

**MINUTES OF REGULAR SESSION
HIGHLAND CITY COUNCIL
MONDAY, NOVEMBER 16, 2020**

Mayor Michaelis called the Regular Session to order at 7:00pm. Councilmembers Sloan, Frey, Bellm, and Hipskind were present. Others present were Interim City Manager Chris Conrad, City Attorney McGinley, Directors Gillespie, Imming, and Speraneo, Interim Police Chief Becherer, Coordinator Hubbard, Deputy City Clerks Hediger and Von Hatten, City Clerk Bellm, and 15 citizens. Attending via phone: Planning & Zoning Board Members Brad Korte and Deanna Harlan.

MINUTES

Councilwoman Bellm made a motion to approve the minutes of the November 2, 2020 Regular Session as attached; seconded by Councilman Frey. Councilman Frey made a motion amend minutes to omit his name from the roll call vote on approval of the October 19, 2020 minute, as he was not in attendance. Motion seconded Councilwoman Bellm. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried to amend minutes. Roll Call Vote to approve November 2, 2020 Meeting Minutes as amended: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

SWEARING IN

Mayor Michaelis swore in Detective Brian McClenahan as a Sergeant of the Highland Police Department.

PUBLIC FORUM

Citizens' Requests and Comments:

No comments or requests brought forth.

Requests of Council:

None.

Staff Reports:

Interim City Manager Chris Conrad reported that starting at 8:00am City Hall will be open by appointment only. City Hall is the only place we do not have protection screens and the lobby is not that large, so it becomes difficult to protect employees. Councilwoman Bellm inquired everything still okay with the Korte Rec Center. City Manager Conrad stated they will be following guidelines of the state out there.

Mayor Michaelis recalled back in January 2020, I spoke about the coronavirus, because it was going to hit the United States. Two months later, Illinois has had its first case. There is not been a day I have not followed it. The numbers in Illinois, Missouri and throughout the United States are the highest it has been. We have made no progress. Practice safe distancing and wear a mask. Why not error on the

side of caution? I would ask the businesses to enforce the mask requirement for customers and employees. Without self-discipline, COVID will remain in United States until we can eradicate it.

UNFINISHED BUSINESS

Bill #20-157/RESOLUTION Issuing a “D2” Liquor License to Dustin Barry, on Behalf of Rehberger Holdings, LLC, for Molly’s Mochas, LLC, Pursuant to Chapter 6, of The Code of Ordinances, Entitled Alcoholic Liquor – Councilman Frey made a motion to table this until after the new business; seconded by Councilwoman Bellm. Mayor Michaelis explained because we believe there will be considerable discussion on this item; we will move it after New Business. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

NEW BUSINESS

Bill #20-163/RESOLUTION Approving Estimated Tax Levy – Councilwoman Bellm made a motion to approve Bill #20-163/Resolution #20-11-2766 approving Estimated Tax Levy as attached; seconded by Councilman Frey. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Bill #20-164/ORDINANCE Designating Depositories for the City’s Funds and Money – Councilman Frey made a motion to approve Bill #20-164/Ordinance #3060 designating depositories for the city’s funds and money as attached; seconded by Councilwoman Bellm. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Approve Notice of Municipal Letting, Bid #PW-13-20, For Purchase of One New Mid-Sized SUV – Councilwoman Bellm made a motion to approve Notice of Municipal Letting, Bid #PW-13-20, for purchase of one new mid-sized SUV as attached; seconded by Councilman Frey. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Bill #20-165/RESOLUTION Approving Change Order Number 2 for Lindenthal Creek Culvert Modification, PW-03-18, for an Additional \$29,338.12 to be Allocated to the Project Cost – Councilman Frey made a motion to approve Bill #20-165/Resolution #20-11-2767 approving Change Order Number 2 for Lindenthal Creek Culvert Modification, PW-03-18, for an additional \$29,338.12 to be allocated to the project cost as attached; seconded by Councilwoman Bellm. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Bill #20-166/RESOLUTION Authorizing and Directing Application to the 2020 Transportation Alternatives Program for Funding Assistance to Improve Executive Drive to Accommodate Heavy Equipment and Tractor-Trailer Traffic – Councilwoman Bellm made a motion to approve Bill #20-166/Resolution #20-11-2768 authorizing and directing application to the 2020 Transportation Alternatives Program for funding assistance to improve Executive Drive to accommodate heavy equipment and tractor-trailer traffic as attached; seconded by Councilman Frey. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Bill #20-167/ORDINANCE Authorizing the Purchase of Real Estate from Aaron and Bonnie Gelly for Future Construction of the Southern Portion of the Peripheral Route, and/or Another Public Purpose – Councilman Frey made a motion to approve Bill #20-167/Ordinance #3061 authorizing the purchase of real estate from Aaron and Bonnie Gelly for future construction of the southern portion of

the peripheral route, and/or another public purpose as attached; seconded by Councilwoman Bellm. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Bill #20-168/ORDINANCE Amending Chapter 6, of the Code of Ordinances, City of Highland, Alcoholic Liquor, to Increase the Number of D1 Liquor Licenses to Seven – Councilwoman Bellm made a motion to approve Bill #20-168/Ordinance #3062 amending Chapter 6, of the Code of Ordinances, City of Highland, Alcoholic Liquor, to increase the number of D1 Liquor Licenses to seven as attached; seconded by Councilman Frey. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Bill #20-169/RESOLUTION Issuing a “D1” Liquor License to El Olvida, Inc. D/B/A Fiesta Brava, Pursuant to Chapter 6, of the Code of Ordinances, City of Highland, Entitled Alcoholic Liquor – Councilman Frey made a motion to approve Bill #20-169/Resolution #20-11-2769 issuing a “D1” Liquor License to El Olvida, Inc. D/B/A Fiesta Brava, pursuant to Chapter 6, of the Code of Ordinances, City of Highland, entitled Alcoholic Liquor as attached; seconded by Councilwoman Bellm. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Bill #20-170/ORDINANCE Amending Chapter 78, Article VII, Section 78-732, of the Code of Ordinances, City of Highland, Illinois, Entitled Schedule of FTTP Rates and Charges, Creating New Rate Schedule for Victory TV (“VTV”) of FTTP System (Highland Communications Services) – Councilwoman Bellm made a motion to approve Bill #20-170/Ordinance #3063 amending Chapter 78, Article VII, Section 78-732, of the Code of Ordinances, City of Highland, Illinois, entitled Schedule of FTTP Rates and Charges, creating new rate schedule for Victory TV (“VTV”) of FTTP System (Highland Communications Services) as attached; seconded by Councilman Frey. Director Angela Imming explained approximately three years ago, under the previous council, there was concern about the life cycle of Median to keep television signals fresh. The solution we have found allows us to avoid costs of \$320,000 and save \$140,000 OEM. The programming we provide will never get cheaper and we cannot get out of those contracts. What we are change is the technology used to deploy. Right now, we do linear, with antenna, satellite or I-TV. We have to receive using transcode to decode and you have to have set top boxes for that. We are changing to in-home streaming. It is like Netflix. Not like Sling TV where you can take with you, because you will use your home internet provided by us.

Director Imming pointed out our labor for installs will go down and the equipment for set top boxes and other materials will decrease from \$149 now to \$29.99. Councilwoman Bellm inquired is this like a Fire Stick. Director Imming replied yes, you would watch TV by MOBI TV, which is the product, but for us we have rebranded it to VTV for Victory TV. The pricing structure has been created for this. The first stream is \$10, and each after that will be \$1.00. This has been a very long and arduous process. The transition will have us entering homes; the customer will have to have an email account. Technicians will move from digging in the ground to going into homes to help people setup the technology. We estimate doing this at a rate of about 50 customers per month. In order for this to be cost effective, we have to be out of set top boxes by July 1, 2021. Councilman Frey asked will there be some older TVs that does not work on. Director Imming acknowledged there may be; however, if there is a USB port on TV, this will work. Councilman Frey asked will we handle all the businesses the same way. Director Imming replied, yes. She noted this will not be used on mobile devices. The picture this provides is crazy good. Those with analog services will have to pay more. That is about 190 customers; however, this is the most feasible way to stay competitive. I think people will be shocked at how easy it is for them. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Bill #20-171/RESOLUTION Making Separate Statement of Findings of Fact in Connection with Ordinance Granting Special Use Permit for a Single-Family Residence within the C-2 Zoning District at 1208 Main Street – Councilman Frey made a motion to approve Bill #20-171/Resolution #20-11-2770

making separate statement of findings of fact in connection with ordinance granting Special Use Permit for a Single-Family Residence within the C-2 Zoning District at 1208 Main Street as attached; seconded by Councilwoman Bellm. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Bill #20-172/ORDINANCE Granting a Special Use Permit to Carol Ehlke for a Single-Family Residence within the C-2 Zoning District (1208 Main Street) – Councilwoman Bellm made a motion to approve Bill #20-172/Ordinance #3064 granting a Special Use Permit to Carol Ehlke for a single-family residence within the C-2 Zoning District (1208 Main Street) as attached; seconded by Councilman Frey. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

UNFINISHED BUSINESS

City Attorney McGinley requested a motion to bring the unfinished business off the table. Councilman Frey made a motion to bring Item A, under Unfinished Business, back on the table. Motion seconded by Councilwoman Bellm. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Councilman Frey made a motion to approve Bill #20-157/Resolution #20-11-2771 issuing a “D2” Liquor License to Dustin Barry, on behalf of Rehberger Holdings, LLC, for Molly’s Mochas, LLC, pursuant to Chapter 6, of the Code of Ordinances, entitled Alcoholic Liquor; seconded by Councilwoman Bellm. Mayor Michaelis noted that this item had come before the Combined Planning & Zoning Commission. Some of those members are present tonight, either in person or on the phone, and we will allow them to be a part of the discussion. Bob Vance, member of Planning & Zoning Commission, 907 Helvetia Drive, stated when this item was brought before us, it appeared to me that there was an identity crisis for this business. I am not sure what they really wanted. It was to be a coffee shop, ice parlor, packaged liquor sales, bar and gaming. All are good ideas, but all together not. If you want coffee shop and ice cream parlor, then that is one thing. If you want a tavern and gaming, find another location and do that. Councilwoman Bellm recalled Planning & Zoning denied the request for a tavern, but allowed the request for packaged liquor sales. Mr. Vance replied, yes, and we denied their request for a drive thru. Councilman Hipskind asked why deny the drive thru. Mr. Vance recalled we did not feel there was enough room and there is a lot going on in that location, especially with Tropical Sno across the street. It just did not seem enough for the room. Councilwoman Sloan asked what the reason for denying the tavern was. Councilwoman Bellm responded, I did not attend, but listened on the phone to that meeting. She recalled it was denied because of opposition due to the noise. Mr. Vance added a there was a neighbor that talked about Tropical Sno being a hangout for children. So, there was concerns expressed about safety of children and families in the area. Another person that spoke had rental property in area that rented to families and they had concern as well. And, a third one, adjacent owner, opposed the drive thru, as well, stating it was not concurrent with the residential area. The neighborhood does not want a tavern, live bands, biergarten, and things of that nature. Councilman Frey noted it has been a while since meeting, but it was unanimous. Mr. Vance replied yes, 5-0. The package liquor was approved 4-1. Brad Korte, member of Planning & Zoning, on the phone, stated I was unable to attend that meeting. I only know what is going on from reading minutes of meeting. Mayor Michaelis stated as Chairman of Planning & Zoning Commission, you can speak as you want during this discussion. Mr. Korte stated I have nothing to say right now, other than I will echo on what Bob had to say about this having an identity crisis. Deanna Harlan, member of Planning & Zoning is also on the phone. Mayor Michaelis stated we do have Jeff Rehberger Jr. and Dustin Barry present at the meeting.

Councilman Frey stated I was not at the last meeting, but I have studied the minutes of meeting; however, I was handed papers before meeting that change some things. Is this going to have a full-

service kitchen? Mr. Rehberger reported we are installing a full range and hood system. Councilman Frey responded that seems limited for a full restaurant. I have more than that in my kitchen at home. Councilman Frey inquired the menu will offer gluten free products. Mr. Rehberger stated that is my sister's plans. Councilman Frey asked will these be made in house. Mr. Berry replied yes. Councilman Frey inquired will there be a fryer. Mr. Berry replied no, these will be baked. Councilman Frey pointed out since this will be a commercial kitchen a sprinkler system and or fire suppression system will be required. Jeff Rehberger acknowledge we will need to put in an ancillary system. Councilman Frey noted it appears there will be mop sinks in back. Is that a food prep area on the information submitted tonight? Mr. Berry replied yes. Councilman Frey noted according to the menu proposed you are offering ten types of coffee, five sandwiches and five breakfast items. The biggest piece of equipment you have is a stove, which does not fit requirements of a restaurant. There does not appear to be a lot of seating. Mr. Rehberger pointed out coffee shops are a grab and go place. Councilman Frey inquired is it donuts only. Mr. Rehberger replied no, there would be a hot ham and cheese sandwich and breakfast burritos. Councilman Frey noted that is not on the menu. Mr. Rehberger stated then menu is more focused on serving morning crowds with light bites and eats. Councilman Frey asked how many seats. Dustin Berry reported twenty-two seats. Councilman Frey stated from the pictures I do not see that many seats. Mr. Berry pointed out that includes the gaming area. Councilwoman Sloan asked do the center tables seat four or two. Mr. Rehberger stated we have not gotten that far. Councilman Frey noted, at the last meeting, you said the restaurant and gaming were separate. Now you are counting the seating at the machines as seating. I question if the gaming is part of the restaurant or not. I see from the plans you now have two bathrooms. Mr. Rehberger noted one is existing and the new one will be ADA. Councilman Frey inquired so you are no longer having drive-thru. Mr. Rehberger replied that is correct, we are doing a walk-up window instead. Councilman Frey inquired you are not having ice cream any more. Mr. Berry replied no we have removed that from the plan. Councilman Frey expressed concern that the breakfast menu that is very limited. Councilwoman Bellm inquired about the hours. Mr. Berry responded customer demand will dictate that somewhat. We plan to start 5am – 1am. If they want coffee twenty-four hour a day we will stay open. Mayor Michaelis asked will you have a deep fryer. Mr. Rehberger replied no, we are trying to cater to more healthy foods.

Councilman Hipkind reported I met with Dustin after the last meeting. You did show me some numbers. It appears you are at least projecting revenues will exceed gaming revenues. I am not proud of way I questioned both of you last time. We want to commend people that want to open a business in town. I do not feel it is our business to question your business plan. We are trying to figure out if gaming is going to be outpaced by other business activities. I do not feel it is our business to tell you what your business plan should be. It is commendable that you want to take over a business that is sitting vacant. You are going to have an issue with customers. It is not our job to determine that. Your customers will patronize based upon the ability to find parking. I did not see a fryer. I envision your place like a Starbucks. I understand gaming is a hard thing. There is Krispy Chicken that has gaming and then we just approved a salon to have gaming. I do not understand it, but I don't see why we would not approve this. We have approved things like this in the past. I commend you guys for wanting to invest in this. Councilwoman Sloan stated all my concerns have been addressed. Mr. Berry stated we are a part of the community. We don't want a bunch of neighbors upset with us and we will do what is necessary to make sure we do not create a disturbance.

Mayor Michaelis stated parking is always a concern. That is what off street parking is for. How many parking spaces would you envision? Mr. Berry stated I mapped it out to 11-12. Brad Korte asked if they could get closer to the mic. Mr. Rehberger stated he had closer to fourteen spaces. Councilwoman Sloan asked does that include a handicap spot. Director Breann Speraneo reported according to the ordinances they would need sixteen parking spaces. They would need a parking variance, which would go before Planning & Zoning. Mr. Rehberger acknowledged we need to get sixteen to not request a variance. Right now, only have mapped out for fourteen. If we fall a couple short, we are asking for the

council to provide guidance to Planning & Zoning, if we have to go to them. Councilman Hipskind expressed I would urge Planning & Zoning to give the variance. The parking is going to dictate the business. If there is not a place to park, I would keep going. I respect the amount of time that Planning & Zoning spends to make these decisions. Councilman Frey expressed from the first time I heard this plan, I can say we appreciate the effort. I question whether this is really something other than a gaming parlor. That is where my line of questioning comes from. Councilwoman Bellm expressed our issue here is, we are setting a precedence here on where the fine line is on what is a gaming parlor and what is not. No offense, but anyone that goes into business spends a lot of money. Will this be nothing than a gaming parlor? I hope not. Councilman Hipskind stated we had a lot of discussion about tightening our standards. We have a lot of discretion to decide these on a case-by-case analysis. They wanted to know how to fix it to make this go through. They have worked really hard to alleviate all of our concerns. These should be evaluated on case-by-case basis. We are giving these two guys a really hard time about opening up another business. They own and operate one here already and do well. Jeff, your statement in the paper that you do not understand the resistance resonated with me. I do not know why we are giving them the resistance. Councilwoman Bellm stated if looking at this on case-by-case basis, you have guidelines and we used those on other businesses. When we loosen those up, we lose what we are trying to achieve. You have added on for the 2,000 sq. ft. I am not sure about the full kitchen. The parking is a concern. I do not want to get calls at 11:00 at night. If I could be assured this is closing at 10:00pm, I would feel better about it. You are going to need a parking variance. I roughed twelve spots in looking at the lot. You are going to have to go to Planning & Zoning for a variance. You need to do that before anything else. Mr. Rehberger suggested if we could get the liquor license and building permit, then if we could not the parking spaces at the time we are ready, we will go to Planning & Zoning.

Councilman Frey asked Director Speraneo if all the initial questions by your department have been addressed. Director Speraneo reported there has been no official review of plans. The addition would bring it to just over 2,000 sq. ft. The main concern with Planning & Zoning is the parking issue. If we do not see that on the permit application, they would need a variance before issuing building permit. Brad Korte stated I could not hear some of the comments made. However, as far as a parking, I the council to Code of Ordinance, Chapter 90 – Zoning, Article I, Section 90.001, Purpose and Objectives, in accordance with Illinois State Statue 65 ILCS 5/11-13-1 regulating structures and land uses. Within the first eight is ‘5. Provides adequate and well-designed parking and loading space for all buildings and uses’. As far as granting a variance, one of questions we have to answer for variance is variance request arising from something unique to the area, which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or applicant, per ordinances established by the council. If this comes to Planning & Zoning those are some things to think about. City Attorney McGinley advised on the legal aspect as to should they get the variance first or after a vote on the motion in front of the council. Attorney McGinley stated, procedurally, they are here tonight but regardless will need to go through the Planning & Zoning Board to get the variance. We have to follow our ordinances. The thing to go to Planning & Zoning would the number of parking spaces. So whether they wait or we discuss and make it conditional is up to the council. If a variance is required, then a variance is required. Attorney McGinley suggested attaching the business plan presented to the minutes. Councilwoman Bellm amended the motion to include that before we can finalize or further consideration we need to make sure that parking is adequate. Attorney McGinley advised against a conditional punch list that permit cannot be issued until. Councilman Hipskind pointed out if approved as is they will need to go to Planning & Zoning either way. If I was coming to Highland to open business, I would not if I had to jump through this many hoops. Councilwoman Sloan expressed I am all about the variance. Two parking spaces is not going affect a business. Attorney McGinley advised we could approve resolution or amend to include whatever the council would like to see prior to granting the license. Mayor Michaelis noted there is no circumventing Planning & Zoning, regardless. Attorney McGinley advised the liquor license will not be issued unless the conditions are met. You could send them back to Planning &

Zoning. You could approve and they would still need to go to Planning & Zoning if they were unable to meet the required number of parking spaces.

Councilwoman Bellm amended the motion to conditionally grant a D2 license but must include the following items: fire suppression system approved by city or Madison County; sanitation equipment as required by city or county; 2,000 sq. ft. or more; one ADA compliant bathroom; and, parking for sixteen spaces or a variance approved by Planning & Zoning. Councilman Hipskind stated he was not going to second that motion, because these are things they all have to meet these regardless, so I do not understand the need for the conditions. Mayor Michaelis agreed if they have to meet these things for Madison County then why do these conditions. Councilwoman Bellm amended the motion to issue a D2 license conditional on them providing sixteen parking spots or getting a variance from Planning & Zoning and keeping at 2,000 sq. ft. or more. Motion seconded by Councilwoman Sloan. Roll Call Vote: Councilmembers Sloan and Bellm voted aye, Frey and Hipskind voted nay. Mayor Michaelis voted no. Motion to amend failed. Mayor Michaelis stated I voted no, because a vote was required and because those are things they would have to do anyway. Mr. Rehberger agreed we are going to have to meet the square footage and parking space requirements or obtain a variance for the parking, but we can move forward while we do that. Roll Call Vote: Councilmembers Sloan and Hipskind voted aye, Bellm and Frey voted nay. Mayor Michaelis voted aye. Motion carried. Mayor Michaelis expressed best of luck at getting your variance, and, if you get it, best of luck with your new business. That building has been vacant for a long time.

REPORT

Approve Warrant #1183 – Councilwoman Bellm made a motion to approve Warrant #1183 as attached; seconded by Councilman Frey. Roll Call Vote: Councilmembers Sloan, Frey, Bellm and Hipskind voted aye, none nay. Motion carried.

Councilwoman Bellm made a motion to adjourn; seconded by Councilman Frey. All council members voted aye, none nay. Motion carried and meeting adjourned at 8:32pm.

Joseph R. Michaelis, Mayor

Barbara Bellm, City Clerk