

**MINUTES
CITY COUNCIL MEETING – COLUMBIA, MISSOURI
JULY 18, 2011**

INTRODUCTORY

The City Council of the City of Columbia, Missouri met for a regular meeting at 7:00 p.m. on Monday, July 18, 2011, in the Council Chamber of the City of Columbia, Missouri. The Pledge of Allegiance was recited, and the roll was taken with the following results: Council Members KESPOHL, DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT and THORNHILL were present. The Assistant City Manager, City Counselor, City Clerk and various Department Heads were also present.

APPROVAL OF THE MINUTES

The minutes of the regular meeting of July 5, 2011 were approved unanimously by voice vote on a motion by Mr. Thornhill and a second by Mr. Dudley.

APPROVAL AND ADJUSTMENT OF AGENDA INCLUDING CONSENT AGENDA

Mr. Kespoehl made a motion to add R119-11 to new business. The motion was seconded by Mr. Thornhill and approved unanimously by voice vote.

The agenda, as amended, was approved unanimously by voice vote on a motion by Mr. Dudley and a second by Ms. Hoppe.

SPECIAL ITEMS

Future Percent for Art Project –Short Street Parking Garage.

Mr. St. Romaine provided a staff report.

Yolanda Ciolli, 156 Maple Grove Way, stated she was a member of the Standing Committee on Public Art and a member of the Commission on Cultural Affairs and noted she was present on behalf of the Commission of Cultural Affairs. She understood the Short Street Parking Garage project was underway and that it met all of the guidelines for designation as a Percent for Art project. As a result, the Commission was recommending it be approved as a Percent for Art project. She explained the Percent for Art program began in 1997 and the resolution establishing the program focused on opportunities to enhance the public environment of the City, promote economic development and civic pride and expand the value of public buildings. She noted the significance of the arts had been recognized by the community through the 2008 visioning process, which identified goals of Columbia sustaining and creatively expanding its foundation for arts and culture in the community and for arts and culture to be central to daily life and accessible to all equally, and she believed the Percent for Art program accomplished those objectives. She understood finding money for arts projects was difficult, but felt they needed to look at the value of the arts project to the community now and in the future. She believed fostering the arts had influenced the local economy and added to the quality of life in Columbia, and pointed out the July 18, 2011 edition of Forbes listed Columbia as the eighth best place to live in the small city category. She provided examples of how others viewed Columbia and quoted corresponding articles. She believed this project was in an ideal location for public art due to it being downtown and

due its proximity to the North Village Arts District as it would add to this developing sector of the economy and community. She thought an opportunity would be missed if this project was not designated as a Percent for Art project, and noted the Percent for Art project was budgeted within the overall construction budget, so there was not an additional cost to the project. She explained the process for selecting the artist and artwork and pointed out the City budgeted maintenance costs from the one percent budget as well. She hoped the Council would agree with the Commission on Cultural Affairs by designating the Short Street Parking Garage as a Percent for Art project.

Ms. Anthony asked if other Percent for Art projects had been completed in town. Ms. Ciolli replied there had been many and listed a few. Ms. Kacprowicz explained there had been eleven completed projects since the inception of the program in 1997.

Mr. Schmidt asked if any project had not been designated for the Percent for Art program since the program was available. Ms. Kacprowicz replied she was not aware of any.

Mayor McDavid commented that there were many amazing examples of public art within the community and listed some he liked, but noted he was not a fan of the Skyalgorithm at the Fifth and Walnut garage. He understood the project cost \$140,000 had been and the City was paying \$10,000 a year from the parking utility to fund it. He explained it was displayed in the interior staircase of the parking garage and was the most inaccessible project to the disabled community. In addition, he was not satisfied with the workmanship and provided examples of problems he had noticed. He thought they needed to use local artists for these types of projects as they had more ownership and pride since they lived in the community. He believed there needed to be more accountability and suggested this decision be deferred until the second meeting in September, so they could get through the budget as he was not sure they would want to fund a Percent for Art project at \$70,000 if there were issues involving the budget.

Ms. Hoppe stated she believed it was important to have a Percent for Art project in this parking garage due to its location at the edge of the Arts District and the importance of arts to the economy and the attractiveness of the community. She noted it was also important to have a pedestrian friendly Walnut Street, and if they did not include retail in the garage, she believed they needed to incorporate art into the building. She agreed with the need to utilize local artists when possible as there were some great artists within the City, and felt they would miss an opportunity if they did not include the garage as a Percent for Art project.

Mr. Schmidt commented that the Percent for Art program was a good program and agreed with Ms. Hoppe in that the Council should consider using this money as a solution to not creating a dead streetscape on Walnut if they did not include retail as part of the garage. He noted he was not averse to deferring the decision, but pointed out he would most likely vote in favor of it when it came back to Council for discussion.

Mr. Schmidt made a motion to designate the Short Street garage an eligible Percent for Art project. The motion was seconded by Ms. Hoppe. Mayor McDavid made a motion to amend the motion made by Mr. Schmidt and seconded by Ms. Hoppe to defer making a decision by tabling the issue to the September 19, 2011 Council Meeting. The motion was seconded by Mr. Kespohl and approved by voice vote with only Ms. Anthony voting against it.

APPOINTMENTS TO BOARDS AND COMMISSIONS

Upon receiving the majority vote of the Council, the following individuals were appointed to the following Boards and Commissions.

BICYCLE AND PEDESTRIAN COMMISSION

Ahrens, Gregory, 1504 Sylvan Lane, Ward 3, Term to expire July 31, 2014

Anderson, Sarah, 3004 Joshua Tree Court, Ward 3, Term to expire July 31, 2014

Bailey, Christopher, 803 Spencer Avenue, Ward 2, Term to expire July 31, 2014

BUILDING CONSTRUCTION CODES COMMISSION

Ms. Hoppe suggested Erik Miller, who had served for twelve years as the alternate architect representative, be considered for the architect position even though his application was submitted after the deadline.

Connell, Brian, 801 Edgewood Avenue, Ward 4, Term to expire August 1, 2014, Regular Architect

Creasy, Jay, 911 West Rollins, Ward 4, Term to expire August 1, 2014, Regular Layperson

Howe, Christopher, 1710 Cliff Drive, Ward 6, Term to expire August 1, 2014, Alternate Layperson

Scroggs, Stuart, 1008 Maplewood Drive, Ward 4, Term to expire August 1, 2014, Alternate Architect

Shanker, Richard, PO Box 10202, Ward 6, Term to expire August 1, 2014, Regular Fire Expert

COMPREHENSIVE PLAN TASK FORCE

Dushoff, Adam, 211 Anderson Avenue, Ward 1

Kramer, Veronica, 312 Westridge Drive, Ward 4

Whitt, Annelle, 3805 Keystone Court, Ward 4

HISTORIC PRESERVATION COMMISSION

Tucker, Robert, 716 W. Broadway, Ward 4, Term to expire September 1, 2012

SCHEDULED PUBLIC COMMENT

Anthony Conway – Flash flooding due to storm water run off.

Mr. Conway was not present, and therefore, did not speak.

PUBLIC HEARINGS

B179-11 Renaming a portion of Scott Boulevard, located south of Rainbow Trout Drive and north of West Millbrook Drive, to Callie Drive.

The bill was given second reading by the Clerk.

Mr. St. Romaine provided a staff report.

Mayor McDavid opened the public hearing.

There being no comment, Mayor McDavid closed the public hearing.

B179-11 was given third reading with the vote recorded as follows: VOTING YES: KESPOHL, DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, THORNHILL. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B180-11 Renaming a portion of Scott Boulevard, located between Georgetown Drive and the entrance to the Daniel Boone Little League Sports Complex, to Merideth Drive.

The bill was given second reading by the Clerk.

Mr. St. Romaine provided a staff report.

Mayor McDavid opened the public hearing.

There being no comment, Mayor McDavid closed the public hearing.

B180-11 was given third reading with the vote recorded as follows: VOTING YES: KESPOHL, DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, THORNHILL. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B181-11 Renaming a portion of Lemone Industrial Boulevard, located east of its eastern right-of-way line and west of Maguire Boulevard, to Emily Drive.

The bill was given second reading by the Clerk.

Mr. St. Romaine provided a staff report.

Mayor McDavid opened the public hearing.

There being no comment, Mayor McDavid closed the public hearing.

B181-11 was given third reading with the vote recorded as follows: VOTING YES: KESPOHL, DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, THORNHILL. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

(A) Construction of the Scott's Branch Trail from Weaver Drive to Dublin Park or along Scott's Branch corridor through the western edge of the Audubon Society property and the Bonnie View Nature Sanctuary.

Item A was read by the Clerk.

Mr. St. Romaine and Mr. Hood provided a staff report.

Mayor McDavid opened the public hearing.

Mr. Thornhill asked if staff considered the proposed area to be in a washout or flood area. Mr. Hood replied he believed the western portion of the trail, where it dropped over the hillside into the woods, would be subject to washouts.

Mr. Dudley noted those living on Bray that would have the path behind their homes were concerned about water coming into their homes from the path and asked staff to address that concern. Mr. Hood replied he believed they could put the proper cross-slope on the trail to ensure water would flow away from the houses.

Mr. Kespohl asked for difference between the cost of gravel and the cost of concrete. Mr. Hood replied a concrete trail was about three times more expensive in its initial installation than gravel, but the cost difference disappeared very quickly due to maintenance. If the section of the trail from Weaver, through the Audubon property, to where it connected with the boardwalk was done with gravel, he believed the cost would be \$40,000-\$45,000. If it was done with concrete, the cost estimate would be \$115,000-\$120,000.

Mayor McDavid asked if the City would be restricted if the Council allowed the Audubon Society to have final approval of the trail route and there was an unforeseen difference of opinion. He wondered if they were creating an unnecessary impasse. Mr. St. Romaine replied he thought they had an agreement in principle, and that the Audubon Society would allow trail in the southwesternmost portion of their property. He understood staff would work with the Audubon Society to negotiate the final path in terms of the easement.

Craig Van Matre, an attorney with offices at 1103 E. Broadway, stated he was representing the Columbia Audubon Society in negotiating a compromise, although their wish was for the trail to not be on their property. He believed the Audubon Society had been reasonable and generous in the proposal he had outlined in a letter to Council. The purpose of the clause regarding final approval was not meant for the Audubon Society to be arbitrary or capricious. It was meant to provide a voice if the trail route inflicted damage on large trees, and to allow for adjustments so any damage could be avoided if possible. He did not believe any of the conditions cited in the letter were unreasonable or unfair and did not think the Audubon Society would use them as leverage for any advantage under the circumstances. He noted some members of the Audubon Society were not happy about the compromise, but pointed out the Board of Directors had approved the proposal he submitted.

Mr. Kesphl asked if Board approval had been unanimous. Mr. Van Matre replied the vote was 10-0 with some abstentions.

Ms. Anthony asked if the Audubon Society was flexible with regard to the concrete surface. Mr. Van Matre asked if it was necessary to vote on that particular issue tonight. He felt the trail could be gravel where the ground was flat and concrete where it was steep to prevent the erosion. He did not think the Audubon Society wanted to be in a position to dictate the material used because it might require an extra expense of public dollars. He thought they wanted to be reasonable depending on the circumstances. His impression was that they would not be adamant about the use of chat in places it might not work for the long term. Mayor McDavid understood the vote tonight would be to produce an ordinance substantially in agreement with the offer from the Audubon Society, so issues such as this were subject to on-going discussion. Mr. Van Matre thought it would be good to leave staff with some flexibility to negotiate.

Libby Gill, 500 Westmount, stated she was speaking in opposition to this proposal and noted she had been a long time supporter of trails, but opposed a trail in this location as it was an undeveloped, sacred place. She understood Columbia had 65 developed parks and 32 trails, and felt Columbia could have one park that was undeveloped. She commented that she had read in the newspaper that the entire membership of the Audubon Society still had to vote on this proposal and wondered what would happen if the membership did not approve the proposal. She understood the Scott's Branch Trail had a total project cost of \$980,000 and questioned the wisdom of spending \$1 million for a highway that would only be used by a few people. She noted the Russell family provided the property to be used primarily for bird watching and to be left relatively undisturbed. She felt there were other less costly options for a trail, such as Option 4, which had a minimal cost as it would use existing travel routes, and believed Columbia was overzealous with trails as some were unused and unneeded.

Natalie Quade, 17575 N. Old No. 7, Sturgeon, Missouri, noted she had received information from Patty Hagen of the Audubon St. Louis branch, who suggested Columbia support nature tourism as it provided great benefits to communities, created and maintained beautiful wildlife preserves and attracted tourists and citizens of the community. She commented that bike racks and benches could be installed near the entrance of the path and noted boardwalks, concrete and other manmade materials would remove and impact nature users. In addition, manmade materials diminished water quality and stream vegetation. She believed the Columbia Audubon property needed to be kept clean of pollution and other harmful manmade products as those products reduced the appeal of the area to Audubon users. She thought this could be a win-win solution and that Columbia could benefit financially with some tasteful advertising of the sanctuary.

Pat Fowler, 606 N. Sixth Street, stated she had signed a petition on Earth Day to support this trail, but after recently walking the area, she hoped Council would consider a soft trail. She noted volunteers could be used to help maintain the trail and its costs and believed this area could provide a living classroom to children and others.

Catherine Parke, 413 Thilly Avenue, urged the Council to vote against placing the trail on the Audubon Society property and noted she had a citizens petition with 54 signatures that had been collected two weeks ago in opposition to a concrete trail through the Audubon property as it was unnecessary, environmentally unsound and harmful, and aesthetically unattractive. She believed this was a complex, confusing and concerning issue and pointed out staff's memo included the economic impact and the vision impact, but did not include an environmental impact. In addition, the Audubon Society was holding a two-stage vote on its compromise plan. The vote of the Board of Directors had been held in early July while the vote of its members would be held after tonight's meeting. She commented that this kind of sanctuary was an increasingly unique entity in terms of recreation, eco-awareness, tourism, the economy and Columbia's image as a thoughtful, confident, forward-looking community because not every city had a sanctuary. She also believed the opportunity to genuinely conserve was a welcomed opportunity. She asked the Council to not vote for a trail that was presumably and with virtual certainty likely to disturb the eco-balance this sanctuary had been established to create and noted that allowing more access would disturb those things people wanted to see.

Sutu Forte stated she lived on the east side of town and noted she fell in love with the Audubon Nature Sanctuary after hiking the area. She showed the Council photos of the site and described the forest and ecosystem she had experienced. She explained there were many people that did not want a trail on this property and did not agree with the compromise proposal. She believed the Audubon Sanctuary was unique and hoped the Council would reconsider placing a trail on it.

Kathleen Weinschenk, 1504 Sylvan Lane, commented that the property looked wonderful through the pictures shown and she knew many people that could not walk that wanted to see the property. She asked Council to provide for a trail that would make it possible for everyone to see the property.

Karl Kruse, 2405 Lynnwood Drive, stated he was speaking as the President of the Board of Directors of the PedNet Coalition and on behalf of several people they had worked

with on this issue over the past few months that could not attend the meeting this evening. He listed those people and noted he hoped the Council had read the article in the Tribune on Sunday written by the outgoing President of the Fairview Elementary School PTA, Sheila Chapman, as she had addressed many of the points made this evening. He noted the donor of this gift had specified in the deed that bicycle and pedestrian paths were appropriate uses. In addition, other Audubon groups had encouraged trails, to include paved trails, in their nature sanctuaries. He believed it was possible to have a beautiful nature preserve while providing trail access to bikers and pedestrians and noted this particular trail would be along the southern edge of the property and would only disturb the sanctuary to a small degree. He stated the PedNet Coalition supported the proposed compromise as it made sense, fit with the resolution the PedNet Board had adopted after the Council's first meeting and the unanimous vote of the Fairview PTA Board of Directors and worked with Columbia's policies of ensuring park facilities were accessible to the most people possible and of having a system of integrated, safe and beautiful off-road trails where possible. He thanked the Audubon Society for their willingness to meet many times on this issue. He also thanked the PTA, the people in the neighborhood, Mr. Dudley, who went beyond the call of duty to host meetings with the objective of reaching a compromise, and Mr. Kesphohl, who intervened from time to time when they were stuck on an issue.

Dale Milam, 3809 Bray Court, commented that his property backed up to the Audubon Society property and he and his wife, a former park ranger, were against any development on the property. They did not want any gravel or concrete. They wanted it to remain natural as it was nice to have a place that was natural and undeveloped that everyone could still access in Columbia.

Gary Simpson, 3609 Bray Avenue, commented that his home was at the corner of Cunningham and Bray and that he and his wife had lived there since 1999. He understood he did not legally have any rights to the property since it was owned by the Audubon Society and the City, but believed it should remain undisturbed. He noted the only current access to the property was through his property, which he did not mind, and believed that even if a path was provided, people would not necessarily stay on the path since no one would be enforcing those rules. He believed the intent of this property was to be a nice nature area, and pointed out that since the passing of Mr. Russell, there had been a constant push to put a road or trail on the property, which the neighborhood did not want. He also believed the Audubon Society was pressured into this compromise, and as a result, it was not much of a compromise.

Lisa Medley, 3513 Bray Avenue, stated she lived a couple of doors down from Mr. Simpson and had lived there since 1992. She asked the Council to do what Mr. Russell had wished, which was for the property to be left natural. She noted her kids had preferred to go through grass, trees and woods versus a trail when they were young, and felt that was true for any young child. She stated she was opposed to a trail on the property.

William Maxwell, Fairview Avenue, stated he strongly supported the trail as proposed. He noted this was not a wilderness area. It was a beautiful natural area for which accessibility should be provided to the elderly, disabled, etc. He was in favor of a bicycle trail as it would allow more people being able to enjoy the land. He commented that he was a nature lover, but felt a trail there was appropriate because placing the trail along the street

was unsafe for those in wheelchairs, the elderly and young children. He noted the person that had provided the land had indicated it was acceptable to place pedestrian and bicycle trails on the property, and thought it was selfish for those in the immediate vicinity to oppose a trail that would only minimally disturb the area. He urged the Council to vote in favor of placing the trail on the property as proposed.

Mary Kay Wade, 1221 Bradshaw Avenue, commented that the Columbia Audubon Society had pledged to continue to honor its commitment to this property being the very best nature sanctuary and environmental education site it could. She did not believe the plan that had been brought to Council was a compromise for it was exactly what the proponents of the Scott's Branch Trail had wanted all along. The compromises they had offered were to build a boardwalk or to dye the concrete green. A boardwalk had no less impact on the creek than concrete and the color of the concrete did not make it less intrusive. This was their route of choice, so it was not a compromise. The Columbia Audubon Society had fought to keep the trail off of their private property, so they could develop a sanctuary consistent with the standards of the best sanctuaries in Missouri and nationwide, and to deter further destruction of the Scott's Branch stream corridor as it passed through Dublin Park. She noted they had lost on both counts and that it was probably a predictable outcome. Trail proponents had contacted Audubon Missouri urging that organization to put pressure on Columbia Audubon to let the sanctuary issue go because bikes got people outdoors and due to safety. She pointed out people would still have to use the streets in order to access the trail from her neighborhood or from the north. In addition, the trail did not safely interconnect anything because it dead ended on Rollins Road on the north. She felt they were ignored, stonewalled and told that small children would die because of them. With regard to eminent domain, the majority of the Council had vowed early in the process they would not exercise eminent domain against them, but when the issue of safety arose, they indicated eminent domain was an option. She commented that it was under extreme duress that the Columbia Audubon Society had offered the position they had and that they still pledged to bring forth the best sanctuary and environment educational site they could.

Nellie Owen stated she did not live within the City of Columbia, but instead lived in the middle of the woods in Boone County as it was her sanctuary. She noted she was the first person in a wheelchair to be admitted to the College of Veterinary Medicine, which at the time was not ADA compliant. She saw the pictures of property and believed she could make it through the property in her manual wheelchair. She noted she had been to Rocky Forks Lake and had gone through rougher trails in a motorized chair in the past as well. She pointed out any person in a wheelchair or stroller or with a walker or a cane would need for someone to be there with them. She commented that she had been on the MKT trails before and would not go back because the bikers were rude. She believed that once they started letting people onto the private sanctuary, there would be an increase in trash and felt bicycle riders would be annoyed that people were in their way. She reiterated that she would be able to make it on those trails in a wheelchair without a boardwalk.

Peter Yronwode, 203 Orchard Court, commented that he was speaking on behalf of the non-human citizens of the community and noted he hoped the Parks and Recreation Department would be more sensitive than they had been in other situations in terms of the

trail, materials used and the impulse to continue improvements in the area. He noted he had observed the Bicycle Boulevard on Windsor and believed \$1 million could be well spent by turning Bray into a Bicycle Boulevard as that would solve the problem without invading the Audubon property. He stated the non-flying animals, such as snakes, turtles and frogs, would find any artificial trail as a barrier to their movement, so he hoped they would anticipate that problem and not allow a raised edge on the concrete. He suggested tunnels under the concrete to facilitate access if necessary. He commented that he was an advocate of PedNet, but connectivity was a low priority in his opinion in terms of this particular site. He reiterated his hope of the Parks and Recreation Department exercising the maximum sensitivity in constructing the trail and asked them to remember the reason the property existed and to not mess up the property with too much infrastructure.

Jan Dye stated she was representing the Osage Group of the Sierra Club and noted they were saddened to hear of the Audubon's compromise proposal. They felt the threat of a condemnation had forced the Audubon Society to compromise its goals of nature preservation and that it had done all of the compromising. She stated they still urged the Council to vote against any trail through the Audubon land.

Howard Hinkel, 405 Edgewood Avenue, stated he was speaking as President of the Columbia Audubon Society and found himself in a very awkward position because he agreed with so much of what had been said while also believing what had been proposed was in the best interest of the Audubon Society. He thanked the Russell's for their wonderful gift of land to the Columbia Audubon Society and the City as their generosity made it possible for Columbia to have a place to study, enjoy, learn about and learn from the nature world in an urban setting, which was not common. He also thanked those that had supported the Audubon Society during this long debate. He commented that they had hoped and argued for much different results and a different placement of this section of Scott's Branch Trail based on their concerns for habitat and wildlife, but had not convinced enough people about the importance of their position. Their support for the compromise offered was rooted in their concerns for the property, as they believed the compromise afforded them considerable input into the planning and construction of the trail. They did not want to see the land condemned, nor did they wish to see the matter go to litigation. He asked everyone to walk their already established nature trail, which was a little less one mile in length, and to share the sanctuary with them as it was a place of refuge, quiet and peacefulness.

Sid Sullivan, 2980 Maple Bluff Drive, stated he was a firm believer in eminent domain as a way to develop the City, but in this particular case he felt there were limits to eminent domain and the condemnation of land. Condemnation powers were obviously needed for a road or public building, but he questioned the use of those powers for a trail. In reading through the documents presented to Council, he felt a small group of people that wanted to have the sanctuary had been bullied. He did not see anything in the documents in terms of public policy and the public value of a sanctuary as opposed to a park. He understood the PedNet Coalition and the Parks and Recreation Department wanted transportation through a trail and noted the trail had been planned in 2002 with five alternatives, and this was the cheapest alternative. He commented that a concrete path would only encourage speeding through the park, which was intimidating to people in wheelchairs. He stated he wanted to

see more in terms of public policy and reiterated that he felt there was bullying as the City had its own revenue stream unlike the Audubon Society. He noted the documents provided by Mr. Van Matre had indicated the Audubon Society was not without cause and there were legal defenses for this. He encouraged the Council find the least obtrusive way for getting people through the park, and that did not include a concrete path through the flat lands of the park.

Marion Mace Dickerson, 3651 S. Ben Williams Road, stated she was speaking against the concrete trail. She noted the sanctuary was less than a mile and believed they could go that distance without a concrete sidewalk. She pointed out there were 65 parks and a great number of trails that were concrete. She asked why this small area could not be free of concrete. She did not feel it was accurate to say people that were disabled could not use such a trail and noted she had friends in electric and manual wheelchairs, and both used the MKT and Katy gravel trails without difficulty.

Alan Lackey, 608 Old Highway 63 South, stated he was present to support those people that wanted to maintain the sanctuary as a sanctuary for its unique contribution to Columbia. He commented that he was the former owner of a house in Parkade that had flooded annually after the area above it on Creasy Springs had been paved. He had lost the total value of that house and the City purchased and demolished it. If the homes along the trail experienced flooding due to runoff, he wondered who would be responsible and pay for them to be repaired. In addition, he believed if the trail was created and made available to children, there would be increased traffic due to parents driving their children to the trail. He also thought the possibility of accidents would increase due to bikes using the trail.

John Clark, 403 N. Ninth Street, encouraged the Council to reject the compromise solution as he believed the City should go around this property. He also urged the Audubon Society members to reject this proposal. He agreed with Mr. Sullivan in that the use of eminent domain was appropriate for clearly needed public improvements, such as a building or road, but felt it would be inappropriate to use it for a trail. Connectivity was important, but it was not more important than preserving a sanctuary or violating public policies in terms of the appropriate use of eminent domain or the threat of eminent domain. He also felt the compromise was a not compromise. He suggested the Council reject this proposal and adopt a route that went around the park to achieve the wanted connectivity.

Ginger Owen, 5775 E. Heller Road, commented that she was retired from FEMA and had traveled to many sanctuaries in the United States and the South Pacific. In every city she visited, there were brochures showing the degrees of trails and her sister, who was in a wheelchair, could not go on some of those trails because they were too steep. There were, however, many others that she was able to go on even though they were not very smooth. She thought Columbia should offer options in a brochure of the trails and leave this sanctuary as a quiet walking path because there was not another similar 22 acre property available in Columbia.

Barbara Wren, 615 Bluffdale Drive, stated the Audubon property was an amazing place and understood many planned on taking their children there. She thought it was a great idea to take children there, but not a great idea to send them alone to ride a concrete bike path. She felt anyone that owned private property should be concerned as she believed

the Audubon Society had been bullied by the threat of eminent domain. She understood eminent domain should only be used for blighted property or for major public improvement. A trail of this length was not a major public improvement. She thought it was amazing the Audubon Society was willing to let anyone enjoy its property. She was also concerned about parents allowing their children to ride these rugged paths by themselves as they could be injured and not receive attention in a timely manner. She believed a child would be found more quickly if on a public street. She asked Council to vote against a trail on this property.

Joyce Hulett, 3501 Bray Avenue, commented that she was one of the homeowners in the middle of the block on Bray Avenue and loved watching people walk through the sanctuary on the mowed path. She noted she had a friend in a wheelchair, who rode around in her yard, which was exactly like the sanctuary, and had indicated she would be happy to drive through the sanctuary as it currently existed. She noted this was a place that took one's breath away and believed it could be better than the Runge Center in Jefferson City as they had more land. The Audubon property already had trails, benches and bridges. She noted \$122 billion was spent on people viewing wildlife in the United States and thought they could get some of that money. She did not believe the trail that was going to be placed on the property would bring any additional people to Columbia, but felt the sanctuary would, and noted the \$980,000 could be used to build a shelter for children to learn about nature. She stated the survey indicated twice as many people wanted more greenspace than bike trails in Columbia and asked Council to not put a concrete trail through this property. Although the Audubon Society decided to compromise, she felt the Council could still vote to keep this area natural. She reiterated Bonnie View, the Audubon property and Fairview Park combined were bigger than the Runge Nature Center, and noted that although no trees would be impacted on the Audubon property, trees would be impacted behind Dublin. She asked the Council to vote against the trail on the Audubon property.

Les Borgmeyer, 3817 Dublin Avenue, thanked Mr. Dudley for his tireless efforts in working towards a compromise for the project and for allowing everyone to have a voice in the project. He stated he supported the compromise proposal and thanked the Audubon Board for their decision to present this option. He thought Mr. Schmidt said it best in a letter he sent him when he stated the trail system was the centerpiece of a way of life that attracted people to Columbia and made it a wonderful place to live. The community had a long history of respectful use of trails that preserved the natural environment in which they were located by making reasonable accommodations to both sides of the issue and by making the trail as minimally intrusive as possible. The City could have both an important and safe trail connection and a nature area. He too saw this as a chance for them to be an inclusive community and encouraged the Council to vote for the proposal.

Allison Vaughn, 311 Ridgeway, stated she was a natural community ecologist and pointed out such a trail through a natural area would impact biodiversity. She had seen the MKT trail go from a once very healthy wet-mesic bottomland woodland system to being completely overrun by bush honeysuckle, which the City was not correcting. Columbia used to value the idea and concept of biodiversity, but she did not see that in its leadership anymore. In this day and age, when there were so many trails and greenspaces that were

just wrecked by exotics and had no natural value, the least that could be done was to protect the few places in the City that protected biodiversity.

Greg Ahrens, 1504 Sylvan Lane, noted the people of Columbia voted for a park sales tax that included a trail from Rollins Road to where the Scott's Branch Trail ended, so he felt the trail had to be constructed. In addition, he believed there had been a compromise since the City had agreed to allow its land to be a nature area as well, so it would be larger than 22 acres. He commented that there were acres of natural areas near where he resided as well and approval of this trail on the edge of the property would not eliminate wildlife from the City.

There being no further comment, Mayor McDavid closed the public hearing.

Mr. Dudley stated this had been a long process with a lot of meetings and the Audubon Society had provided a compromise position to allow a trail to go through its property, provided they had the final say on the specifics. If Council approved the trail, he suggested they make it concrete in the places it eroded and chat and gravel in the other locations. He also wanted to ensure runoff was minimal. He suggested the concrete be flat and level with the gravel and soil that was already there. He wanted the absolute minimal destruction to the natural area and woods. He reiterated he preferred they not use concrete except in high erosion areas where it was necessary and suggested an elevated wood boardwalk.

Mayor McDavid made a motion directing staff to draft ordinances to acquire an easement from the Columbia Audubon Society and to authorize the construction phase of the project, which was essentially in compliance with the recommendations stated by the Columbia Audubon Society. The motion was seconded by Mr. Dudley.

Mayor McDavid commented that there were two competing visions. Both were right and great, but they were still different visions. The Audubon Society had received 22 acres from the Russell Family and the City had been given 90 acres. He was grateful to the Audubon Society for its work in establishing Bonnie View as a nature preserve. He thought they owed Mr. Dudley a lot of credit for tirelessly working through this process. He thanked Howard Hinkel for his invitation to walk the trail and noted it was truly a beautiful piece of property. He believed it would be an outstanding addition to Columbia in terms of its parks program and culture and people would come to Columbia to visit the area. He stated he would support the motion.

Mr. Schmidt agreed with the Fairview PTA President when she wrote that what made her sad was that these really were not competing images and that this had turned into an apparent conflict she did not feel was there. She indicated that if she thought it would hurt the birds, she would not have supported the trail. He noted Mr. Ahrens had referenced all of the additional land the City had added to the nature area. He explained he was on the Bicycle/Pedestrian Commission when Cunningham Road was removed from the Transportation Master Plan. He thought they could have both the trail and nature area, and that both parties would be happy in 20 years time. He thanked Mr. Dudley for the work he had done.

Ms. Hoppe commented that tonight they had seen people who believed passionately in their positions and felt many that supported the trail were also concerned about the environment while people that did not support the trial were supportive of alternative

transportation. She stated her view was that the property was owned by the Audubon Society and the issue was whether the Audubon Society felt the trail and type of trail would fit their vision. She did not feel she could impose her personal view on to them. She stated she was not aware of the fact this was a forced compromise because her position was that it would be wonderful if a compromise was reached, and that if there was an acceptable alternative, even if it was not the best alternative, she would not be in favor of eminent domain. Since the Audubon Society Board had approved a compromise position, she would go along with that recommendation.

Mayor McDavid pointed out the Council had already condemned land south of Dublin Park, the Giangiacomo property, for this trail. Ms. Hoppe noted the Audubon property was a special piece of property that was designated for a particular purpose. She felt it was a different issue and situation.

Mr. Thornhill commented that he had not stated he would support eminent domain in any conversations, e-mails or phone calls he had with anyone on this subject. In fact, he remembered speaking to Mr. Van Matre specifically last week when he stated he would not support it, and resented the insinuation that this compromise was forced upon the Audubon Society.

Mr. Kespohl stated he was torn on this particular issue as he was usually in favor of individual property rights. He and Mr. Van Matre had a long conversation, and Mr. Van Matre had asked him if he would vote for condemnation and he did not recall answering the question. He noted he was glad to see a compromise come forward and would keep a watchful eye on the project to ensure the land was disturbed in the least manner possible. He thanked the Audubon Society for coming forward with this proposal.

Ms. Anthony also thanked Audubon Society for the compromise it had brought forward and stated she was saddened to hear that it had not been uniformly agreed upon. She commented that she had walked the property herself, and although it was a beautiful piece of property, she felt a narrow trail could be accommodated without significantly disturbing the enjoyment of the nature preserve. After hearing the testimony tonight, she urged the Parks and Recreation Commission and staff to consider a non-concrete and more natural path that could still be used by people in wheelchairs. She stated she would support the compromise.

The motion made by Mayor McDavid and seconded by Mr. Dudley directing staff to draft ordinances to acquire an easement from the Columbia Audubon Society and to authorize the construction phase of the project, which was essentially in compliance with the recommendations stated by the Columbia Audubon Society was approved unanimously by voice vote.

B188-11 Authorizing construction of a 20-car porous surface parking lot at the southern terminus of Plymouth Drive in Fairview Park; calling for bids through the Purchasing Division.

The bill was given second reading by the Clerk.

Mr. St. Romaine provided a staff report.

Mr. Dudley asked if it would be possible to use the same grass pavers on the concrete approach to the parking lot as it would reduce water runoff. Mr. Griggs replied the manufacturer had indicated the porous paver product did not work very well when used for

turning movements, so they did not recommend it coming off of the drive. He understood it would be hard for the grass to survive.

Mr. Dudley asked about the edge of the parking lot. Mr. Griggs replied it would be a concrete curb that held in the patterns. Mr. Dudley understood there would be a concrete curb around the approach on the drive that would cause the pavers to be more stationary and stay in place. Mr. Griggs noted it would be hard for the grass to survive due to the turns. Mr. Hood explained it had been discussed, but after speaking with the manufacturer, they had come to the conclusion that it was worth the effort to try it on the parking lot, but they were not comfortable with using it on drive and the entranceway.

Mr. Thornhill asked if there was any reason this could not work for a trail. Mr. Griggs replied the cost was twice as much more than concrete. Mr. Hood stated they could look into it, but noted he was not aware of it being used for a trail.

Mr. Kespohl asked if it needed to be mowed. Mr. Hood replied if the grass got tall enough it would need to be mowed, and that was dependent. It depended on traffic. Mr. Kespohl understood driving on it would keep the grass down. Mr. Hood stated the grass was very low in the one place he had seen a similar product used and agreed traffic kept the grass low.

Mr. Schmidt commented that it would likely not be good for bicycles or wheelchairs as it would create a tripping hazard if they broke over time, but pointed out he was thrilled the Parks and Recreation Department was trying it as he would love to see a lot more of it in Columbia. Mr. Hood explained staff felt this was a good opportunity as a test the product since it was a fairly small parking lot. If it worked, they would be excited about trying it in other areas.

Mr. Schmidt asked why there would be a curb around the edge of the parking lot. He commented that they required trees in commercial parking lots, but the curbs prevented water from reaching the greenspace causing the water to end up in the storm sewer. Mr. Griggs explained it was not a raised curb. They would bury a footing and this product would be flat with the footing. It was a curb in terms of it being flush with the top of surface.

Mr. Thornhill asked for the dimensions of the parking lot. Mr. Hood replied he did not have the dimensions with him, but noted it would allow for 20 cars.

Ms. Hoppe asked if the path would be structured and shaped so stormwater went toward the grass on the sides instead of the parking lot. Mr. Hood replied he thought the answer was yes, but pointed out they would also incorporate some rain gardens to treat the water as it came off of the lot.

Mayor McDavid opened the public hearing.

There being no comment, Mayor McDavid closed the public hearing.

Ms. Hoppe stated this appeared to be a great pilot project as private businesses and individuals would be able to see the results.

B188-11 was given third reading with the vote recorded as follows: VOTING YES: KESPOHL, DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, THORNHILL. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

R118-11 Approving amendments to the FY 2011 Action Plan for CDBG and HOME funds.

The resolution was read by the Clerk.

Mr. St. Romaine provided a staff report.

Mr. Kespohl asked if the \$88,000 for the Centro Latino facility was a yearly project. Mr. Teddy replied no, and explained there was an acquisition as they had rehabilitated a building they were leasing. He noted they were ready to expend that money as soon as the Action Plan was approved. Mr. Kespohl understood the City approved \$88,000 in 2010 and asked if that money had not been spent. Mr. Teddy replied it had not been spent because it could not be spent until they received a release from HUD. Council action tonight would enable staff to forward this document to HUD for approval and the release of funds. Mr. Kespohl understood it was approved in 2010 and asked if it was not set aside then. Mr. Teddy replied it was budgeted last year, but the funds typically did not become available until the following year. He pointed out it was part of the 2010 budget approval for fiscal year 2011. Mr. Schmidt understood they were revising 2011 due to the shortfall. Mr. Teddy stated that was correct.

Mr. Kespohl asked if there was a reason other than balancing the budget for taking \$85,000 out of sidewalks. Mr. Teddy replied the Community Development Commission had reluctantly approved that amount of funding last year as the project did not define specifically which sidewalks would be addressed and there were no firm cost estimates. It was a repair and place sidewalk program and was not a defined stretch of sidewalks on any given street.

Mr. Schmidt asked if the \$88,000 for Centro Latino was what they had originally requested or if it had already been reduced. Mr. Teddy replied it was a reduction from their application, which was greater than \$130,000.

Mayor McDavid opened the public hearing.

Scout Merry stated he was the Assistive Technology Manager for the Services for Independent Living with offices at 1401 Hathman Place and noted they had requested \$43,000 in CDBG funding and had been offered \$25,000 for their ramp project. They were asking they be fully funded to increase accessibility in town by providing more ramps. He understood their request was reduced because they had not expended all of their 2009 and 2011 funds. He explained he had recently taken over this project and had changed the process so multiple ramps were being worked on at one time. He asked the Council to consider at least the \$25,000, if they did not provide full funding.

Aimee Wehmeier stated she was the Executive Director for Services for Independent Living with offices at 1401 Hathman Place and commented that the amount of money left from 2009 was approximately \$23,000 and that money would be used up with the four ramps currently being built. As a result, they would conceivably be able to start using their 2011 funding this fall. She noted they had not received that money until May of this year, so the lag time was just a few months. She hoped they would receive the requested funding, as it was being used.

There being no further comment, Mayor McDavid closed the public hearing.

Mr. Schmidt stated he understood there had been cuts to various programs and asked for clarification. Mr. Teddy replied there had been a 16 percent reduction in CDBG funds

from what they had budgeted and what they had received. They were able to offset part of the reduction with money from Hunt Avenue, which had been completed, and unused funds from a CMCA individual development account program. The net decrease was \$121,987, and the reason they recommended these program and project reductions was due to the rate at which those programs had spent money in the past. If Council was inclined to make a change to these recommendations, he suggested more be taken out of the East Side Sidewalks project. Mr. Schmidt understood those funds were used to provide accessibility on public streets. He was tempted to go with the staff recommendation. He only hoped Services for Independent Living had the opportunity to demonstrate they could use these funds as many people depended on ramps.

Ms. Anthony stated she was concerned Services for Independent Living was having difficulty with the City in getting the ramps built, and if that was the case, she did not believe they should be punished for not using the funds quickly.

Mr. Kespohl understood \$15,000 was moved from demolition to code enforcement in terms of the Neighborhood Response Team and asked if they needed more money for code enforcement. Mr. Teddy replied they did.

Ms. Hoppe suggested a compromise of restoring half of the money the Services for Independent Living was requesting with funds from the East Side Sidewalks project since the City had received federal funds for sidewalks through the Recovery Act. Mr. Schmidt commented that his concern was the fact it had already been cut by about 25 percent. Mr. Kespohl noted they could always add money to this program later as they had Council contingency funds and suggested they wait until the proposed FY 2012 budget was complete.

The vote on R118-11 was recorded as follows: VOTING YES: KESPOHL, DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, THORNHILL. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

OLD BUSINESS

B154-11 Approving Application and Guidelines for the Neighborhood Response Demolition Program; authorizing agreements to buy, maintain and sell real estate through the Neighborhood Response Demolition Program; authorizing the purchase of property at 200 Oak Street and adjacent property.

The bill was given third reading by the Clerk.

Mr. St. Romaine and Mr. Teddy provided a staff report.

Mr. Thornhill asked what the process was for determining the appraised value. Mr. Teddy replied they would order an appraisal. He noted an appraisal had been done a little over year ago when this property was being considered for acquisition through the Neighborhood Response Team program, but it would need to be redone since that appraisal was 13 months old. He noted the owners were able to obtain their own appraisal as well for comparison. Mr. Thornhill stated he wanted to ensure the appraised value was accurate in terms of the market value. He asked if there was a list of appraisers the City worked their way through. He wondered who would establish the value. Mr. Teddy replied the City would hire a qualified appraiser. Mr. St. Romaine noted the City bid a contract out every few years

and awarded the bid to a qualified appraiser. Mr. Teddy noted they had an appraiser they used for the CDBG programs.

Mr. Schmidt commented that this would authorize the City to negotiate an acquisition if the current owners were amenable and if the City felt it was in its interest to purchase the property. He understood this did not obligate the owners to sell to the City if they found a private offer. He also thought it was interesting that this was a single ordinance that included the specific case and the guidelines of the program, but noted he had received a satisfactory explanation for it. The guidelines were required due to the federal program and demolition was only a small part of the City's overall housing program.

The vote on B154-11 was recorded as follows: VOTING YES: KESPOHL, DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, THORNHILL. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B175-11 Rezoning property located on the southwest corner of Broadway and West Boulevard South (1000, 1002 and 1004 West Broadway, 3 West Boulevard South) from District R-1 to District C-P.

The bill was given second reading by the Clerk.

Mr. St. Romaine and Mr. Teddy provided a staff report.

Mr. Thornhill understood comments had been made indicating the second application was the first time the right-of-way issue had been discussed, but staff had indicated it was discussed in the first application as well. Mr. Teddy stated he believed it was in the 2010 application. Unless they had made an error, it would have been a general condition of approval.

Mark Nichols, 1305 London Drive, stated he and his business partner, Patty Mierzwa, owned the properties at 3 West Boulevard South, 1000, 1002 and 1004 West Broadway, and the business, Great Hangups, which operated out of the commercial building at 1000 West Broadway. They intended to replat these properties into one parcel and change the zoning from R-1 to C-P. The commercial building Great Hangups currently operated out of was 82 years old. It pre-dated the zoning laws and codes, and most of the area houses and buildings as well. In those 82 years, there had never been anything but a business at that corner. While businesses had been allowed at that location due to a grandfather clause, it was a non-conforming use and not any business could operate at that location. He noted he had a use variance on the house at 3 West Boulevard South that would allow the demolition of that building to construct a parking lot to service whatever business was on the corner. The use variance was granted by the Board of Adjustment in 1970 and transferred with ownership. In addition to the limitation on the type of business that could locate in that building, the outside of the building could not be altered due to its non-conforming use status. He pointed out the Planning and Development Department staff had indicated that due to the close proximity of the street and intersection, they did not believe residential zoning was appropriate for this corner. He believed this corner was a perfect candidate for infill and mixed development and suggested a multi-purpose two-story building that would offer retail and office space on the first floor and residential units on the top floor. He explained Mr. Dudley had suggested they meet with the Neighborhood Association in an attempt to gain support with regard to the future development of that corner. The Neighborhood Association

had presented a list of 20 conditions and restrictions they wanted addressed in the statement of intent, and they had included 16 of those conditions and restrictions. He commented that a 4,000 square foot building would fit on the property while still accommodating the necessary parking and a right turn lane if the City decided that was needed. The statement of intent indicated the ultimate size of the building would be determined by the number of parking spaces that would be needed per City requirements and regulations. He noted the combined footprint of the four existing buildings was approximately 6,400 square feet, which was over 2,000 square feet more than the 4,000 square feet they were currently requesting. They were only requesting an additional 300 square feet of residential space and an additional 1,300 square feet of commercial space. He pointed out D&H Drugstore, which was across the street, had a footprint of approximately 5,000 square feet. He commented that this intersection was one of the most highly traveled intersections in the City with 14,860 cars passing through each day according to the West Broadway Corridor Study. Any new development would generate less than 30 daily trips from this site according to City staff calculations. The Neighborhood Association requested that there be a limit of two bedrooms per residential unit on the top floor of the multi-purpose building they envisioned being developed, but they felt three bedrooms would be more appropriate since there would likely only be three or four residential units allowed. The Neighborhood Association had also requested that there be no balconies on second floor residential units because they felt balconies would create unwanted noise. He noted most residences in the neighborhood had front or back porches, patios, decks or some sort of outdoor space, which could create the same unwanted noise. The Neighborhood Association had also requested that no bakeries or small coffee shops be allowed, but they believed there was area support for a coffee shop or bakery. The neighbors at 5 West Boulevard and 1006 West Broadway, which were most directly affected by any development, were in support of such shops. He believed they had provided all of the necessary restrictions and conditions in the statement of intent to warrant their rezoning request and noted other specifics would be addressed when a development plan on this property was presented at a later date. He hoped the Council would approve the request as he felt this might end up being a dead corner with continually deteriorating buildings if change was not allowed. He noted the Planning and Zoning Commission had twice unanimously approved this proposal.

Richard Lawless, 5 West Boulevard South, stated he lived in the property directly next to the subject property, and that their driveways ran the length of the properties although they did not share a driveway. He believed Mr. Nichols had been very fair in his efforts to include the neighborhood. He noted he was not a huge fan of indiscriminate development, but thought a reasonable look at the size of the property and the work that had been done to try and address potential issues should allow the Council to vote in favor of the rezoning request. He did not believe this would create a huge impact on the neighborhood since the footprint on this property was small and driveways onto West Boulevard and Broadway already existed. In addition, the property would only be able to support so many parking spaces. He did not see any negative impact if approved. He did feel, however, there would be a negative impact if they did not allow this rezoning as it would be difficult to sell, and a lot of work that Mr. Nichols could not do needed to be done.

Cookie Hagan, 1107 Sunset Lane, stated she was representing the Historic Sunset Lane Neighborhood Association and thanked the Council for its vote of denial for the rezoning of this property on October 4, 2010. She hoped the Council would maintain that position and presented a video. She explained the Neighborhood Association opposed the rezoning of Great Hangups because it did not include a site plan and believed the Council had denied the previous rezoning because they had supported the Neighborhood Association's request for a site plan. She explained the reason the Neighborhood Association wanted a site plan was because they did not believe the statement of intent was binding. In addition, the applicant had insisted on adding undesirable uses to the statement of intent and an 8,000 gross floor area compared to the City recommendation of a 6,000 gross floor area. She did not feel a two-story structure was appropriate at the corner as it would change the character of the neighborhood. She commented that 80 year old private sewers could not support an 8,000 gross floor area commercial structure and those sewers would not be replaced for three years. She questioned how neighboring driveways and traffic would be impacted as the City did not have a design. She was concerned that motorists would use Hillside and Sunset to access Broadway and West Boulevard. She commented that Sunset Lane was substandard in width and did not have curbs and storm sewers. She felt it was impossible to know the appropriate rezoning and gross floor area without a site plan that included a major street renovation, and believed a potential developer needed to submit a site plan contingent upon rezoning, especially since it was a rezoning property from R-1 to C-P. The Historic Sunset Lane Neighborhood Association was asking Council to deny this request since there was not a site plan.

Kate Protzman stated she had moved into the neighborhood near Sunset Lane 13 years ago, and had chosen it because it was a residential area that was walkable and bikable to the downtown, peaceful and quiet and had little traffic and friendly neighbors. She also believed it would be a safe place to raise her children. She noted she was a single mother of two boys and their house was their only investment, so she was concerned about what this rezoning, if approved, would do to the quality of life and property values in her neighborhood. She believed this rezoning along with the potential to develop that corner into something more intensively used would increase traffic, noise and stormwater runoff and permanently alter what they now had, and this request did nothing to address the concerns of the neighborhood in terms of these problems. She understood Mr. Dudley felt Broadway was no longer residential, but noted the 2010 Development Plan for Broadway between Garth Avenue and West Boulevard aimed to keep the street two lanes in order to maintain a residential feel and lower traffic speeds. She pointed out Broadway was primarily lined with houses from the Library to HyVee and believed the people living in those houses wanted it to remain that way. She asked Council to maintain the street so it was friendly to those walking, biking and wheeling as it was safer if the street remained two lanes. She also believed the risk of Broadway becoming four lanes from West Boulevard to Clinkscales was more likely to occur if this corner was rezoned and significantly altered to be more commercially intense. She asked the Council to vote against this rezoning request as it was a sensitive area that needed a detailed site plan and a guarantee that it would maintain its present low intensity use and character of the neighborhood.

Susan McGowin, 1121 Sunset Lane, showed a video with examples of what her neighborhood feared most and believed a neighborhood friendly site plan could preserve the nature of the neighborhood and prevent Broadway from becoming Providence. She asked Council to deny the rezoning request until a site plan that included details of a potential right hand turn lane had been submitted.

Sharyl Kewley, 900 Obermiller Road, commented that she had grown up in this neighborhood and explained she did not believe significant changes had been made to the statement of intent. In addition, there was not a site plan and the gross floor area had not been reduced to City staff's recommendation of 6,000 square feet. She understood staff believed it was inappropriate to increase the density or intensity of development on the site due to its adjacency to residential land and a major street intersection. She also understood private sewer replacement would take about three years to be done and stormwater concerns had not been addressed due to limited City funding. She noted protections of the statement of intent had been removed because the statement of intent could not legally prohibit future appeals for variances from parking, signage, stormwater or any other requirement or standard within the zoning regulations. In addition, the applicant had added desirable uses to the statement of intent that had been rejected by the Planning and Zoning Commission and the Neighborhood Association, such as a deli, bakery and coffee shop. She understood cafes and delis were considered fast food restaurants and generated ten times more traffic and required twice as much parking as other uses. Restaurants would also have grease traps and trash, which would result in offensive odors wafting on to neighboring properties. In addition, there was a chance a grease trap could clog downstream sewer pipes if not properly maintained. She commented that the statement of intent would not dictate the final design of any future building and the 15 foot landscape buffer was included in the 15 percent open space requirement. The prohibited uses had been expanded, but that was meaningless since those items were already excluded, and the only significant changes to the statement of intent were the list of permitted uses. Although the applicant was not required to submit a site plan, they had risked denial by not providing it, and the Council had previously denied the rezoning request due to the lack of a site plan.

Mitchell Moore, 1210 West Broadway, stated he had maintained his law office at that location since 1989 and that his family had resided in the neighborhood since 1969. He believed the owners of Great Hangups had satisfied all reasonable questions and felt the Council should approve what would be a substantial upgrade for this neighborhood. The 4,000 square foot footprint of this proposal was less than the 5,000 square foot footprint of D&H Drugstore across the street, which had been on the same size property until recently when it expanded to add a drive-thru window. He commented that he did not believe this property was the source of stormwater problems, but if it did contribute to those problems, development of this property would create an opportunity to direct stormwater away from Sunset Lane. He noted Sunset Lane had been recently moved to the top of the list in terms of the City upgrading its sewer system and believed they could thank Great Hangups for the solution to their sewer problems at City taxpayer expense. In addition, the turn lane proposal was to the benefit of the people on Sunset Lane as well. He pointed out any unhappy Sunset Lane neighbor would have the opportunity to comment after the property was sold and a new

developer provided plans for the Planning and Zoning Commission and Council to review. He noted this proposal would merge pieces of mediocre properties into one piece of C-P property and asked the Council to give this property a chance to create an opportunity for enhancement.

Julie Barry, 1009 Sunset Lane, noted the subject property sat at the top of the hill and the reason they brought up the sewer issue was because they were at the bottom of the hill with bad sewers, which did not provide for a pleasant experience. She understood sewers were at least three years out and felt a site plan would be helpful to know how this development would affect them. She displayed a video showing their deteriorating sewer pipes.

Virginia Carpenter, 1013 Sunset Lane, stated her home was two lots away from the land involved in this rezoning request at the intersection of Broadway and West Boulevard South and that she had lived in that home for the past 30 years. She did not believe there was any commercial concern vital to this community that would trump the importance of maintaining and sustaining their neighborhood, individual homes and property values. In addition, she did not feel the wants of one should overrule the interests of many. The conversion of this property to commercial zoning would compromise their neighborhood instead of enhancing it. Residents would suffer from increased noise, traffic, parking, outside intrusions and the likelihood of crime. They wanted their residential microcosm to remain intact, safe, quiet and relaxed. She asked why a business that was grandfathered would be allowed to have more or a greater say about the current and future well-being of the entire neighborhood. She did not believe the rezoning should be granted without a development plan.

Esteban Ruvalcaba, 1116 West Broadway, stated he and his wife had lived in that location for 21 years and displayed a video, which showed traffic patterns for people wanting to get to Broadway quickly. He described what was being shown on the video and explained the problems associated with those traffic patterns, such as signage, the lack of curbs, the narrowness of the streets, etc., which was why they were concerned about additional traffic on Sunset Lane.

Margaret Ruvalcaba, 1116 West Broadway, explained she had an underground creek in her backyard and noted it was generally six feet wide when it rained. In 1993, it had been 25 feet wide with water nearly reaching the foundation of their house. She stated she and her husband were very concerned about stormwater, especially on Sunset Lane, since they did not have any storm sewers. She commented that the foundation at 1121 Sunset Lane was never dry and their yard was always washed out by stormwater as it was at the bottom of the hill. She noted the City had not appropriated funds to address these concerns and believed this rezoning was premature as it could potentially add to the problem. She displayed a video exhibiting the stormwater run off at 1109 Sunset Lane.

Charlene Adkins, 1100 Sunset Lane, stated the decision Council would make would potentially impact the delightful Old Southwest and the Historic Sunset Lane neighborhoods. Although she wished her neighbors at Great Hangups well, she asked that this property not be rezoned until a site plan acceptable to them had been produced. She noted her home was her sanctuary and the neighbors were gravely concerned a strip mall would destroy their

quality of life. They needed a site plan to determine whether what would be built would be neutral, favorable or detrimental.

Jackie Kreigh, 1862 Cliff Drive, stated she had been asked to speak on behalf of the Neighborhood Association and noted this process had taken a real toll on the neighborhood. On May 20, 2011, the Sunset Lane Neighborhood Association lost their oldest and wisest member, Bonnie Buescher. In one of her many letters to the City, Ms. Buescher had written that a home was a personal sanctuary, a place of employment and a place of security, and had requested that these not be allowed to be taken away. She indicated she had seen so many changes in her lifetime and asked that the changing of her home not be one of them. Ms. Buescher also stated there was fear in not knowing. Ms. Kreigh noted one of the core visions of the planning profession was to engage the public in discussions of what the future should be like. On October 4, 2010, the Council had upheld the engagement process with a super majority vote denying C-P rezoning for Great Hangups. She believed a detailed site plan of any future development and right hand turn lane was essential before appropriate rezoning could be determined. She asked the Council to again deny the rezoning request for Great Hangups from R-1 to C-P since a site plan had been developed and presented to the Sunset Lane Neighborhood Association.

Genni Pfannenstiel, 1116 Sunset Lane, commented that she had chosen to live her life simply amidst others who had made that same choice and displayed a video showing the neighborhood. It was a microcosm of the Columbia community and she hoped their testimony would help set a precedent for protecting one of Columbia's historic jewels. She noted they counted on the Council to uphold the principles of city government and protect a thriving neighborhood.

Amy Nichols, 1815 Boyd Lane, pointed out there were low profile businesses at the northeast corner of West Broadway and Pershing Road, which was less than two blocks west of the Great Hangups property, and that those buildings were built within the last ten to fifteen years in a previously residential neighborhood. None of those buildings were two story structures and they were attractive partly due to their low profile. She wondered why the building anticipated to be placed at the corner of West Broadway and West Boulevard South should be two stories. One story buildings had a less drastic impact on a residential neighborhood because they housed fewer businesses and required fewer parking spaces. She asked the Council to consider limiting the maximum height to one-story and to deny the C-P rezoning request.

John Clark, 403 N. North Street, commented that a report that had come out about five years ago had indicated no constituency in Columbia was satisfied with the land use regulations, policies, processes, procedures and administration, and although some progress had been made, it was not much. This situation was illustrative of these larger problems. Approval of this application would further decrease the trust the citizens of Columbia had in the competence and impartiality of the land use regulations, processes, procedures and administration. He suggested the Council reject this application as it was not substantially different than the previous one. Absent an area plan for the intersection of Broadway and West Boulevard, it would be hard to make a decent decision regarding development of this

property. He also suggested the City Manager be involved in rationalizing the administration of the current policies and procedures.

Diana Groshong, 201 West Boulevard South, stated she and her husband resided on West Boulevard South and owned two duplexes in the neighborhood on Sunset Lane and Hillside. She noted they supported this rezoning request as redevelopment of this site would provide the opportunity to correct the dysfunctions of the site and allow for needed traffic improvements. She understood rezoning the site to commercial would allow the property owner to redevelop the site without losing his right to use the site for limited commercial activities, and pointed out there was not an incentive to improve the site without rezoning. She believed the current owners had made many concessions in an effort to come to agreement with the neighbors and noted current zoning regulations already covered many of the concerns of the neighbors. She understood the City was in the design phase for sewer in the area and felt everything was in place for the rezoning. With regard to the height of the building, she noted there were other two-story buildings in the area. She believed a small building with compatible businesses and apartments would be good for the neighborhood, and understood the future development would involve the same amount of people and the same space as the existing development. She urged the Council to approve the rezoning as it would improve this corner and the neighborhood.

Blaine Alberty stated he was one of the owners of D&H Drugstore, which was located across the street, and noted they were supportive of the rezoning request.

Kee Groshong, 201 West Broadway South, commented that he was supportive of this rezoning request as he believed this was a blighted corner that was unlikely to be improved unless this rezoning moved forward.

C.J. Strawn, 1312 S. Fairview Road, stated she had known the current owners of the subject property for 25 years and noted she had been part of this process since the beginning and had seen how hard they had tried to work with the neighborhood. She understood 16 of the 20 items requested by the neighborhood had been incorporated in the statement of intent. She explained Mr. Nichols and Ms. Mierzwa had been a part of this neighborhood for a long time and cared about it greatly. She believed this was a great opportunity to have a walkable business that could potentially reduce traffic. She urged the Council to vote in favor of the rezoning request.

Ms. Anthony commented that the City's current zoning regulations did not require a development plan at the time of the request for the rezoning. She noted they were extremely expensive to put in place and Mr. Nichols had made it clear he planned to sell the property and the new owner would provide a detailed development plan that would address the remaining questions of the neighbors. The neighbors would have the opportunity to file complaints and object to it at that time. Requiring the current owners to create a development plan would be burdensome and would provide less flexibility for the new owner. She also noted the statement of intent was binding on the property, which was contrary to some of the comments made, and it was a detailed statement of intent. It included increased landscape buffers, a more restrictive sign standard and architectural standards that would provide the neighbors a better idea of how the property would look. One of the concerns of the neighbors was stormwater and any development that took place on the property had to

manage its stormwater, so this could potentially improve the situation. The other concern involved sewers and development could not occur without necessary upgrades as there could not be any adverse effects. She pointed out the Planning and Zoning Commission had voted to unanimously approve this request twice, and she thought the Council should follow their lead.

Mr. Dudley noted the Sunset Lane private common collector had been moved to 2012 per the CIP list he saw earlier today. He also felt any new development would help address stormwater problems.

Mr. Kespohl understood staff had recommended the footprint be 3,000 square feet. Mr. Teddy stated that had been their recommendation. Mr. Kespohl understood parking would dictate the size of the footprint. Mr. Teddy stated that had been the argument of the applicant and the Planning and Zoning Commission had agreed. Mr. Kespohl asked if staff agreed. Mr. Teddy replied he did not fault the Planning and Zoning Commission for going with the higher limit, and explained staff recommended 6,000 square feet since it was similar to what it was today. There was about 6,400 square feet of building on that site currently and they were recommending allowing 3,000 to be commercial, which was a little more than it was today. He pointed out that was the potential for the property. It was not an entitlement. They would have to meet the zoning regulations and prove they could get to a 4,000 square foot footprint. Mr. Kespohl understood, by ordinance, parking would dictate the size of the building. Mr. Teddy stated a variance to parking had not been allowed and the lot would have to accommodate the needed parking because on-street parking was not allowed on Broadway or West Boulevard.

Mr. Kespohl asked if stormwater detention had to be complied with on a new building by ordinance. Mr. Teddy replied it would.

Mr. Kespohl understood the neighbors were concerned about the square footage of the building, but felt the parking would dictate the size of the building. They had also requested that no new construction be permitted until the new sewer system was complete, which was scheduled for FY 2012. He also understood the neighbors wanted a restriction on coffee shops and bakeries and a limit of two bedrooms per residential unit. He assumed the restriction with regard to coffee shops and bakeries was due to traffic it might generate, but noted he was not sure why they cared if there were two bedrooms per unit or three bedrooms per unit as three units with two bedrooms and two units with three bedrooms created the same number of bedrooms. He thought the owner had tried to comply with the restrictions recommended by the neighborhood and that the statement of intent addressed all of their concerns with the exception of the four he had mentioned, and believed those had been addressed tonight.

Ms. Hoppe agreed a site plan was not required with a rezoning, but felt the applicant was risking a potential for his request to be rejected when sensitive areas and areas near existing old neighborhoods were involved. Some people tended to find a buyer and sign a contract to sell property contingent upon rezoning as it allowed the potential buyer to request the rezoning and provide a site plan. She felt they would be sending the wrong message to owners of historic homes in the Old Southwest area and on Broadway if they approved this rezoning as they would think they could let them get to a state of disrepair and request

rezoning to allow them to be repaired. She also felt there were many people in the community that invested in and preserved historic homes and commercial buildings, and the right buyer or developer could do wonderful things with that property. She understood staff had recommended 6,000 square feet instead of 8,000 square feet and not to include the deli/coffee shop use due to potential traffic problems. She recalled those recommendations were designed to ensure traffic for the new development was the same as existing traffic. She agreed traffic was a problem in the area and was concerned with approving a rezoning that might impact traffic. She stated she could not support this rezoning due the concerns of the neighbors as it would affect their lives and lifestyles, and because significant issues had not been agreed upon.

Mr. Schmidt commented that he was concerned about the message they would be sending property owners if they did not approve this request for rezoning as the process to do something was contentious and long within older neighborhoods, such as those in Ward 1. He noted a gas station on the edge of town went through without any comment, but approval for something like this was difficult to obtain. He believed the applicant had done a number of things to meet the concerns of the neighbors. He thought they wanted to encourage new urbanism and understood many had indicated they would love for a coffee shop to be placed at that location. He wished the market had been different where they might have had the resources to bring forward a plan with the rezoning request, but noted the plan was not required for rezoning because it was very expensive and required traffic, environmental impact and stormwater studies. He also thought something that served the neighborhood could potentially reduce traffic and suggested they look forward instead of backwards in terms of planning.

Mayor McDavid noted approval of the plan would be required when the property was ready to be developed, whether that was a year or five years from now, and believed they should insist on great sensitivity to the preservation of the character of the neighborhood when that occurred. He understood there were infrastructure problems that could be improved in the interim, partially due to this process. He felt a substantial buffer needed to remain between the Historic Sunset Lane neighborhood and whatever was placed on this corner and thought should try to keep the traffic off of Sunset Lane and Hillside as it was a problem that would worsen until that intersection was improved. He expected the Council to address those issues in the future when the plan was brought forward as it was essential to preserve the integrity of the neighborhood.

B175-11 was given third reading with the vote recorded as follows: VOTING YES: KESPOHL, DUDLEY, ANTHONY, MCDAVID, SCHMIDT, THONRHILL. VOTING NO: HOPPE. Bill declared enacted, reading as follows:

CONSENT AGENDA

The following bills were given second reading and the resolutions were read by the Clerk.

B174-11 **Rezoning property located on the north side of Smith Street, between Fay Street and North College Avenue (1207 Smith Street), from District O-1 to District C-1.**

- B176-11 Rezoning property located on the southeast corner of the intersection of Vandiver Drive and Range Line Street from District R-1 to District C-3.
- B177-11 Rezoning property located on the southeast corner of Coats Street and North Boulevard (1200 Coats Street) from District R-3 to District C-P; approving a revised Kardon C-P Plan.
- B178-11 Authorizing an annexation agreement with Arthur Schneider.
- B182-11 Accepting conveyances for access to storm water facilities, temporary construction, temporary access and sewer purposes.
- B183-11 Appropriating funds in the Water and Light Department for the purchase of the Columbia Terminal (COLT) Transload Facility.
- B184-11 Accepting conveyance; authorizing payment of differential costs for construction of a water main serving Crosscreek Center, Plat 1 (Phase 1); approving the Engineer’s Final Report.
- B185-11 Accepting conveyances for utility purposes.
- B186-11 Appropriating funds for Share the Light Program.
- B187-11 Appropriating funds for personnel expenditures in the Department of Economic Development.
- R111-11 Setting a public hearing: construction of improvements at the Thomas E. ‘Country’ Atkins Jr. Memorial Park Baseball Complex.
- R112-11 Setting a public hearing: consider sanitary sewer utility rate increases.
- R113-11 Authorizing an agreement with the Missouri Department of Health and Senior Services for the Show Me Healthy Women Program.
- R114-11 Authorizing an agreement with the Missouri Department of Health and Senior Services for Arbovirus Mosquito Surveillance.
- R115-11 Authorizing Adopt A Spot agreements.
- R116-11 Transferring funds to finalize and close out the Central Missouri Aviation (CMA) FBO hangar roof project.
- R117-11 Authorizing an architectural services agreement with Peckham and Wright Architects, Inc. for planning, design and construction management of office space for the City’s parking utility and Regional Economic Development, Inc. (REDI) in the Fifth Street and Walnut Street parking structure.

The bills were given third reading and the resolutions were read with the vote recorded as follows: VOTING YES: KESPOHL, DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, THORNHILL. VOTING NO: NO ONE. Bills declared enacted and resolutions declared adopted, reading as follows:

NEW BUSINESS

- R119-11 Agreeing to allow Memorial Day Weekend – Salute to Veterans Corporation to conduct air shows at the Columbia Regional Airport.

The resolution was read by the Clerk.

Mr. St. Romaine provided a staff report.

Ms. Anthony asked for the financial implications of the City if this were approved. Mr. St. Romaine replied it would be the same as in the past. He understood the City provided some assistance in terms of security for the event as did the County. Mr. Boeckmann explained this would not obligate the City to anything. An agreement would be brought to Council for approval and would likely contain the same provisions it had in the past. Council would have the opportunity to change anything it wanted then.

Ms. Anthony asked if they indemnified the City for any liability. Mr. Boeckmann replied there was an indemnification clause.

Mr. Schmidt commented that the City had been doing this forever and hoped it would continue.

The vote on R119-11 was recorded as follows: VOTING YES: KESPOHL, DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, THORNHILL. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

INTRODUCTION AND FIRST READING

The following bills were introduced by the Mayor unless otherwise indicated, and all were given first reading.

- B189-11** Voluntary annexation of property located on the east side of Creasy Springs Road, north of West Prairie Lane and south of Blue Ridge Road (3624 Creasy Springs Road); establishing permanent R-1 zoning.
- B190-11** Approving the FCS Financial New Lending Facility O-P Development Plan located on the east side of Woodard Drive, approximately 200 feet south of Amron Court.
- B191-11** Approving the Final Plat of GRD Subdivision located at 1710 and 1716 I-70 Drive Southwest and 907 Spencer Avenue; authorizing a performance contract.
- B192-11** Amending Chapter 22 of the City Code to correct an error as it relates to the inflow and infiltration reduction program.
- B193-11** Accepting a conveyance for utility purposes.
- B194-11** Authorizing construction of improvements at the Thomas E. 'Country' Atkins Jr. Memorial Park Baseball Complex; calling for bids through the Purchasing Division.
- B195-11** Authorizing a cooperative agreement with Boone County Family Resources for additional funding of the Park and Recreation Department's C.A.R.E. Program.
- B196-11** Authorizing a cooperative agreement with Boone County Family Resources for additional funding for the Park and Recreation Department's Adapted Community Recreation Program.
- B197-11** Appropriating federal forfeiture funds for the purchase of computer equipment for the Police Department.
- B198-11** Amending the FY 2011 Annual Budget and the Pay and Classification Plans to establish an accountant position and eliminate an accounting assistant position in the Finance Department, Accounting Division.

REPORTS AND PETITIONS

REP120-11 Street Closure Requests.

Mr. St. Romaine provided a staff report.

Ms. Hoppe commented that the Council had received a letter from Mr. Rippeto today and she understood he wanted to be able to sell food and beverages on a stand in his patio area outside of the restaurant. She noted he had also indicated police officers had told customers at his patio tables they could not stand during the show and asked for clarification.

Mayor McDavid suggested they address each of the staff recommendations separately. He understood the first item met the criteria of Section 24-71.

Mayor McDavid made a motion to approve Richard King's street closures and layout as requested for July 21, August 24 and September 14 as they met the Section 24-71 conditions. The motion was seconded by Mr. Schmidt.

Ms. Anthony made a motion to amend the motion made by Mayor McDavid and seconded by Mr. Schmidt so that Council would postpone any further decisions on any further applications pursuant to Section 24-71 until they had a report back from staff if they chose to request a report as suggested by the third item in the report. The motion was seconded by Mr. Thornhill.

Mr. Schmidt suggested they allow this to continue the way it had since it was already mid-July. He would hate to stop anything else that might be in the pipeline.

Mayor McDavid commented that he would vote against the amendment as well. He understood 4,000 people were downtown when Darius Rucker performed and it met one of the City's vision statements. He thought people from out of town might have stayed in hotels and a young person might view Columbia as a happening town and attend college here when participating in this type of event. He believed this type of activity was good for the community. In addition, they would discuss recommended changes later, and if they put a hold on that section of the Code, they were in effect changing the ordinance.

Ms. Anthony withdrew her motion to amend the motion made by Mayor McDavid and seconded by Mr. Schmidt. Mr. Thornhill was agreeable to withdrawing that motion.

The motion made by Mayor McDavid and seconded by Mr. Schmidt to approve Richard King's street closures and layout as requested for July 21, August 24 and September 14 as they met the Section 24-71 conditions was approved unanimously by voice vote.

Mayor McDavid made a motion to deny Tom Rippeto's request to sell beer during the July 21, 2011 Summerfest event. The motion was seconded by Mr. Thornhill.

Mr. Thornhill asked for the difference between what he was requesting and what he already had. Mr. Schmidt replied he understood the patio license was only for the tables he had, and he only had two tables. The gates, depending on how they were situated, prevented people from coming to his restaurant. Any person wanting to go to his restaurant would have to know to go to the gate and ask to be admitted, and were then required to sit at the table.

Mayor McDavid commented that a restaurant a quarter of a mile away was not impacted, but a restaurant next door to the event was clearly impacted. He felt it would be cleaner for Mr. Rippeto to request Mr. King's street closure be denied if the event was

essentially closing down his restaurant. He also felt the holder of the festival should negotiate with the impacted businesses.

Mr. Thornhill understood someone currently had to sit at one of those two tables, but if this request was approved, people could walk up, purchase pizza and sit on the curb.

Ms. Hoppe stated she believed he was asking to be able to have a stand on the street at the curb in front of his business, so he could sell pizza and beverages. Mr. Boeckmann commented that he was allowed to sell items on the sidewalk through his current permit, but he was asking to be able to sell his goods out in the street. Mr. Kespohl noted the ordinance indicated people sitting in a chair or on a bench provided by the licensee could be served. Ms. Hoppe noted Mr. Rippetto wanted more. He wanted people to be able to come up to the stand and purchase something.

Mayor McDavid understood they needed to act on this request, but noted they also needed to look at the other issues. They needed to determine if they should limit festivals in general or to specific times of the year or days. He did not believe they should limit festivals. He thought they also needed to address the situation of people who were on the same block. He would prefer the business owners work it out themselves, but noted the Council could get involved if needed. Ms. Anthony asked what incentive Mr. King had to allow someone else to sell beer and food on the street he had obtained permission to close. Mayor McDavid thought the incentive would be to keep someone from requesting something like this or doing something that had unforeseen circumstances.

Mayor McDavid did not feel Section 24-71 allowed what Mr. Rippetto had requested. If Council wanted to change that, he thought they should ask staff to review the ordinance and recommend changes.

Ms. Anthony asked why they would not allow Mr. Rippetto permission to do what he was requesting. Mr. Thornhill stated he was inclined to approve his request. He noted La Siesta had the built in advantage of access outside of Ninth Street.

Mayor McDavid asked if they were going to allow anyone on that block to sell beer on the street.

Mr. Boeckmann noted there was another issue and explained that a defined area was required in order to have a liquor license. The State would not grant two people a liquor license for the same area. If the Council wanted to grant it to Mr. Rippetto as well, they would have to define a spot for him and a spot for Mr. King.

Mr. Schmidt asked if there was a problem if he just sold pizza to the crowd. Mr. Boeckmann replied that was another issue.

Ms. Hoppe commented that it sounded as though they would have to extract this area from the area Mr. King could sell beer.

Mr. Thornhill asked if the Council could approve Mr. Rippetto's request. Mr. Boeckmann replied he thought Council could, but noted they would have to direct staff to work out who was responsible for what space. Mr. Thornhill noted that per the diagram, Mr. Rippetto indicated he just wanted to be in front of his business. Mr. Boeckmann pointed out he was speaking with partial knowledge of State's requirements.

Mayor McDavid commented that Mr. King was an entrepreneur that was putting money at-risk and he either made or lost money on these events. He felt Mr. Rippetto could

bring in someone to provide entertainment as well. One of the ways Mr. King recouped his investment was through alcohol sales on the street. If they approved this, they would be letting someone without any risk take part of his profit margin.

Mr. Boeckmann agreed that was one way to look at it, but noted Mr. Rippeto would likely not be able to bring in a group like that since he was not in that business. He commented that Summerfest might provide an overall good impact to the City, but he believed it negatively impacted some businesses. It was a question of how that could be balanced since a public street was being used.

Mayor McDavid stated that regardless of their decision tonight, it was a temporary fix, and he thought this would need further review in the future.

Ms. Anthony commented that those on the closed block should have different rules. She suggested they approve Mr. Rippeto's request with the understanding that he would have to meet any conditions required.

Mayor McDavid believed all of the restaurants would ask for the same thing. Ms. Anthony agreed and thought that should be allowed. Mayor McDavid thought it could have a negative impact on the person holding the event. Ms. Anthony agreed, but noted that person was closing the street where they were all located. She understood the issue of a profit margin, but also believed business owners on that particular block had a right to participate.

Mayor McDavid asked if the businesses on that block of Ninth Street had protested approval of the Summerfest events. Ms. Anthony replied she understood Mr. Rippeto was not happy. Mr. Kespohl agreed.

Mr. Schmidt pointed out Mr. Rippeto's request was for a single date, so they could use this as a pilot situation to see what came of it.

Ms. Anthony thought they could also ask for agreements to try to be reached without involving Council for at least that block of business owners.

Mr. Kespohl commented that he thought they would have a problem with other bar owners wanting to come to Ninth Street to set up an outside venue. Mr. Schmidt agreed since they did not have a policy indicating this was being allowed because his business operated there. Mayor McDavid thought Council would be creating a new set of policies that had many unintended consequences by allowing this.

Mr. Schmidt asked if Council had to be consistent or reasonable if other requests came forward. Mr. Boeckmann replied he did not believe they could be arbitrary or capricious.

Ms. Hoppe asked if they could approve it because it was a business on the block. Mr. Thornhill replied he did not believe it was unreasonable to say someone three blocks away was not affected in the same manner as someone on the portion of the street that was gated off.

Mayor McDavid commented that regardless of the decision, Council would have to establish policy as this decision would break a long standing policy. He noted denial was consistent with current policy.

Mr. Schmidt stated that as long as it was acceptable for them to be inconsistent, they could allow this to happen. Mr. Boeckmann commented that although they might allow Mr. Rippeto to do it this time, they could decide it was bad policy and deny it in the future or they

could deny the request this time and set a policy that would allow it. He thought they needed to follow up whatever decision was made tonight with a policy in the future.

Mayor McDavid explained Harpo's had wanted to extend into the street last year, but he believed the policy was clear in that someone bringing in a festival, band or concert would be allowed to be in the street. If they were not bringing in that type of event, they would not be allowed in the street as every bar would be asking for that during certain weekends, such as Homecoming. He noted he thought it was incumbent upon anyone running the event to negotiate with colleagues, so Council did not set policy detrimental to them.

Mr. Dudley commented he felt they were penalizing someone for being close to the person hosting the concert. A business person would want people to come to their place to eat if there were a large number of people nearby, even if they were a block away. Mayor McDavid felt some of those people permeated downtown Columbia. Mr. Dudley understood and pointed out Mr. Rippeto was trying to increase his business with the captive audience in front of business. Mr. Schmidt felt a person a block away did not actually have the stage blocking their doors. The issue was whether that was a positive or negative impact.

The motion made by Mayor McDavid and seconded by Mr. Thornhill to deny Tom Rippeto's request to sell beer during the July 21, 2011 Summerfest event was defeated by voice vote with only Mr. Kespohl and Mayor McDavid voting in favor of it.

Mr. Dudley made a motion to approve Mr. Rippeto's request to sell beer during the July 21, 2011 Summerfest event. The motion was seconded by Mr. Thornhill and approved by voice vote with only Mr. Kespohl and Mayor McDavid voting against it.

Mayor McDavid made a motion directing staff to review and provide recommended changes to Section 24-71 in terms of how downtown businesses in the footprint or on the periphery of special events would be accommodated. The motion was seconded by Mr. Thornhill and approved unanimously by voice vote.

REP121-11 Backwater Protection.

Mr. St. Romaine provided a staff report.

Mayor McDavid understood staff would bring back an ordinance and Council would decide whether to fund it at that point.

Mr. Schmidt understood those some homeowners were already doing this on their own. Mr. Glascock agreed, but noted some were not because they could not afford it.

Mayor McDavid asked how staff decided who could afford it. He wondered how that would be determined. Mr. St. Romaine replied they would have to determine eligibility requirements when setting up the program.

Mayor McDavid made a motion directing staff to draft an ordinance to establish a back-up prevention program. The motion was seconded by Mr. Kespohl.

Mayor McDavid believed this should probably be a need based program. Mr. Thornhill agreed.

The motion made by Mayor McDavid and seconded by Mr. Kespohl directing staff to draft an ordinance to establish a back-up prevention program was approved unanimously by voice vote.

REP122-11 Parking Prohibition – South Side of Walnut Street.

Mr. St. Romaine provided a staff report.

Mr. Kespohl asked if this was to allow a left turn lane. Mr. Glascock replied they wanted to remove parking in this short section so there was no parking allowed on the entire street.

Mayor McDavid made a motion directing staff to prepare an ordinance to restrict parking on the south side of Walnut Street from College Avenue to Melbourne Street. The motion was seconded by Ms. Hoppe.

Mr. Kespohl asked if a left turn lane could be constructed there. Mr. Glascock replied no and pointed out all four signals and the Walnut and College intersection belonged to MoDOT since the movement would affect College.

The motion made Mayor McDavid and seconded by Ms. Hoppe directing staff to prepare an ordinance to restrict parking on the south side of Walnut Street from College Avenue to Melbourne Street was approved unanimously by voice vote.

REP123-11 Transferring Funds within the Capital Improvement Plan.

Mr. St. Romaine provided a staff report.

Mr. Thornhill understood the \$200,000 for Forum Boulevard was just for design. Mr. Glascock replied it included construction. Mr. Thornhill asked what was specifically included. Mr. Glascock replied they would be strengthening the shoulders to handle thru-traffic and would install a left turn lane for Victoria Park.

Ms. Anthony understood it did not address the Wilson's driveway issue that had been previously discussed. Mr. Glascock stated that was correct. Ms. Anthony understood the staff report was incorrect then. Mr. Glascock clarified it did include striping for Wilson's at Woodrail, and pointed out that would impact the Country Club of Missouri. Ms. Anthony asked if the public process would be started on this project. Mr. Glascock replied there would be a public process before they expended funds.

Mr. Kespohl asked if these funds came from finished CIP projects. Mr. Glascock pointed out which projects were done and which were not moving forward or being funded by other sources.

Mr. Kespohl noted he had asked for a report a few months back showing the funds that were left over in all projects and had not yet received it. Mr. St. Romaine stated he would check on the status of that report.

Mayor McDavid made a motion to approve the transfer of funds identified in the report within the Capital Improvement Program. The motion was seconded by Mr. Kespohl and approved unanimously by voice vote.

REP124-11 South Providence Pedway Project.

Mr. St. Romaine noted this report had been provided for informational purposes.

Mr. Thornhill commented that he understood they were able to work 96 days and asked for the time frame for completion. He thought it was supposed to be a 90 day project, but had counted 96 days, and asked what that meant. Mr. Glascock replied they had gone over the days they were allowed. Mr. Thornhill asked if the project was finished. Mr.

Glascock replied it was finished. Mr. Thornhill asked if planting was not included in the contract. Mr. Glascock replied he thought the planting was being done in-house.

Mr. Thornhill asked for an e-mail clarifying the 90 versus 96 day discrepancy. He wondered if they finished on time.

Mr. Schmidt commented that he had received a complaint from a citizen who was in the concrete business and was unhappy with runoff and other things involved in this project. He understood staff was following up and asked for a status. Mr. Glascock replied all of the panels that were cracked were supposed to be replaced. In addition, they planted in sod to help with runoff and for better erosion control. Mr. Glascock pointed out the gravel was a five foot running path, so it was meant to be there.

REP125-11 Intra-Departmental Transfer of Funds Request.

Mr. St. Romaine noted this report had been provided for informational purposes.

REP126-11 Columbia Regional WWTP Facility Phase I Improvement Project – Fifth Request for Extended Work Hours.

Mr. St. Romaine and Mr. Glascock provided a staff report and noted the report had been provided for informational purposes.

COMMENTS BY PUBLIC, COUNCIL AND STAFF

Ms. Hoppe commented that the paint for the pedestrian crosswalk across Walnut by the new PS: Gallery had faded so vehicles were not stopping as needed. She suggested it be repainted and a sign be put there as well. In addition, she was not sure the side of the street with the driveway was ADA accessible and an adjustment might be needed. Mr. St. Romaine noted he would have staff look into it.

Mr. Schmidt commented that with all of the controversy that evening, there were two good things that had been approved tonight, and those were the rezoning for the Columbia Center for Urban Agriculture for the urban farm and the rezoning and C-P plan for Mr. Kardon. Mayor McDavid agreed and noted both of those rezonings were triumphs of negotiations and mediations, and great examples of how to get business done.

Mr. Thornhill asked for the cost estimate if the drivable grass were to be used on a trail. Mayor McDavid requested the track record of the drivable grass also be provided.

The meeting adjourned at 11:52 p.m.

Respectfully submitted,

Sheela Amin
City Clerk