be utilized for seating during this COVID-19 pandemic.

Mayor Gallo – Is there a second to Alderman D'Astice request to allow for tents? Alderman O'Brien seconded the motion. Is there any discussion on the motion to allow the use of tents?

Jo Ellen Charlton, Assistant Director Public Works – I would like to ask Melissa as to whether if anything needed to be specifically amended in the ordinance to accommodate it but there are building code requirements on the books that I had the Building Division forward to me. I know Alderman O'Brien and I talked about this earlier today, I think we could accommodate this if we ensure that the restaurants are following that particular code and because we're going into a parking lot area with tents, typically tents are very short term (weekend/week) for a special event. In this particular case we're going to be looking at restaurants wanting to keep these up all year long. I think we have to give them some latitude in putting these permits together and maybe some special conditions upon the issuance of that permit that

would suggest things like a periodic inspections or other things that would ensure that over time these facilities continue to be code compliant.

Melissa Wolf, City Attorney - With respect to all other State guidelines and requirements, those requirements are instilled upon the City and would be imposed by the City without further amendment required of this ordinance including those guidelines as set forth in the Department of Commerce and Economic Opportunities regarding the use of tents for this outdoor seating. So no further amendment along those lines would need to be made at this time.

Mayor Gallo - Okay, we're still pushing to amend the use of tents here and removing that from this ordinance, correct?

Melissa Wolf, City Attorney - That is correct. You could do that by allowing for tents but you don't have to add any other regulations. Those regulations can be imposed by the City and then there's also regulations and guidelines that are imposed by the State as well.

Mayor Gallo - This is for tents without sides, it's for sideless tents.

Alderman Vinezeano - I had a question, correct me if I'm wrong, there is an ordinance that requires a permit for a tent. If a restaurant wanted to put up one of these tents they would have to file for a permit for outdoor seating and a permit for the tent. I just want to clarify that, correct?

Mayor Gallo - Yes, Assistant Director Jo Ellen Charlton was saying that we should allow staff some leniency when going through that process with the applicant, is that correct?

Jo Ellen Charlton, Assistant Director Public Works – Yes, that is correct.

Mayor Gallo - Does that help Alderman Vinezeano?

Alderman Vinezeano – Yes, the only thing that I would ask that if a restaurant applies all for both at the same time is that we expedite both at the same time so if they're putting in tables that they could put their tent up at the same time with their tables and their structures so they don't have to change their layout multiple times because they're waiting for the permit for the tent.

Mayor Gallo - Jo Ellen, does that seem like it's a pretty realistic thing to spot or identify if an applicant was looking to apply for outdoor seating in a tent?

Jo Ellen Charlton, Assistant Director Public Works – We will expedite everything we can with regard to this. I think we're going to be able to accommodate getting them tables and chairs out there quickly just by nature of the fact that we're not doing a technical permit review as we would do with tents (how they're secured, the setbacks, flame retardant), there are other things to check on that that are in queue with the other permits that are in line and waiting for reviews and approvals. Yes, we will do our best but worst case scenario we would suggest that a restaurant go ahead and move forward with the tables and chairs understanding that we know what they're requesting in regards to the tent and even if that comes a few days later they can go ahead and get started with the tables and chairs.

Rob Horne, Director Public Works - Generally, when it comes to a tent permit that are very easy to review so I don't see that as being a problem to turn around quickly. The problem that we do run into is the applicant doesn't get the proper fire rated tent and that's generally what it's related to and working with the applicant to get the properly rated tent for the application they want to use. The actual plan review

and approval, we certainly will turn that around as quickly as we can, it will be processed at a different rate as the other ones.

Alderman Vinezeano - Is there a way to notify the applicant that they're renting the wrong one expeditiously? I'm assuming most of these places that are going to rent these and to forgo the inspector going out and it being the wrong tent to save everyone time? Is there a way to alleviate that in any way?

Rob Horne, Director Public Works – I recommend that they contact City Staff to provide some guidance. The ratings can change with the size of the tent being proposed. If anyone contacts you, make sure they have a fire rated tent and that will at least put them on the right track. The ones that are used at a back yard barbeque are not going to fly in a public environment.

Jo Ellen Charlton, Assistant Director Public Works – We have already drafted an informational sheet and application that was reviewed at the last meeting. I would suggest that we just modify that to clue the applicants in to some of what those basic requirements are. We can certainly accommodate trying to communicate that either in the application or on our website.

Barry Krumstok, City Manager – Just to piggyback on why some of the permits for tents have taken a little longer, it's not just the fire rating but how and where they're being secured or not getting approval from property owner. There are times when the applicant doesn't submit all the proper information which would cause the delay but once we get all the correct information the process moves pretty quickly.

Mayor Gallo – Is there any further discussion on allowing tents? Seeing none, will the Clerk please call the Roll.

AYES: Cannon, Budmats, O'Brien, Vinezeano, Bisesi*, D'Astice, Sanoica
NAYS: 0
ABSENT: 0

*written and non-verbal due to technical audio difficulties.

With 7 in favor and 0 opposed. The provision of tents will be removed from the Ordinance.

Mayor Gallo – The Ordinance is now back for final approval with the amendments. Is there any further discussion? Seeing none, will the Clerk please call the Roll.

AYES: Budmats, O'Brien, Vinezeano, Bisesi*, D'Astice, Sanoica, Cannon
NAYS: 0
ABSENT: 0

*written and non-verbal due to technical audio difficulties.

With 7 in favor and 0 opposed. This Ordinance is adopted with the amendments.

ADJOURNMENT:

Do I have a motion to adjourn? Alderman D’Astice made the motion and it has been seconded by Alderman Vinezeano. All in favor say aye; opposed say nay. The ayes have it and this meeting is adjourned.

There being no further business, by unanimous consent the City Council meeting was adjourned at 8:15 p.m.

Respectfully submitted: Judy Brose, Deputy City Clerk

June 3, 2020 Special City Council Meeting Minutes Approved by Council on June 23, 2020.

Judy Brose

Judy Brose, Deputy City Clerk