

**CITY OF DARDENNE PRAIRIE
2032 HANLEY ROAD
DARDENNE PRAIRIE, MO 63368**

**BOARD OF ALDERMEN
WORKSHOP AGENDA
SEPTEMBER 16, 2015
5:30 p.m.**

CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ITEMS FOR DISCUSSION AND CONSIDERATION

1. Amending the Municipal Code to require greater notice to the public of proposed changes to zoning, proposed planned unit development, proposed conditional use permits, and other actions (Mayor)
2. Short Term Goals (0 – 3 year projects)
3. Long Term Goals (3 – 10 year projects)
4. Review of Board of Aldermen Meeting Agenda (09-16-15)

STAFF COMMUNICATIONS

1. City Attorney
2. City Engineer
3. Staff
4. Aldermen
5. Mayor

CLOSED SESSION

Roll call vote to hold closed session pursuant to RSMo 610.021 section _____
Litigation and Privileged Communications (1)
Real Estate (2)
Personnel (3)
Labor (9)
Bid Specs (11)
Audit (17)

RETURN TO REGULAR MEETING AGENDA

ADJOURNMENT

RBA FORM (OFFICE USE)

MEETING DATE: September 16, 2015

Regular () Work Session (X)

ATTACHMENT: YES (X) NO ()

Contract () Ordinance (X) Other ()

Request for Board Action

By: Mayor ZUCKER

- **Description:** Adopt a new provision of the Municipal Code to require greater notice to the public of proposed changes to zoning, proposed planned unit development, proposed conditional use permits, and other actions by the Planning & Zoning Commission and the Board of Aldermen.

- **Recommendation:** Staff – Approve () Disapprove ()

- **Summary/Explanation:** Provide more notice to the public of applications submitted for action by the P&Z and BOA, to include changes to zoning classification, proposed PUD applications (area and final), and conditional use permits. Presently, the minimum requirement for legal notice is publication in a newspaper and posting at city hall 15 days in advance of a public hearing. The legally required minimum notice is not effective in communicating to the public.

Additional Notice: 1. Proposed actions which are subject to approval by the P&Z and or BOA should be posted conspicuously on the City’s Website at least 15 days prior to a scheduled meeting of P&Z or BOA. 2. Signs (6 square ft.) should be placed on the parcel that is subject of the hearing so as to inform the public of the scheduled action and date, time and place of the public hearings. The attached draft, based on the O’Fallon Municipal Code, places responsibility for placing signs on the City. P&Z recommended not increasing petitioners’ application fees at this time, but to consider cost of signs as City overhead. Signs should also have a device to contain take away notices (8 X 11 paper providing the notice and summarizing the action to be heard by P&Z/BOA) along the lines of the curbside handouts provided by realtors for residential property offered for sale.

Bill 1532 A is the bill forwarded by P&Z. Bill 1532 B shows redline changes made by City Attorney at Mayor’s request to harmonize with other provisions of Zoning Code. Bill 1532 is the revised text which the Mayor recommends for discussion at Workshop and passage at Regular Meeting.

- **Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

TBD: Cost to make/buy signs and labor to place signs when needed.

RBA requested by: Mayor Zucker and P&Z Commissioner John Collins

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI AMENDING VARIOUS PROVISIONS OF CHAPTER 405 OF THE MUNICIPAL CODE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI AND PROVIDING FOR ADDITIONAL REQUIREMENTS FOR NOTICE TO THE PUBLIC PRIOR TO PUBLIC HEARINGS BEFORE THE PLANNING AND ZONING COMMISSION AND BOARD OF ALDERMEN

WHEREAS, the Board of Aldermen, having received the report and recommendation of the Planning and Zoning Commission, considered the proposed amendment to the Zoning Ordinance of the City of Dardenne Prairie after conducting a public hearing thereon at which all interested persons were heard.

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

SECTION 1. That Subsection C of Section 405.260 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and is hereby amended by deleting it in its entirety and replacing it, in lieu thereof with the following:

- C. Public hearings before the Planning and Zoning Commission and the Board of Aldermen shall be conducted after notice required pursuant to Section 405.871 of this Code. The public hearings may be held jointly with a public hearing on any zoning change for the tract in question.

SECTION 2. That Subsection A of Section 405.475 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and is hereby amended by deleting it in its entirety and replacing it, in lieu thereof with the following:

- A. Upon receiving the application for a Conditional Use Permit, the Planning and Zoning Commission and Board of Aldermen shall hold public hearings on the proposal. Such public hearings shall be conducted after notice required pursuant to Section 405.871 of this Code.

After review of the application for conditional use and the public hearing, the Planning and Zoning Commission shall make findings of fact as to whether or not the standards described in Subsection (B) of this Section have been met by the applicant. The burden of proof shall be on the applicant to prove that said standards have been met by the applicant. Thereafter the Planning and Zoning Commission shall either:

1. Postpone consideration of the Conditional Use Permit due to lack of sufficient Information to make a recommendation to the Board of Aldermen;
2. Recommend approval to the Board of Aldermen;
3. Recommend approval with conditions to the Board of Aldermen;
or
4. Recommended denial of the Conditional Use Permit.

Upon receipt of a recommendation from the Planning and Zoning Commission, the Board of Aldermen shall have the authority to grant a Conditional Use Permit. The Conditional Use Permit under consideration by the Board of Aldermen shall be in the form of an ordinance. Said ordinance shall include all findings and conclusions of the Board of Aldermen in support of granting the Conditional Use Permit, as well as conditions, safeguards and restrictions upon the conditional use deemed necessary by the Board of Aldermen.

Upon the denial of a conditional use by the Board of Aldermen, by means of an affirmative vote of the Board of Aldermen to reject the bill proposing the conditional use or upon the failure of the bill to pass as an ordinance for lack of sufficient votes in favor, the Board of Aldermen shall, no later than the next regular meeting of the Board of Aldermen, prepare and approve the findings of fact and conclusions of law setting forth the Board's reasons for denying the conditional use. The date of the Board's approval of the findings of fact and conclusions of law shall be deemed the effective date of the denial of the requested conditional use.

SECTION 3. That Subsections B and C of Section 405.870 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and are hereby amended by deleting them in their entirety and replacing them, in lieu thereof with the following:

- B. A public hearing before the Planning and Zoning Commission shall be conducted after notice required pursuant to Section 405.871 of this Code. Upon the final hearing of such application, the Planning and Zoning Commission shall submit its findings and recommendations for approval or denial of the proposed change of zoning to the Board of Aldermen.
- C. A public hearing before the Board of Aldermen shall be conducted after notice required pursuant to Section 405.871 of this Code.

SECTION 4. That Chapter 405 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and it is hereby amended by adding thereto a new Section 405.871, to read as follows:

SECTION 405.871: REQUIREMENTS FOR PUBLIC HEARING NOTICE

- A. *Notice of Public Hearing(s), When Required.* Except where otherwise required pursuant to this Code, notice of public hearings before the Board of Aldermen and the Planning and Zoning Commission required under this Chapter shall be provided pursuant to the requirements of this Section.
- B. *Legal Notice to be Published.* The City will prepare the legal notice advertising the public hearing(s). The legal notice shall be published in a newspaper of general circulation throughout the City at least fifteen (15) days prior to the dates of any public hearings before the Planning and Zoning Commission and Board of Aldermen. The legal notice shall contain the date, time, place and general purpose of the public hearing(s).
- C. *Additional Notice.* In addition to the legal notice required pursuant to subsection B of this Section, the City shall require the following notice:
1. *Notice to be Posted on Website and City Hall.* Notice of public hearings shall also be posted on the City's official website, (www.DardennePrairie.org) in a readily noticeable format at least fifteen (15) days in advance of public hearings. Written notice shall also be posted for public view at City Hall in a place generally accessible to the public during normal business hours.
 2. *Notification To Adjacent Property Owners.* The petitioner or applicant shall make a good faith effort to notify by mail all persons identified in the information provided to the City pursuant to Sections 405.250.A(8), 405.470.A(6) and 405.865.A(6) of the City Code. Such notices shall be postmarked at least fifteen (15) days prior to the date of the hearing..
 3. *Sign Posting Requirements.* The City shall cause a sign(s), the face of which is at least six (6) square feet in size, to be posted upon the subject property advertising the public hearings before the Planning and Zoning Commission and Board of Aldermen. Notice shall also be printed on 8.5 X 11 inch paper, at least fifty (50) copies of which shall be placed in a container attached to each sign so that members of the public may retrieve such printed notice from the container.
 - a. *Required Number of Signs.* One (1) sign will be placed along each street that abuts the property that is subject to the public hearing. However, the Code Enforcement Officer shall have the discretion of waiving the requirements for sign placement along multiple street frontages if he/she determines that sign placement along the most heavily traveled street frontage(s) will suffice. If the subject property has more than three hundred (300) feet of frontage along any street, the Code Enforcement Officer shall have the discretion of requiring the placement of additional signs. If the subject property does not abut a street, the sign(s) will be placed on each side of any contiguous land owned by the petitioner, applicantor

owner(s) of the subject property which does abut a street. If no such contiguous property is owned by the petitioner, applicant or owner(s) of the subject site, the sign(s) will be placed in such location(s) as deemed appropriate by the Code Enforcement Officer to best inform the general public of the public hearing(s). If the Code Enforcement Officer determines that there is no location where a sign could be placed that would be visible to the general public, the Code Enforcement Officer shall have the discretion of waiving the sign posting requirements.

- b. *Sign Placement.* The required sign(s) will be posted in a conspicuous location unobstructed to view from the street. The required sign(s) will not be erected in a manner that would obstruct the vision of motorists or pedestrians.
- c. *Sign Posting and Removal.* Sign(s) required to be posted pursuant to this subsection 3 shall be posted at least fifteen (15) days prior to the public hearing and shall remain posted until final action is taken by the Board of Aldermen on the subject of the public hearing. The City will cause the removal of all signs within seven (7) days of such final action.

4. *Special Circumstances.* When notice of public hearing is required under subsection A of this Section for actions affecting more than one (1) parcel of real property, the City may forego placement of signs on each parcel. Instead the City may place signs at various locations within and near the affected areas which, in the discretion of the Code Enforcement Officer, will provide sufficient notice to the general public of the public hearings.

5. *Failure to Post Additional Notice.* Failure to provide additional notice per the requirements of this Section shall entitle the Planning and Zoning Commission and the Board of Aldermen to postpone the public hearing for which the notice was required until such time as the Planning and Zoning Commission or the Board of Aldermen is satisfied that additional notice has been provided to the public consistent with the intent and purpose of this Section.

D. The Code Enforcement Officer is hereby empowered to prescribe and maintain such forms and procedures as he/she finds necessary to accomplish his/her function consistent with the provisions of this Section.

SECTION 5. Savings Clause: Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

SECTION 6. Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in

all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 7. Effective Date: This Ordinance shall take effect and be in force from and after its passage by the Board of Aldermen and its approval by the Mayor of the City of Dardenne Prairie, Missouri.

Read two (2) times, passed, and approved this _____ day of _____, 2015.

As Presiding Officer and as Mayor

Attest:

City Clerk

Approved this _____ day of _____, 2015.

Mayor

Attest:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI AMENDING VARIOUS PROVISIONS OF CHAPTER 405 OF THE MUNICIPAL CODE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI BY ENACTING A NEW SECTION 405.871, AND PROVIDING FOR ADDITIONAL REQUIREMENTS FOR NOTICE TO THE PUBLIC PRIOR TO PUBLIC HEARINGS BEFORE THE PLANNING AND ZONING COMMISSION AND BOARD OF ALDERMEN

WHEREAS, the Board of Aldermen, having received the report and recommendation of the Planning and Zoning Commission, considered the proposed amendment to the Zoning Ordinance of the City of Dardenne Prairie after conducting a public hearing thereon at which all interested persons were heard.

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

SECTION 1. That Chapter 405 of the Municipal Code be and it is hereby amended by adding a new Section 405.871, to read as follows:

SECTION 405.871: ADDITIONAL REQUIREMENTS FOR NOTICE TO THE PUBLIC

- A. Notice of Public Hearing(s), When Required.* Public hearings before both the Planning and Zoning Commission and Board of Aldermen shall be required for proposed Zoning District Classification Amendments (Zonings/Rezoning), Planned Unit Development Area Plan applications or revisions thereto, Planned Unit Development Final Plan applications or revisions thereto, Conditional Use Permit applications, and amendments to the written text of the City's Zoning Code, Subdivision and Land Development Code, Signage Regulations and Flood Hazard Prevention Requirements. Public hearing before the Planning and Zoning Commission will be required for Preliminary Plat applications.
- B. Legal Notice to be Published.* City will prepare the legal notice advertising the public hearing(s). The legal notice shall be placed at least fifteen (15) days prior to the dates of any public hearings before the Planning and Zoning Commission and Board of Aldermen in a newspaper of general circulation throughout the City. The legal notice shall contain the date, time, place and nature of the public hearing(s).
- C. Notice to be Posted on Website and City Hall.* Notice of such public hearings shall also be posted on the City's official website, (www.DardennePrairie.org) in a readily noticeable format at least 15 days in advance of public hearings. Written notice shall also be posted for public view at City Hall.

- D. Notification To Adjacent Property Owners.* The City will be responsible for researching and notifying by mail all property owners of the public hearing(s) whose property limits are within an area determined by lines drawn parallel to and within a distance of three hundred (300) feet from the site of proposed Zoning District Classification Amendments (Zonings/Rezoning), Planned Unit Development Area Plan applications or revisions thereto, Planned Development Final Plan applications or revisions thereto, Conditional Use Permit applications and Preliminary Plat applications. Notices shall be postmarked at least fifteen (15) days prior to the public hearing before the Planning and Zoning Commission.
- E. Sign Posting Requirements.* Upon filing an application requesting a Zoning District Classification Amendment (Zonings/Rezoning), approval of a Planned Unit Development Area Plan or revision thereto, approval of a Planned Development Final Plan or revision thereto, approval of a Conditional Use Permit or approval of a Preliminary Plat, the City shall, within seven (7) days of the application filing date, post a sign(s) at least six (6) square feet in size upon the subject property advertising the public hearings before the Planning and Zoning Commission and Board of Aldermen (Note: Preliminary Plats only require a Public Hearing before the Planning and Zoning Commission). Notice shall also be printed on 8.5 X 11 inch paper, copies of which shall be placed in a container attached to each sign so that members of the public may retrieve such printed notice from the container.
- F. Required Number of Signs.* One (1) sign will be placed along each street that abuts the subject site. However, the Code Enforcement Officer shall have the discretion of waiving the requirements for sign placement along multiple street frontages if he/she determines that sign placement along the most heavily traveled street frontage(s) will suffice. If the subject site has more than three hundred (300) feet of frontage along any street, the Code Enforcement Officer shall have the discretion of requiring the placement of additional signs. If the subject site does not abut a street, the sign(s) will be placed on each side of any contiguous land owned by the petitioner or owner(s) of the subject site which does abut a street. If no such contiguous property is owned by the applicant or owner(s) of the subject site, the sign(s) will be placed in such location(s) as deemed appropriate by the Code Enforcement Officer to best inform the general public of the public hearing(s). If the Code Enforcement Officer determines that there is no location where a sign could be placed that would be visible to the general public, the Code Enforcement Officer shall have the discretion of waiving the sign posting requirements.
- G. Sign Placement.* The required sign(s) will be posted in a conspicuous location unobstructed to view from the street, and will be placed no closer than ten (10) feet from any right-of-way line and/or property line and no further than fifteen (15) feet back from the right-of-way line and/or property line. The required sign(s) will not be erected in the street right-of-way or in a manner that would obstruct the vision of motorists or pedestrians.
- H. Sign removal.* The required sign(s) will remain posted until final action is taken on the proposed Zoning District Classification Amendment, Revised Planned Unit Development Area Plan, Planned Development Area Plan, Planned Development Final Plan, Preliminary Plat or Conditional Use Permit. The City will remove all signs within seven (7) days of such final action.

I. *Failure to post signs.* Failure to post sign(s) per the requirements of this Section shall result in the postponement of the originally scheduled public hearings.

J. *Special Circumstances.* When notice of public hearing is required under subsection A of this Section for actions affecting several parcels, the City may forego placement of signs on each parcel. Instead the City may place signs at various locations within and near the affected areas which, in the discretion of the Code Enforcement Officer, will provide sufficient notice to the general public of the planned public hearings.

SECTION 2. Savings Clause: Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

SECTION 3. Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 4. Effective Date: This Ordinance shall take effect and be in force from and after its passage by the Board of Aldermen and its approval by the Mayor of the City of Dardenne Prairie, Missouri.

Read two (2) times, passed, and approved this _____ day of _____, 2015.

As Presiding Officer and as Mayor

Attest:

City Clerk

Approved this _____ day of _____, 2015.

Mayor

Attest:

City Clerk

BILL NO. 15-32 B

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE,
MISSOURI AMENDING VARIOUS PROVISIONS OF
CHAPTER 405 OF THE MUNICIPAL CODE OF THE CITY
OF DARDENNE PRAIRIE, MISSOURI AND PROVIDING
FOR ADDITIONAL REQUIREMENTS FOR NOTICE TO
THE PUBLIC PRIOR TO PUBLIC HEARINGS BEFORE
THE PLANNING AND ZONING COMMISSION AND
BOARD OF ALDERMEN**

WHEREAS, the Board of Aldermen, having received the report and recommendation of the Planning and Zoning Commission, did consider the proposed amendment after conducting a public hearing thereon at which all interested persons were heard.

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

SECTION 1. That Subsection C of Section 405.260 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and is hereby amended by deleting it in its entirety and replacing it, in lieu thereof with the following:

- C. ~~The City Engineer shall prepare legal notices advertising the review of the Area Plan by the Planning and Zoning Commission and the Board of Aldermen. The legal notices shall be published in a newspaper of general circulation throughout the City at least fifteen (15) days prior to the dates of the public hearings. Notice of the hearing shall be published in a newspaper of general circulation along with hearing notice for any zoning amendment for the tract in question, if such amendment is applied for. Public hearings before the Planning and Zoning Commission and the Board of Aldermen shall be conducted after notice required pursuant to Section 405.871 of this Code. The public hearings may be held jointly with a public hearing on any zoning change for the tract in question.~~

SECTION 2. That Subsection A of Section 405.475 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and is hereby amended by deleting it in its entirety and replacing it, in lieu thereof with the following:

- A. Upon receiving the application for a Conditional Use Permit, the Planning and Zoning Commission and Board of Aldermen shall ~~publish a notice and hold public hearings on the proposal. Procedures for public hearings shall be handled the same as a zoning amendment as described in Article XV of this Chapter~~Such public hearings shall be conducted after notice required pursuant to Section 405.871 of this Code.

After review of the application for conditional use and the public hearing, the Planning and Zoning Commission shall make findings of fact as to whether or not the standards described in Subsection (B) of this Section have been met by the applicant. The burden of proof shall be on the applicant to prove that said standards have been met by the applicant. Thereafter the Planning and Zoning Commission shall either:

1. Postpone consideration of the Conditional Use Permit due to lack of sufficient information to make a recommendation to the Board of Aldermen;
2. Recommend approval to the Board of Aldermen;
3. Recommend approval with conditions to the Board of Aldermen;
or
4. Recommended denial of the Conditional Use Permit.

Upon receipt of a recommendation from the Planning and Zoning Commission, the Board of Aldermen shall have the authority to grant a Conditional Use Permit. The Conditional Use Permit under consideration by the Board of Aldermen shall be in the form of an ordinance. Said ordinance shall include all findings and conclusions of the Board of Aldermen in support of granting the Conditional Use Permit, as well as conditions, safeguards and restrictions upon the conditional use deemed necessary by the Board of Aldermen.

Upon the denial of a conditional use by the Board of Aldermen, by means of an affirmative vote of the Board of Aldermen to reject the bill proposing the conditional use or upon the failure of the bill to pass as an ordinance for lack of sufficient votes in favor, the Board of Aldermen shall, no later than the next regular meeting of the Board of Aldermen, prepare and approve the findings of fact and conclusions of law setting forth the Board's reasons for denying the conditional use. The date of the Board's approval of the findings of fact and conclusions of law shall be deemed the effective date of the denial of the requested conditional use.

SECTION 3. That Subsections B and C of Section 405.870 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and are hereby amended by deleting them in their entirety and replacing them, in lieu thereof with the following:

- B. ~~A public hearing before the Planning and Zoning Commission shall be conducted after notice required pursuant to Section 405.871 of this Code. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a legal newspaper of general circulation within the City. The petitioner shall make a good faith effort to notify by mail all property owners known to the petitioner whose property is within an area determined~~

by lines drawn parallel to and three hundred (300) feet distant from the property(ies) to be affected of the public hearing. Such notices shall be postmarked at least fifteen (15) days prior to the date of the hearing. Upon the final hearing of such application, the Planning and Zoning Commission shall submit its findings and recommendations for approval or denial of the proposed change of zoning to the Board of Aldermen.

C. A public hearing before the Board of Aldermen shall be conducted after notice required pursuant to Section 405.871 of this Code Before acting upon any proposed ordinance for the enactment or change of any zoning district or regulation, the Board of Aldermen shall set a time and place for a hearing thereon and at least fifteen (15) days' notice of the time and place of such hearing shall be published in a legal paper of general circulation in the City.

SECTION 4. That Chapter 405 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and it is hereby amended by adding thereto a new Section 405.871, to read as follows:

SECTION 405.871: ADDITIONAL REQUIREMENTS FOR FOR NOTICE TO THE PUBLIC PUBLIC HEARING NOTICE

~~A.~~ A. Notice of Public Hearing(s), When Required. Except where otherwise required pursuant to this Code, notice of public hearings before the Board of Aldermen and the Planning and Zoning Commission required under this Chapter shall be provided pursuant to the requirements of this Section. Public hearings before both the Planning and Zoning Commission and Board of Aldermen shall be required for proposed Zoning District Classification Amendments (Zonings/Rezoning), Planned Unit Development Area Plan applications or revisions thereto, Planned Unit Development Final Plan applications or revisions thereto, Conditional Use Permit applications, and amendments to the written text of the City's Zoning Code, Subdivision and Land Development Code, Signage Regulations and Flood Hazard Prevention Requirements. Public hearing before the Planning and Zoning Commission will be required for Preliminary Plat applications.

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~~B.~~ B. Legal Notice to be Published. The City will prepare the legal notice advertising the public hearing(s). The legal notice shall be placed published in a newspaper of general circulation throughout the City at least fifteen (15) days prior to the dates of any public hearings before the Planning and Zoning Commission and Board of Aldermen in a newspaper of general circulation throughout the City. The legal notice shall contain the date, time, place and nature general purpose of the public hearing(s).

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C. Additional Notice. In addition to the legal notice required pursuant to subsection B of this Section, the City shall require the following notice;

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~~C.~~ 1. Notice to be Posted on Website and City Hall. Notice of such public hearings shall also be posted on the City's official website, (www.DardennePrairie.org) in a readily noticeable format at least fifteen (15) days in advance of public hearings. Written notice shall also be posted for public

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view at City Hall in a place generally accessible to the public during normal business hours.

D. 2. Notification To Adjacent Property Owners. The petitioner or applicant shall make a good faith effort to notify by mail all persons identified in the information provided to the City pursuant to Sections 405.250.A(8), 405.470.A(6) and 405.865.A(6) of the City Code. Such notices shall be postmarked at least fifteen (15) days prior to the date of the hearing. The City will be responsible for researching and notifying by mail all property owners of the public hearing(s) whose property limits are within an area determined by lines drawn parallel to and within a distance of three hundred (300) feet from the site of proposed Zoning District Classification Amendments (Zonings/Rezoning), Planned Unit Development Area Plan applications or revisions thereto, Planned Development Final Plan applications or revisions thereto, Conditional Use Permit applications and Preliminary Plat applications. Notices shall be postmarked at least fifteen (15) days prior to the public hearing before the Planning and Zoning Commission.

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E. 3. Sign Posting Requirements. Upon filing an application requesting a Zoning District Classification Amendment (Zonings/Rezoning), approval of a Planned Unit Development Area Plan or revision thereto, approval of a Planned Development Final Plan or revision thereto, approval of a Conditional Use Permit or approval of a Preliminary Plat, ~~(The City shall, within seven (7) days of the application filing date, cause a post-a-sign(s), the face of which is at least six (6) square feet in size, to be posted upon the subject property advertising the public hearings before the Planning and Zoning Commission and Board of Aldermen~~ (Note: Preliminary Plats only require a Public Hearing before the Planning and Zoning Commission). Notice shall also be printed on 8.5 X 11 inch paper, at least fifty (50) copies of which shall be placed in a container attached to each sign so that members of the public may retrieve such printed notice from the container.

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F. a. Required Number of Signs. One (1) sign will be placed along each street that abuts the subject site property that is subject to the public hearing. However, the Code Enforcement Officer shall have the discretion of waiving the requirements for sign placement along multiple street frontages if he/she determines that sign placement along the most heavily traveled street frontage(s) will suffice. If the subject site property has more than three hundred (300) feet of frontage along any street, the Code Enforcement Officer shall have the discretion of requiring the placement of additional signs. If the subject site property does not abut a street, the sign(s) will be placed on each side of any contiguous land owned by the petitioner, applicant or owner(s) of the subject site property which does abut a street. If no such contiguous property is owned by the petitioner, applicant or owner(s) of the subject site, the sign(s) will be placed in such location(s) as deemed appropriate by the Code Enforcement Officer to best inform the general public of the public hearing(s). If

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the Code Enforcement Officer determines that there is no location where a sign could be placed that would be visible to the general public, the Code Enforcement Officer shall have the discretion of waiving the sign posting requirements.

G. b. Sign Placement. The required sign(s) will be posted in a conspicuous location unobstructed to view from the street, and will be placed no closer than ten (10) feet from any right-of-way line and/or property line and no further than fifteen (15) feet back from the right-of-way line and/or property line. The required sign(s) will not be erected in the street right-of-way or in a manner that would obstruct the vision of motorists or pedestrians.

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H. c. Sign Posting and Removal. The required sign(s) required to be posted pursuant to this subsection 3 shall be posted at least fifteen (15) days prior to the public hearing and shall remain posted until final action is taken by the Board of Aldermen on the proposed Zoning District Classification Amendment, Revised Planned Unit Development Area Plan, Planned Development Area Plan, Planned Development Final Plan, Preliminary Plat or Conditional Use Permit subject of the public hearing. The City will cause the removal of all signs within seven (7) days of such final action.

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4. Special Circumstances. When notice of public hearing is required under subsection A of this Section for actions affecting more than one (1) parcel of real property, the City may forego placement of signs on each parcel. Instead the City may place signs at various locations within and near the affected areas which, in the discretion of the Code Enforcement Officer, will provide sufficient notice to the general public of the public hearings.

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5. Failure to post signs Post Additional Notice. Failure to post provide sign(s) additional notice per the requirements of this Section shall result entitle the Planning and Zoning Commission and the Board of Aldermen to in the postponement postpone of the originally scheduled public hearings the public hearing for which the notice was required until such time as the Planning and Zoning Commission or the Board of Aldermen is satisfied that additional notice has been provided to the public consistent with the intent and purpose of this Section.

D. The Code Enforcement Officer is hereby empowered to prescribe and maintain such forms and procedures as he/she finds necessary to accomplish his/her function consistent with the provisions of this Section.

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~~*Special Circumstances.* When notice of public hearing is required under subsection A of this Section for actions affecting several parcels, the City may forego placement of signs on each parcel. Instead the City may place signs at various locations within and near the affected areas which, in the discretion of the Code Enforcement Officer, will provide sufficient notice to the general public of the planned public hearings.~~

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SECTION 5. Savings Clause: Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

SECTION 6. Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 7. Effective Date: This Ordinance shall take effect and be in force from and after its passage by the Board of Aldermen and its approval by the Mayor of the City of Dardenne Prairie, Missouri.

Read two (2) times, passed, and approved this _____ day of _____, 2015.

As Presiding Officer and as Mayor

Attest:

City Clerk

Approved this _____ day of _____, 2015.

Mayor

Attest:

City Clerk

CITY OF DARDENNE PRAIRIE
2032 HANLEY ROAD
DARDENNE PRAIRIE, MO 63368

BOARD OF ALDERMEN
MEETING AGENDA
SEPTEMBER 16, 2015
7:00 p.m.

CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

Mayor Zucker
Alderman Klingerman
Alderman Nay
Alderman Gotway
Alderman Koch
Alderman Stipes

OPEN FORUM

CONSENT AGENDA

1. Board of Aldermen Minutes 09-02-15
2. Expenditures for Approval 09-16-15

ITEMS REMOVED FROM CONSENT AGENDA

PUBLIC HEARINGS

1. Amendments to the Dardenne Prairie Municipal Code pertaining to zoning and land use regulations.
2. 2015 Ad Valorem Tax Levy

NEW BUSINESS

1. **Bill #15-31**
AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, ESTABLISHING THE AD VALOREM TAXES FOR ALL REAL AND TANGIBLE PERSONAL PROPERTY WITHIN THE CITY OF DARDENNE PRAIRIE, FOR THE PERIOD OF JANUARY 1, 2015 TO DECEMBER 31, 2015
2. **Bill #15-32**
AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI AMENDING VARIOUS PROVISIONS OF CHAPTER 405 OF THE MUNICIPAL CODE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI AND PROVIDING FOR ADDITIONAL REQUIREMENTS FOR NOTICE TO THE PUBLIC PRIOR TO PUBLIC HEARINGS BEFORE THE PLANNING AND ZONING COMMISSION AND BOARD OF ALDERMEN

3. **Bill #15-33**

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE A CONTRACT FOR THE CONSIGNMENT SALE OF A 50KW YAZAKI CHILLER WITH SOLAR PANELS PLUS, LLC; AND OTHER MATTERS RELATING THERETO

OLD BUSINESS

1. **Resolution # 254**

A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, CONSENTING TO THE MAYOR'S APPOINTMENT OF CRAIG STANKOVICH AND MICHAEL LUNA TO THE BOARD OF DIRECTORS OF THE BARATHAVEN COMMUNITY IMPROVEMENT DISTRICT

STAFF COMMUNICATIONS

1. City Attorney
2. City Engineer
3. Staff
4. Aldermen
5. Mayor

CLOSED SESSION

Roll call vote to hold closed session pursuant to RSMo 610.021 section _____

- Litigation and Privileged Communications (1)
- Real Estate (2)
- Personnel (3)
- Labor (9)
- Bid Specs (11)
- Audit (17)

RETURN TO REGULAR MEETING AGENDA

ADJOURNMENT

The City of Dardenne Prairie Board of Aldermen meeting was called to order at 7:24 p.m. The meeting was held at Dardenne Prairie City Hall located at 2032 Hanley Road.

The meeting was opened with the Pledge of Allegiance followed by the invocation by Dr. Alan Johnson.

Present at roll call were Mayor Zucker, Aldermen Klingerman, Nay, Gotway, Stipes and Koch. Also present were City Clerk Kim Clark, City Engineer Luke Kehoe and City Attorney John Young. Staff members Jeff Amelong and Tommie Monroe were also in attendance.

OPEN FORUM - No one present to speak.

CONSENT AGENDA

1. Board of Aldermen Minutes 08-05-15 & 08-19-15
2. Workshop Summary 08-05-15 & 08-19-15
3. Expenditures for Approval 09-02-15
4. Treasurer's Report – As of June 30, 2015
5. Temporary Use Permit – ICD – Retail Sales (Christmas Trees)
6. Temporary Liquor License – ICD Fall Festival – October 4, 2015

With no objections, the consent agenda is approved and adopted.

NEW BUSINESS

A motion was made by Alderman Gotway, Seconded by Alderman Koch to adopt Resolution #253. Motion passed unanimously. Roll call was as follows:

Alderman Koch – Aye	Alderman Klingerman – Aye
Alderman Stipes – Aye	Alderman Nay – Aye
Alderman Gotway – Aye	

Resolution # 253

A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, CONSENTING TO THE MAYOR'S APPOINTMENT OF TOM VONDERHEID TO THE BOARD OF DIRECTORS OF THE BARATHAVEN COMMUNITY IMPROVEMENT DISTRICT

A motion was made by Alderman Gotway, Seconded by Alderman Klingerman to postpone Resolution #254 until 09-16-15. Motion passed unanimously.

Resolution # 254

A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, CONSENTING TO THE MAYOR'S APPOINTMENT OF CRAIG STANKOVICH AND MICHAEL LUNA TO THE BOARD OF DIRECTORS OF THE BARATHAVEN COMMUNITY IMPROVEMENT DISTRICT

A motion was made by Alderman Stipes, Seconded by Alderman Gotway to adjourn the meeting at 7:30 p.m. Motion passed unanimously.

Respectfully submitted,

Kim Clark, City Clerk

**EXPENDITURES FOR APPROVAL
9/16/2015**

1 AFLAC	September, 2015	174.36
2 Ameren	Street Lights to 09/01/15	50.54
3 Ameren	Street Lights to 09/04/15	108.86
4 County Land Maintenance	Fertilizer: BaratHaven & City Hall Park	785.00
5 Court-Missouri Department of Revenue	Crime Victims: August, 2015	1,003.83
6 Court-Sheriff Retirement Fund	Retirement Fund: August, 2015	411.00
7 Court-St. Charles County-Dom Violence Fund	Court Fines: August, 2015	278.00
8 Court-Treasurer; State of Missouri	POST Fees: August, 2015	139.00
9 Gateway Lock & Security	Door Lock Maintenance	125.00
10 Government Finance Officers of Missouri	Annual Membership: Clark	50.00
11 Hazelwood & Weber	August, 2015 Legal Fees	11,148.62
12 Insurance: Capital Administrators	Vision: September, 2015	98.95
13 Kehoe Engineering	Engineering August, 2015	11,126.20
14 Kehoe Engineering	Reimbursable Engineering: August, 2015 (85%)	198.76
15 MPA Promotions	Officials Apparel	230.00
16 MyGov, LLC	Building Dept Software: October, 2015	600.00
17 nCisive Consulting	Computer Maintenance	540.00
18 Office Essentials	Office Supplies	115.25
19 Parks: 4 Imprint	Prairie Day Giveaway Totes	825.33
20 Parks: C&R Sound	Prairie Day Sound	250.00
21 Parks: Parties by Prilla	Prairie Day Entertainment	550.00
22 Parks: Robert Asher	Prairie Day Caricature Artist	400.00
23 Parks: S& K Manufacturing	Prairie Day Sponsor Banner	128.00
24 Parks: Shop N Save	Prairie Day Fall Décor	300.00
25 Parks: The Clowns	Prairie Day Face Painter	260.00
26 Parks: Various Vendors	9/25 Senior Luncheon Supplies	300.00
27 Parks: Various Vendors	Prairie Day Supplies	250.00
28 PASS Security	Quarterly System Monitoring	78.00
29 Proactive Money Management	Resident Guide Printing	1,000.00
30 Professional Irrigation Systems	Irrigation Repair	621.12
31 Sam's	Digital Camera	499.00
32 St. Charles County Dept of Corrections	Inmate Housing	200.00
33 St. Louis Post Dispatch	Request for Bid Notice	1,025.77
34 Tracker Designs	Monthly Website Search Engine & Quarterly Update	140.00
35 Windstream	Phones	612.60
		34,623.19

Approved by Board of Aldermen 09-16-15

Mayor David C. Zucker

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE,
MISSOURI, ESTABLISHING THE AD VALOREM TAXES
FOR ALL REAL AND TANGIBLE PERSONAL PROPERTY
WITHIN THE CITY OF DARDENNE PRAIRIE, FOR THE
PERIOD OF JANUARY 1, 2015 TO DECEMBER 31, 2015**

WHEREAS, the City of Dardenne Prairie has calculated its General Fund property tax rates in accordance with the Missouri State Auditor’s Office instructions; and

WHEREAS, upon proper notice and pursuant to § 67.110, RSMo., a public hearing was held on the proposed rates of taxes and all interested persons were given an opportunity to be heard;

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

SECTION 1. Tax Levy. That there shall be levied and collected in the manner prescribed by law, the following taxes on Real Estate and Personal Property for the year 2015 of Eleven and Fifty-nine Hundredths Cents (\$0.1159) per One Hundred Dollars of assessed valuation broken down as follows:

Real Estate (Residential):	\$204,120,337
Real Estate (Commercial):	\$ 18,620,616
Real Estate (Agricultural):	\$ 92,284
Personal Property:	\$ 36,337,764
Railroad & Utilities:	
State Assessed Real:	\$ 60,768
State Assessed Personal:	\$ 124,378
Local Assessed Real:	\$0
Local Assessed Personal:	\$0
Total:	\$259,356,147

SECTION 2. Delinquent Payment Policy.

(a) That there shall be collected on all delinquent real estate taxes in addition to the amount of delinquent tax, a penalty in the sum of eighteen percent of each year’s delinquency, except that said penalty shall not exceed two percent per month, or fractional part thereof, or eighteen percent annually.

(b) That all lands and lots, on which said taxes are delinquent and unpaid, are subject to sale to discharge the lien for the delinquent and unpaid taxes, according to the practice

and procedure set out in Chapter 140, RSMo. 1986 and subsequent revisions.

(c) That in any suit brought by the City to recover said delinquent taxes and penalties, a fee in the amount of ten percent of the taxes due, but in no event less than five dollars, shall be allowed the attorney for the City.

SECTION 3. Tax Rate Ceiling. The Board of Aldermen hereby determines and declares that the City General Fund tax rate ceiling under Sections 137.073.5 and 137.073.6(2) Revised Statutes of Missouri, as amended, to be \$0.25 for each one hundred dollars assessed valuation.

SECTION 4. Effective Date: This Ordinance shall be in full force and take effect from and after the date of its final passage and approval.

SECTION 5. Savings: Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in manner connected with the subject matter hereof.

SECTION 6. Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer valid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

[Remainder of page intentionally left blank,
signature page to follow.]

Read two times, passed, and approved this _____ day of _____, 2015.

As Presiding Officer and as Mayor

Attest:

City Clerk

Approved this _____ day of _____, 2015.

Mayor

Attest:

City Clerk

RBA FORM (OFFICE USE)

MEETING DATE: September 16, 2015

Regular (X) Work Session ()

ATTACHMENT: YES (X) NO ()

Contract () Ordinance (X) Other ()

Request for Board Action
By: Mayor ZUCKER

- **Description:** Adopt a new provision of the Municipal Code to require greater notice to the public of proposed changes to zoning, proposed planned unit development, proposed conditional use permits, and other actions by the Planning & Zoning Commission and the Board of Aldermen.

- **Recommendation:** Staff – Approve () Disapprove ()

- **Summary/Explanation:** Provide more notice to the public of applications submitted for action by the P&Z and BOA, to include changes to zoning classification, proposed PUD applications (area and final), and conditional use permits. Presently, the minimum requirement for legal notice is publication in a newspaper and posting at city hall 15 days in advance of a public hearing. The legally required minimum notice is not effective in communicating to the public.

Additional Notice: 1. Proposed actions which are subject to approval by the P&Z and or BOA should be posted conspicuously on the City's Website at least 15 days prior to a scheduled meeting of P&Z or BOA. 2. Signs (6 square ft.) should be placed on the parcel that is subject of the hearing so as to inform the public of the scheduled action and date, time and place of the public hearings. Signs should also have a device to contain take away notices (8 X 11 paper providing the notice and summarizing the action to be heard by P&Z/BOA) along the lines of the curbside handouts provided by realtors for residential property offered for sale.

Bill 1532 is a substitute for Bill 1532 A which was the text reviewed and forwarded by the P&Z Commission. Bill 1532 harmonizes several sections of the Zoning Code and makes a distinction between notice required by state law and additional notice undertaken by the city to go above and beyond state legal requirements. This version was revised by legal counsel at Mayor's request.

- **Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)
TBD; Cost of signs and time to place them on parcels subject to notice.

RBA requested by: Mayor Zucker and Commissioner John Collins

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI AMENDING VARIOUS PROVISIONS OF CHAPTER 405 OF THE MUNICIPAL CODE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI AND PROVIDING FOR ADDITIONAL REQUIREMENTS FOR NOTICE TO THE PUBLIC PRIOR TO PUBLIC HEARINGS BEFORE THE PLANNING AND ZONING COMMISSION AND BOARD OF ALDERMEN

WHEREAS, the Board of Aldermen, having received the report and recommendation of the Planning and Zoning Commission, considered the proposed amendment to the Zoning Ordinance of the City of Dardenne Prairie after conducting a public hearing thereon at which all interested persons were heard.

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

SECTION 1. That Subsection C of Section 405.260 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and is hereby amended by deleting it in its entirety and replacing it, in lieu thereof with the following:

- C. Public hearings before the Planning and Zoning Commission and the Board of Aldermen shall be conducted after notice required pursuant to Section 405.871 of this Code. The public hearings may be held jointly with a public hearing on any zoning change for the tract in question.

SECTION 2. That Subsection A of Section 405.475 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and is hereby amended by deleting it in its entirety and replacing it, in lieu thereof with the following:

- A. Upon receiving the application for a Conditional Use Permit, the Planning and Zoning Commission and Board of Aldermen shall hold public hearings on the proposal. Such public hearings shall be conducted after notice required pursuant to Section 405.871 of this Code.

After review of the application for conditional use and the public hearing, the Planning and Zoning Commission shall make findings of fact as to whether or not the standards described in Subsection (B) of this Section have been met by the applicant. The burden of proof shall be on the applicant to prove that said standards have been met by the applicant. Thereafter the Planning and Zoning Commission shall either:

1. Postpone consideration of the Conditional Use Permit due to lack of sufficient information to make a recommendation to the Board of Aldermen;
2. Recommend approval to the Board of Aldermen;
3. Recommend approval with conditions to the Board of Aldermen;
- or
4. Recommended denial of the Conditional Use Permit.

Upon receipt of a recommendation from the Planning and Zoning Commission, the Board of Aldermen shall have the authority to grant a Conditional Use Permit. The Conditional Use Permit under consideration by the Board of Aldermen shall be in the form of an ordinance. Said ordinance shall include all findings and conclusions of the Board of Aldermen in support of granting the Conditional Use Permit, as well as conditions, safeguards and restrictions upon the conditional use deemed necessary by the Board of Aldermen.

Upon the denial of a conditional use by the Board of Aldermen, by means of an affirmative vote of the Board of Aldermen to reject the bill proposing the conditional use or upon the failure of the bill to pass as an ordinance for lack of sufficient votes in favor, the Board of Aldermen shall, no later than the next regular meeting of the Board of Aldermen, prepare and approve the findings of fact and conclusions of law setting forth the Board's reasons for denying the conditional use. The date of the Board's approval of the findings of fact and conclusions of law shall be deemed the effective date of the denial of the requested conditional use.

SECTION 3. That Subsections B and C of Section 405.870 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and are hereby amended by deleting them in their entirety and replacing them, in lieu thereof with the following:

- B. A public hearing before the Planning and Zoning Commission shall be conducted after notice required pursuant to Section 405.871 of this Code. Upon the final hearing of such application, the Planning and Zoning Commission shall submit its findings and recommendations for approval or denial of the proposed change of zoning to the Board of Aldermen.
- C. A public hearing before the Board of Aldermen shall be conducted after notice required pursuant to Section 405.871 of this Code.

SECTION 4. That Chapter 405 of the Municipal Code of the City of Dardenne Prairie, Missouri, be and it is hereby amended by adding thereto a new Section 405.871, to read as follows:

SECTION 405.871: REQUIREMENTS FOR PUBLIC HEARING NOTICE

- A. *Notice of Public Hearing(s), When Required.* Except where otherwise required pursuant to this Code, notice of public hearings before the Board of Aldermen and the Planning and Zoning Commission required under this Chapter shall be provided pursuant to the requirements of this Section.
- B. *Legal Notice to be Published.* The City will prepare the legal notice advertising the public hearing(s). The legal notice shall be published in a newspaper of general circulation throughout the City at least fifteen (15) days prior to the dates of any public hearings before the Planning and Zoning Commission and Board of Aldermen. The legal notice shall contain the date, time, place and general purpose of the public hearing(s).
- C. *Additional Notice.* In addition to the legal notice required pursuant to subsection B of this Section, the City shall require the following notice:
1. *Notice to be Posted on Website and City Hall.* Notice of public hearings shall also be posted on the City's official website, (www.DardennePrairie.org) in a readily noticeable format at least fifteen (15) days in advance of public hearings. Written notice shall also be posted for public view at City Hall in a place generally accessible to the public during normal business hours.
 2. *Notification To Adjacent Property Owners.* The petitioner or applicant shall make a good faith effort to notify by mail all persons identified in the information provided to the City pursuant to Sections 405.250.A(8), 405.470.A(6) and 405.865.A(6) of the City Code. Such notices shall be postmarked at least fifteen (15) days prior to the date of the hearing..
 3. *Sign Posting Requirements.* The City shall cause a sign(s), the face of which is at least six (6) square feet in size, to be posted upon the subject property advertising the public hearings before the Planning and Zoning Commission and Board of Aldermen. Notice shall also be printed on 8.5 X 11 inch paper, at least fifty (50) copies of which shall be placed in a container attached to each sign so that members of the public may retrieve such printed notice from the container.
 - a. *Required Number of Signs.* One (1) sign will be placed along each street that abuts the property that is subject to the public hearing. However, the Code Enforcement Officer shall have the discretion of waiving the requirements for sign placement along multiple street frontages if he/she determines that sign placement along the most heavily traveled street frontage(s) will suffice. If the subject property has more than three hundred (300) feet of frontage along any street, the Code Enforcement Officer shall have the discretion of requiring the placement of additional signs. If the subject property does not abut a street, the sign(s) will be placed on each side of any contiguous land owned by the petitioner, applicant or

owner(s) of the subject property which does abut a street. If no such contiguous property is owned by the petitioner, applicant or owner(s) of the subject site, the sign(s) will be placed in such location(s) as deemed appropriate by the Code Enforcement Officer to best inform the general public of the public hearing(s). If the Code Enforcement Officer determines that there is no location where a sign could be placed that would be visible to the general public, the Code Enforcement Officer shall have the discretion of waiving the sign posting requirements.

- b. *Sign Placement.* The required sign(s) will be posted in a conspicuous location unobstructed to view from the street. The required sign(s) will not be erected in a manner that would obstruct the vision of motorists or pedestrians.
- c. *Sign Posting and Removal.* Sign(s) required to be posted pursuant to this subsection 3 shall be posted at least fifteen (15) days prior to the public hearing and shall remain posted until final action is taken by the Board of Aldermen on the subject of the public hearing. The City will cause the removal of all signs within seven (7) days of such final action.

- 4. *Special Circumstances.* When notice of public hearing is required under subsection A of this Section for actions affecting more than one (1) parcel of real property, the City may forego placement of signs on each parcel. Instead the City may place signs at various locations within and near the affected areas which, in the discretion of the Code Enforcement Officer, will provide sufficient notice to the general public of the public hearings.
- 5. *Failure to Post Additional Notice.* Failure to provide additional notice per the requirements of this Section shall entitle the Planning and Zoning Commission and the Board of Aldermen to postpone the public hearing for which the notice was required until such time as the Planning and Zoning Commission or the Board of Aldermen is satisfied that additional notice has been provided to the public consistent with the intent and purpose of this Section.

- D. The Code Enforcement Officer is hereby empowered to prescribe and maintain such forms and procedures as he/she finds necessary to accomplish his/her function consistent with the provisions of this Section.

SECTION 5. Savings Clause: Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

SECTION 6. Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in

all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 7. Effective Date: This Ordinance shall take effect and be in force from and after its passage by the Board of Aldermen and its approval by the Mayor of the City of Dardenne Prairie, Missouri.

Read two (2) times, passed, and approved this _____ day of _____, 2015.

As Presiding Officer and as Mayor

Attest:

City Clerk

Approved this _____ day of _____, 2015.

Mayor

Attest:

City Clerk

RBA FORM (OFFICE USE)
MEETING DATE: September 16, 2015
Regular (X) Work Session ()
ATTACHMENT: YES () NO ()
Contract () Ordinance (X) Other ()

Request for Board Action
By: Mayor ZUCKER

Ward: All

• **Description: Approval of negotiation and execution of Consignment Agreement**

• **Recommendation: Staff – Approve () Disapprove ()**

- **Summary/Explanation: In 2009 City purchased a 50 kW Yazaki Chiller for \$49,000. It was never installed and is useless to the City**
- **A retailer purchaser has not been located and the manufacturer will not take it back and refund the purchase price.**
- **A Company that builds and supplies solar energy facilities is willing to take the Chiller on consignment in the expectation that a future customer will agree to purchase the Chiller at a discount for use in customer's project.**
- **BOA has agreed to discount the Chiller by half. Shipping cost will be about \$1000. Mayor proposes to price sale at \$26,000.**
- **Lawyers drafted a consignment contract to protect city's interest.**
- **Mayor proposes to negotiate a final contract, ship the Chiller and wait for subsequent sale.**
- **City will recover the use of the storage closet where Chiller now sits**

• **Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

Net after cost of shipping and repairs made to wall getting Chiller out the door will be about \$24-25K.

RBA requested by: Mayor Zucker

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE,
MISSOURI, AUTHORIZING THE MAYOR TO
NEGOTIATE AND EXECUTE A CONTRACT FOR THE
CONSIGNMENT SALE OF A 50KW YAZAKI CHILLER
WITH SOLAR PANELS PLUS, LLC; AND OTHER
MATTERS RELATING THERETO**

WHEREAS, the City of Dardenne Prairie, Missouri, purchased a 50 kW Yazaki Chiller (“Product”) meant for use with a solar panel power system for City Hall in or about 2009;

WHEREAS, the City subsequently decided not to install a solar panel power system for City Hall and the Product became surplus property owned by the City and serving no useful purpose;

WHEREAS, the manufacturer of the Product will not accept the return of the Product in exchange for the original purchase price and no retail purchaser for the Product has been identified;

WHEREAS, the Board of Aldermen provided guidance to staff to find some entity willing to purchase the Product, including a consignment purchase arrangement, and provided further guidance regarding an acceptable discount from the original purchase price;

WHEREAS, Solar Panels Plus, LLC, a company in the business of constructing or furnishing solar energy facilities, has expressed willingness to sell the Product on a consignment basis;

WHEREAS, the City has drafted a consignment agreement designed to facilitate the sale of the Product in collaboration with Solar Panels Plus, LLC;

WHEREAS, the Board of Aldermen finds and determines that it is in the best interest of the City of Dardenne Prairie to authorize the Mayor to negotiate the terms of a consignment agreement with Solar Panels Plus, LLC in an effort to recover a reasonable sum of money for the disposition of the Product;

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

SECTION 1. CONSIGNMENT AGREEMENT

A. That the Mayor of the City of Dardenne Prairie, MO is authorized to negotiate and execute a Consignment Agreement substantially in the form, terms, and provisions of the document styled

“Consignment Agreement” marked as **Exhibit A**, attached hereto and incorporated by reference herein, by and between the City of Dardenne Prairie, Missouri, and Solar Panels Plus, LLC.

B. That the Mayor is hereby further authorized and directed on behalf of and in the name of the City to agree to do any and all other acts and things and to execute and deliver any and all other agreements, documents, instruments and certificates, all as may be necessary and appropriate to consummate the transaction contemplated by above mentioned Consignment Agreement, and to perform all of the terms, provisions and conditions of the Consignment Agreement. The execution by the Mayor of any agreement, document, instrument, check or certificate referred to in this Ordinance and the Consignment Agreement shall be conclusive evidence of the approval thereof and of all of the terms, provisions and conditions contained therein. Any and all acts which the Mayor may do or perform in conformance with the powers conferred upon him by this Ordinance are hereby expressly authorized, approved, ratified and confirmed.

SECTION 2. Savings Clause: Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

SECTION 3. Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 4. Effective Date: This Ordinance shall take effect and be in force from and after its passage by the Board of Aldermen and its approval by the Mayor of the City of Dardenne Prairie, Missouri.

Read two (2) times, passed, and approved this _____ day of _____, 2015.

As Presiding Officer and as Mayor

Attest:

City Clerk

Approved this _____ day of _____, 2015.

Mayor

Attest:

City Clerk

"Exhibit A"

Consignment Agreement

This Consignment Agreement (the "**Agreement**") is made and entered into as of the ___ day of _____, 2015, by and between the City of Dardenne Prairie, Missouri, a political subdivision and fourth class city of the State of Missouri ("**Consignor**"), and Solar Panels Plus, LLC, a Virginia limited liability company ("**Consignee**") (collectively, the "**Parties**", and each, a "**Party**").

WITNESSETH:

WHEREAS, Consignor is in possession of a piece of equipment, known as a 50 kW Yazaki Chiller (the "**Product**"), meant for use with a solar panel power system for the Consignor at its City Hall; and

WHEREAS, because Consignor no longer desires to install a solar panel power system on its City Hall, the Product is surplus property of the Consignor and Consignor desires to sell the Product; and

WHEREAS, Consignee is in the business of installing, distributing and manufacturing solar products; and

WHEREAS, Consignee desires to enter into this Agreement, to obtain delivery of, and possession of the Product from Consignor on a consignment basis for the purpose of its sale by Consignee to a third party; and

WHEREAS, Consignor desires to enter into this Agreement for the delivery and sale of the Product by Consignee pursuant to the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Consignment of the Product.

1.1 Consignment for Resale. On or about _____, Consignor, at its sole cost and expense, shall deliver to Consignee the Product for the purpose of its sale by Consignee to a third party. Consignor shall deliver the Product to Consignee's facility located at 2133 Smith Avenue, Chesapeake, Virginia 23320 (the "**Facility**"). The delivery and sale of the Product will be on a consignment basis in accordance with this Agreement.

1.2 Inspection By Consignee.

(a) Consignee shall receive the Product delivered to the Facility, and shall inspect the Product immediately upon delivery. Consignee agrees to accept the bill of lading, express receipt or similar delivery document as conclusive evidence of the condition and quality of the Product at the time of its delivery, unless Consignee notifies Consignor, in writing, of any defect in the condition or quality ("**Nonconformity**"), on or before the fifth (5th) day after delivery.

(b) Any Nonconformity shall result in the Product being returned by Consignee to Consignor at Consignor's cost, provided that Consignee notifies Consignor in writing at least five (5) days prior to such return.

1.3 Storage of the Product at the Facility; Inspection By Consignor.

(a) Consignee shall store the Product in the Facility in such a manner as to protect it from damage or deterioration, and Consignee shall identify the Product as the property of Consignor by conspicuous sign or placard.

(b) For the purposes of this **Section 1.3**, Consignee hereby represents and warrants that the Facility designated herein is appropriate for and conducive to the storage of goods such as the Product, and will permit the storage thereof free from hazards and damage of any nature whatsoever. If, for whatever reason, either Party believes or has reason to believe that the Facility is no longer appropriate for the proper storage of the Product, the Parties shall, by mutual agreement, locate another facility suitable for the storage of the Product. It shall be the responsibility of Consignee, however, to maintain the Facility throughout the term of this Agreement in such manner so as to remain suitable for the storage of the Product, including maintenance of the insurance coverage described in **Section 13**.

2. Title and Risk of Loss.

2.1 Title Retained By Consignor. Consignor shall retain title to the Product unless and until it is purchased by Consignee at the time of resale to a third party. When Consignee resells the Product to a third party, title to the Product shall pass from Consignor to Consignee by a Bill of Sale in the form of Exhibit A attached hereto and incorporated by reference herein, and immediately thereafter from Consignee to the third party.

2.2 Risk of Loss Passes Upon Delivery.

(a) Consignor retains the risk of loss, theft or damage to the Product until the Product is delivered at the Facility.

(b) Notwithstanding **Section 2.1**, Consignee assumes the risk of loss, theft or damage to the Product upon delivery of the Product at the Facility. Consignee shall pay Consignor the replacement cost of the Product if it is lost, stolen or damaged after it is delivered at the Facility.

3. Consignor's Security Interest in the Product.

3.1 Grant and Perfection of PMSI. Without derogation of Consignor's rights as owner of the Product consigned hereunder, Consignee hereby grants to Consignor, as security for the payment by Consignee of the purchase price of the Product, as and when due, a purchase money security interest in all of Consignee's right, title and interest in and to the Product. In particular, Consignee authorizes Consignor, pursuant to Article 9 of the Uniform Commercial Code ("UCC"), as adopted in Missouri, to file UCC financing statements, as Consignor may deem appropriate, in such jurisdictions as Consignor may deem appropriate in order to perfect Consignor's interest in the Product and the proceeds thereof, and Consignor is authorized to take such other steps as may be necessary to secure Consignor's rights in and to the Product. Consignee shall further assist Consignor in fulfilling any and all notice requirements for the purpose of maintaining its priority ownership interest in and to the Product.

4. Liens, Encumbrances and Indemnity.

4.1 Liens and Encumbrances. Consignee shall maintain the Product free and clear of and from and against all liens and encumbrances of any nature whatsoever, including, but not limited to, the secured interest held by Fulton Bank in, among other things, "All Inventory, Chattel Paper, Accounts, Equipment and General Intangibles" of Consignee.

4.2 Indemnity. Consignee shall indemnify and hold harmless Consignor from and against any loss or damage caused by acts of Consignee, whether or not authorized by this Agreement, which result in any such liens or encumbrances being placed upon the Product, including all costs, fees and expenses incurred by Consignor in commencing or participating in such proceedings as are necessary for Consignor to defend its ownership interest in the Product.

5. Price. The price to purchase the Product from Consignor shall be Twenty-Six Thousand and 00/100 Dollars (\$26,000.00) ("**Purchase Price**"), payable by Consignee to Consignor under the terms of **Section 6**.

6. Payment.

6.1 Notice of Sale. Consignee shall notify Consignor, in writing, of the sale of the Product within five (5) days of the Sale and Consignor shall deliver to Consignee the Bill of Sale. No later than fifteen (15) days after the date that the Product is sold, Consignee shall pay to Consignor the Purchase Price by cashier's check or wire transfer of immediately available funds to an account designated by Consignor.

6.2 Credit Risk on Resale to a Third Party. Consignee is responsible for all credit risks regarding, and for collecting payment for, the Product when resold, whether or not Consignee receives full payment from a third party. The inability of Consignee to collect the purchase price from any third party for the Product shall not affect Consignee's obligation to pay Consignor for the Product when resold by Consignee.

7. Consignee's Responsibilities. Consignee shall:

(a) clearly and conspicuously label the Product as property of Consignor; and

(b) secure and protect the Product stored in the Facility from loss or damage using the same degree of care that Consignor uses to protect its own products and stock, but in no event less than a commercially reasonable degree of care.

8. Return of the Product. The Product shall at all times be subject to the direction and control of Consignor, and on Consignor's demand, Consignee shall promptly return the Product in accordance with Consignor's instructions. In addition, Consignee may, with the prior written consent of Consignor, return the Product. Consignor shall bear the risk of loss and the expense of returning the Product.

9. No Authority To Act For Consignor. Consignee shall conduct all of its business relating to the processing of the Product in Consignee's name and at Consignee's sole cost and expense, and nothing herein shall authorize or empower Consignee to assume or create any obligation or responsibility whatsoever, express or implied, on behalf or in the name of Consignor, or to bind Consignor in any manner, or to make any representation, warranty, or commitment with respect to the Product on behalf of Consignor, this Agreement being limited solely to the consignment of the Product.

10. Term; Termination.

10.1 Term. Unless earlier terminated pursuant to **Section 10.2**, this Agreement shall have an initial term of six (6) months commencing on _____ and shall not automatically renew. The Parties shall have the option to renew the term for one additional six (6) month term upon a signed, written agreement confirming such renewal.

10.2 Termination. Consignor may terminate this Agreement upon written notice to Consignee if:

(a) Consignee breaches any provision of this Agreement (including its payment obligations under **Section 6**); or

(b) if Consignee (i) becomes insolvent or is generally unable to pay its debts as they become due, (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, (iii) makes or seeks to make a general assignment for the benefit of its creditors, or (iv) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

10.3 Effect of Termination. In the event of any such termination under **Section 10.2** or on the expiration of this Agreement pursuant to **Section 10.1** hereof, the Product, if unsold, shall be returned by Consignee, at Consignee's cost, to Consignor during the ten (10) day period immediately following the effective date of such termination.

11. Representations and Warranties.

11.1 Consignee's Representations and Warranties. Consignee represents and warrants to Consignor that:

(a) it is a limited liability company duly organized, validly existing and in good standing in the State of Virginia;

(b) it is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Agreement;

(c) it has the full right, power and authority to enter into this Agreement, to grant the rights and licenses granted under this Agreement and to perform its obligations under this Agreement;

(d) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary action of the Consignee;

(e) when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of Consignee, enforceable against Consignee in accordance with its terms;

(f) it is in compliance with all applicable laws relating to this Agreement, the Product and the operation of its business;

(g) it is not insolvent and is paying all of its debts as they become due; and

(h) all financial information that it has provided to Consignor is true and accurate and fairly represents Consignee's financial condition.

11.2 Warranties Disclaimer; Non-reliance. NEITHER CONSIGNOR NOR ANY PERSON ON CONSIGNOR'S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, INCLUDING ANY WARRANTIES OF (I) MERCHANTABILITY OR (II) FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE,

USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, AND (B) CONSIGNEE ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY CONSIGNOR, OR ANY OTHER PERSON ON CONSIGNOR'S BEHALF.

12. Indemnification. Consignee ("**Indemnifying Party**") shall indemnify, hold harmless, and defend Consignor and its employees, officials, agents, successors and assigns (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers (collectively, "**Losses**"), incurred by Indemnified Party arising out of or relating to any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or other, whether at law, in equity or otherwise (collectively, "**Claim**") of a third party:

(a) relating to a breach or non-fulfillment of any material representation, warranty or covenant by Indemnifying Party under this Agreement;

(b) alleging or relating to any negligent or more culpable act or omission of Indemnifying Party or its personnel (including any recklessness or willful misconduct) in connection with the performance of its obligations under this Agreement;

(c) alleging or relating to any bodily injury, death of any person or damage to real or tangible personal property, including the Product, caused by the willful or negligent acts or omissions of Indemnifying Party or its personnel; or

(d) relating to the purchase of the Product by any person purchasing directly or indirectly through Indemnifying Party; or

(e) relating to any failure by Indemnifying Party or its personnel to comply with any applicable laws.

13. Insurance Obligations. During the Term, Consignee shall, at its own expense, insure the Product for its full replacement cost, against any and all risks of fire, theft or damage pursuant to a fire and extended coverage insurance policy and such other policy or policies as may be required to provide such coverage. Both Consignor and Consignee shall be insured under such policy, as their respective interests may appear. Such policy shall provide that coverage shall not be terminated without at least thirty (30) days prior written notice to Consignor. Consignee shall provide to Consignor a certificate of insurance evidencing such coverage.

14. Miscellaneous.

14.1 Further Assurances. Upon a Party's request, the other Party shall, at its sole cost and expense, execute and deliver all such further documents and instruments, and take all such further acts, as necessary to give full effect to this Agreement.

14.2 Entire Agreement.

(a) This Agreement constitutes the sole and entire agreement of the Parties regarding the subject matter contained herein and therein, and supersedes all prior and contemporaneous

understandings, agreements, representations and warranties, both written and oral, regarding such subject matter.

(b) Without limitation of anything contained in **Section 14.2(a)**, each Party acknowledges that except for the representations and warranties contained in **Section 1.3(b)** and **Section 11.1**, neither Party has relied on any other express or implied representation or warranty, either written or oral, on behalf of the other Party, including any representation or warranty arising from statute or otherwise in law.

14.3 Notices. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement (each, a “**Notice**”) must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to time in accordance with this **Section 14.3**). All Notices must be delivered by facsimile and either nationally recognized overnight courier or registered mail (return receipt requested, postage prepaid). A Notice is deemed given on the third (3rd) business day after compliance with the requirements of this **Section 14.3**.

Notice to Consignor:

City of Dardenne Prairie
Attn: Mayor
2032 Hanley Road
Dardenne Prairie, Missouri 63368

Fax No.: _____

Notice to Consignee:

Solar Panels Plus, LLC
Attn: Jeff Kirschbaum
2133 Smith Avenue
Chesapeake, Virginia 23320

Fax No.: _____

14.4 Interpretation. Unless the context otherwise requires, references in this Agreement: (a) to sections and exhibits mean the sections of, and exhibits attached to, this Agreement; (b) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (c) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties drafted this Agreement without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted.

14.5 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

14.6 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

14.7 Amendment and Modification. No amendment to or modification of, or rescission, termination or discharge of, this Agreement is effective unless it is in writing, identified as an amendment to or modification of, or rescission, termination or discharge of, this Agreement and signed by an authorized representative of each Party.

14.8 Waiver.

(a) No waiver under this Agreement is effective unless it is in writing and signed by an authorized representative of the Party waiving its right.

(b) Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion.

(c) None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege or condition arising from this Agreement:

(i) any failure or delay in exercising any right, remedy, power or privilege or in enforcing any condition under this Agreement; or

(ii) any act, omission or course of dealing between the Parties.

14.9 Cumulative Remedies. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties or otherwise.

14.10 Assignment. Consignee shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Consignor. Any purported assignment or delegation in violation of this Section is null and void. No permitted assignment or delegation relieves Consignee of any of its obligations under this Agreement.

14.11 Successors and Assigns. This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.

14.12 No Third-Party Beneficiaries. This Agreement benefits solely the Parties to this Agreement and their respective permitted successors and permitted assigns, and nothing in this Agreement, express or implied, confers on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

14.13 Choice of Law. This Agreement, including all exhibits, schedules, attachments and appendices attached hereto and thereto, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the State of Missouri, without regard to the conflict of laws provisions thereof to the extent these principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Missouri.

14.14 Choice of Forum. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement and all contemplated transactions, including contract, equity, tort, fraud and statutory claims, in any forum other than the United States District Court for the Eastern District of Missouri or, if such court does not have subject matter jurisdiction, the courts of the State of Missouri sitting in St. Charles County, and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive

jurisdiction of such courts and agrees to bring any such action, litigation or proceeding only in such courts. Each Party agrees that a final judgment in any such action, litigation or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

14.15 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

14.16 Force Majeure. No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other Party under this Agreement), when and to the extent the failure or delay is caused by or results from acts beyond the impacted Party's ("**Impacted Party**") control, including the following force majeure events (each a "**Force Majeure Event**"): (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) requirements of applicable law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; and (g) national or regional emergency.

The Impacted Party shall give Notice within ten (10) days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of the Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of ten (10) days following written Notice given by it under this **Section 14.16**, the other Party may thereafter terminate this Agreement on ten (10) days' written Notice.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CONSIGNOR:
CITY OF DARDENNE PRAIRIE,
MISSOURI

CONSIGNEE:
SOLAR PANELS PLUS, LLC

By: _____
David C. Zucker, Mayor

By: _____
John Williams, its _____

EXHIBIT A

BILL OF SALE

For the sum of Twenty-Six Thousand Dollars (\$26,000.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City of Dardenne Prairie, Missouri (the "Seller"), does hereby sell, transfer, convey and deliver to Solar Panels Plus, LLC, a Virginia limited liability company (the "Buyer"), all of the Seller's right, title and interest in and to a certain 50 kW Yazaki Chiller (the "Product").

The sale and transfer of the Product is on an "AS IS," "WHERE IS" AND "WITH ALL FAULTS" BASIS, and the Seller expressly disclaims, and does not make, any representation or warranty whatsoever with regard to the product, including any warranties of merchantability or fitness for a particular purpose, whether arising by law, course of dealing, course of performance, usage of trade or otherwise (whether express, statutory, implied, or otherwise). Notwithstanding the foregoing, the Seller warrants and represents only that the Seller is presently the sole owner of the Product, and that the Product is free and clear of all encumbrances or liens created by Seller.

In Witness Whereof, the Seller has executed this Bill of Sale as of the ____ day of _____, 20____.

City of Dardenne Prairie, Missouri

By: _____
David C. Zucker, Mayor

RESOLUTION NO. 254

A RESOLUTION OF THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, CONSENTING TO THE MAYOR'S APPOINTMENT OF CRAIG STANKOVICH AND MICHAEL LUNA TO THE BOARD OF DIRECTORS OF THE BARATHAVEN COMMUNITY IMPROVEMENT DISTRICT

WHEREAS, on February 15, 2006, pursuant to Ordinance No. 992, the Board of Aldermen of the City of Dardenne Prairie, Missouri, established the BaratHaven Community Improvement District (the "District") in accordance with the Community Improvement District Act, Sections 67.1401 to 67.1571, RSMo, (the "CID Act"); and

WHEREAS, the District is a political subdivision of the State of Missouri; and

WHEREAS, pursuant to the terms of the Petition for the Creation of a Community Improvement District filed in the office of the City Clerk on January 17, 2006 (the "Petition"), and Section 67.1451.5 of the CID Act, the Board of Directors of the District is to be composed of five (5) members appointed by the Mayor of the City with the consent of the Board of Aldermen; and

WHEREAS, on March 16, 2011, Benjamin Stegmann was appointed to serve on the Board of Directors for the remainder of a term that expired on February 15, 2014; and

WHEREAS, on December 16, 2009, Christopher P. McKee was appointed to serve on the Board of Directors for a term that expired on February 15, 2014; and

WHEREAS, Craig Stankovich and Michael Luna represent that they meet the qualifications for membership to the Board of Directors of the District under Section 67.1451.2 of the CID Act and the Petition; and

WHEREAS, the Mayor desires to appoint Craig Stankovich as the successor director to Benjamin Stegmann on the Board of Directors of the District for the term expiring on February 15, 2018; and

WHEREAS, the Mayor desires to appoint Michael Luna as the successor director to Christopher P. McKee on the Board of Directors of the District for the term expiring on February 15, 2018; and

WHEREAS, the Mayor submitted to the Board of Aldermen for its consent the appointments of Craig Stankovich and Michael Luna to the Board of Directors of the District.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AS FOLLOWS:

Section 1. The Board of Aldermen hereby consents to the appointment of Craig Stankovich to the Board of Directors of the BaratHaven Community Improvement District for the remainder of the term to expire on February 15, 2018.

Section 2. The Board of Aldermen hereby consents to the appointment of Michael Luna to the Board of Directors of the BaratHaven Community Improvement District for the remainder of the term to expire on February 15, 2018.

Section 3. This Resolution shall be in full force and take effect from and after the date of its approval.

Approved this _____ day of _____ 2015.

**Presiding Officer and Mayor of
the Board of Aldermen**

Attest: _____
City Clerk