

**CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBER, CITY HALL
701 E. BROADWAY, COLUMBIA, MISSOURI
OCTOBER 21, 2013**

INTRODUCTORY

The City Council of the City of Columbia, Missouri met for a regular meeting at 7:00 p.m. on Monday, October 21, 2013, in the Council Chamber of the City of Columbia, Missouri. Mayor McDavid noted the City of Columbia lost former Council Member Almeta Crayton today. She had a huge heart and had left Columbia a better place than she had found it. He asked for a moment of silence in honor of Ms. Crayton prior to the Pledge of Allegiance. A moment of silence was held, the Pledge of Allegiance was recited, and the roll was taken with the following results: Council Members TRAPP, SKALA, THOMAS, NAUSER, HOPPE, MCDAVID and SCHMIDT were present. The City Manager, City Counselor, City Clerk and various Department Heads were also present.

APPROVAL OF THE MINUTES

The minutes of the regular meeting of October 7, 2013 were approved unanimously by voice vote on a motion by Ms. Hoppe and a second by Mr. Trapp.

APPROVAL AND ADJUSTMENT OF AGENDA INCLUDING CONSENT AGENDA

The agenda, including the consent agenda, was approved unanimously by voice vote on a motion by Ms. Nauser and a second by Mr. Skala.

SPECIAL ITEMS

Roots N' Blues N' BBQ Festival Update.

Betsy Farris stated she was present on behalf of Thumper Entertainment and thanked the City of Columbia and The District for its help in moving the Festival to Stephens Lake Park this year. Fans from 35 states, Canada, England, Germany and Scotland had attended the Festival. She noted they had donated over 300 weekend tickets at a value of \$75 each to the City for a total donation of \$22,500, and had presented a check to the City for \$16,944. She explained the Festival had generated \$23,694 in local sales tax and \$25,898 in state taxes. They felt their marketing dollars had been spent effectively as 56.8 percent of the fans had been first time visitors. She also pointed out that 90.5 percent of the fans were satisfied with their Festival experience, and 78 percent of those fans had indicated they would return to Columbia.

APPOINTMENTS TO BOARDS AND COMMISSIONS

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

BUILDING CONSTRUCTION CODES COMMISSION

Linneman, Greg, 2608 N. Stadium Boulevard (business address), Boone County, Term to expire August 1, 2016

CITIZENS POLICE REVIEW BOARD

Martin, James, 2115 Hunter Lane, Ward 2, Term to expire November 1, 2016

Wilson, Betty, 1719 University Avenue, Ward 6, Term to expire November 1, 2016

COLUMBIA COMMUNITY DEVELOPMENT COMMISSION

Ritter, Mitchell, 805 Sandy Court, Ward 2, Term to expire November 1, 2016

Schepers, James, 4009 Beach Point Drive, Ward 4, Term to expire November 1, 2016

Ukoha, O.U., 2207 Lafayette Court, Ward 3, Term to expire November 1, 2016

COLUMBIA VISION COMMISSION

Cobbins, Alvin, 2513 Andy Drive, Ward 2, Term to expire December 15, 2014

Watts, Bruce, 1403 Berwick Court, Ward 5, Term to expire December 15, 2014

COMMISSION ON CULTURAL AFFAIRS

Brewer, Tammy, 1312 Willow Creek Lane, Ward 5, Term to expire October 31, 2016

Harper, Judith, 4011 Curt Drive, Ward 4, Term to expire October 31, 2016

Kenny, Nick, 807 Broadhead, Ward 1, Term to expire October 31, 2016

Leemis, Caroline, 3608 Chestnut Drive, Ward 3, Term to expire October 31, 2016

DISABILITIES COMMISSION

Evans, Michael, 3800 Cooper Drive East, Apt. 19, Ward 6, Term to expire June 15, 2015

MAYOR'S COUNCIL ON PHYSICAL FITNESS AND HEALTH

Talaski, Jennifer, 4108 Red Fox Court, Ward 3, Term to expire November 30, 2014

PUBLIC TRANSIT ADVISORY COMMISSION

Zeterberg, Dawn, 608 Hunt Avenue, Ward 1, Term to expire March 1, 2016

SUBSTANCE ABUSE ADVISORY COMMISSION

Coleman, Tony, 2700 Northridge Drive, Ward 3, Term to expire October 31, 2016

Moore, Mitchell, 1210 W. Broadway, Ward 4, Term to expire October 31, 2016

SCHEDULED PUBLIC COMMENT

Kelly Pascucci – Concerns of smart grid and smart meters.

Ms. Pascucci, 1302 Troon Drive, explained she had discovered she had a smart meter on her home approximately 10 weeks ago and in her research she had come across a documentary entitled *Take Back Your Power*. The smart grid was a computerized system that allowed monitoring and control over energy uses, and was vulnerable to cyber attacks, hackers, increased power outages and increased prices. Smart grid programming was funded and approved by the American Recovery and Reinvestment Act of 2009. Smart meters were promoted by power companies and the government as a way to save money and increase home automation, but she felt it was harming people and the environment, and was taking away the rights of citizens. She noted the three phases to smart meter capabilities were AMR, AMR Plus and AMI, and understood Missouri was tenth in the nation

when it came to smart grid implementation. Smart meter planning was based upon the Energy Act of 2005 and was referred to as time based metering. There was no mandate for customers to accept installation of a smart meter and she had never consented to a smart meter on her home. It was a health, privacy, security and safety issue as smart meters emitted radio frequency radiation and there was no FCC limit set for the chronic non-thermal exposure to radiation that the meter put out on a 24-7 basis. She understood the World Health Organization had classified this type of radiation as a Class 2B carcinogen, which was within the same classification as lead and DDT, and listed some of the damaging health results. The Missouri Smart Grid report indicated there was great concern about security and data privacy with the introduction of a two-way communication system. She believed this was a violation of the Fourth Amendment and noted the data collected could be used for identification theft, real time surveillance and the selling information to marketing companies. She stated criminals could spy on the data to plan burglaries, credit bureau and insurance companies could penalize the consumer based on habits revealed and law enforcement could use the data in its investigations. She understood a bill had been drafted for discussion by the Missouri Legislature and there were a number of lawsuits in motion against smart meter installations throughout the United States. She hoped the Council could see the potential liability and asked them not to compromise health, privacy and safety for this initiative. She stated people, not smart meters, saved energy. She asked the Council to put a moratorium on the smart meter program and for unbiased parties to review the topic. She also wanted a task force to be created to discuss the issue as she believed analogue was the only proven safe method of metering. She provided the Council a handout as well.

PUBLIC HEARINGS

B299-13 Authorizing construction of the Children’s Grove at Stephens Lake Park; calling for bids through the Purchasing Division; appropriating funds.

The bill was given second reading by the Clerk.

Mr. Griggs provided a staff report.

Mayor McDavid opened the public hearing.

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

Mayor McDavid pointed out this was privately funded and would not be paid from the Putting Kids First tax revenue.

Mr. Thomas asked for a description of what it would look like. Mr. Griggs replied it would involve a series of smaller dry stacked stone walls with 41 trees. The idea was to mimic a miniature forest to provide younger kids the sense of being in a forest. There would be signage explaining the various species of trees and how it incorporated with nature.

Mr. Skala thought this was a wonderful project and would add to Stephens Lake Park.

B299-13 was given third reading with the vote recorded as follows: VOTING YES: TRAPP, SKALA, THOMAS, NAUSER, HOPPE, MCDAVID, SCHMIDT. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

R220-13 Approving the FY 2014 Annual Action Plan for CDBG and HOME funds.

The resolution was read by the Clerk.

Mr. Teddy and Mr. Cole provided a staff report.

Ms. Hoppe understood some goals had been met or were exceeded, but other goals had not been met. She listed a few items that had not met their goals and asked why those goals had not been met. Mr. Cole replied he believed they needed to better market the code deficiency abatement program. He anticipated addressing more homes next year than they had this past year, but did not believe they would hit the goal of 30 homes. He pointed out that program had not been specifically funded in the last two years due to reduced funding and explained all of these goals were formulated 4-5 years ago when the funding levels were much higher. He thought they could regroup and restructure the spending of funds during the upcoming year in light of the lesser resources available.

Mr. Skala understood some items had numbers assigned to them while others did not, and asked for the significance of not assigning numbers to some of the items. He provided item number 10 involving Universal Design as an example. Mr. Cole explained he was not with the City when that particular goal was developed, but he believed staff did not have a specific number in mind when it was added as a goal. Mr. Skala asked if the City had an initiative to deal with Universal Design. Mr. Cole replied it was an initiative for Community Housing Development Organization (CHDO) funding as they required minimum Universal Design requirements as part of that funding process. Mr. Skala understood those goals without numbers were ideas without any targets. Mr. Cole stated that was correct.

Mayor McDavid opened the public hearing.

Phil Steinhaus, 201 Switzler, explained he was the CEO of the Columbia Housing Authority and commended the Community Development Department and Community Development Commission for its great work as he believed this was one of the best plans put forth by the City in recent years. There was a strong focus and support for affordable housing. He noted they were incorporating Universal Design into their new housing and in any renovations to the extent possible. He thanked the City for its support of the Columbia Housing Authority's projects.

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

The vote on R220-13 was recorded as follows: VOTING YES: TRAPP, SKALA, THOMAS, NAUSER, HOPPE, MCDAVID, SCHMIDT. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

OLD BUSINESS

R208-13 Forgive a Community Development Block Grant (CDBG) rehabilitation loan on property located at 208 Ridgeway Avenue; authorizing a full deed of release; authorizing a contract for sale of real estate with Evelyn Lee.

The resolution was read by the Clerk.

Mr. Teddy provided a staff report.

Ms. Hoppe asked why the loan had not been paid back since it had been provided in 1984. She wondered how long people had to pay back the loan. Mr. Teddy replied it was a deferred loan so there was not an obligation on the loan. The loan was due when it ceased to be an owner-occupied residence or when the property was sold. Ms. Hoppe asked what the City was doing to ensure houses did not deteriorate when putting significant money into

homes for stabilization, etc., so the City's investment was productive over the long term. Mr. Teddy replied the deed of trust required recipients of the loans to keep the house in serviceable condition, so they would be cited for evident property maintenance problems. Ms. Hoppe understood this property had been vacant since 2002 and that the Office of Neighborhood Services and the City were doing a better job of code enforcement than had been done in the past. Mr. Teddy explained that since that unit had been created, there was a more proactive approach in terms of properties similar to this.

Ms. Nauser made a motion to amend R208-13 per the amendment sheet. The motion was seconded by Ms. Hoppe and approved unanimously by voice vote.

Mr. Schmidt stated he had traveled by the house, and this appeared to be reasonable.

The vote on R208-13, as amended, was recorded as follows: VOTING YES: TRAPP, SKALA, THOMAS, NAUSER, HOPPE, MCDAVID, SCHMIDT. VOTING NO: NO ONE.

Resolution declared adopted, reading as follows:

B285-13 Rezoning property located on the southeast corner of Providence Road and Broadway from Districts C-2 and M-1 to District C-P; approving the CVS Pharmacy C-P Development Plan; setting forth conditions for approval; approving less stringent setback requirements; providing for construction, landscaping and maintenance of a pocket park on City-owned property.

The bill was given second reading by the Clerk.

Mr. Teddy provided a staff report.

Ms. Hoppe understood the elevations shown were not part of the plan and could change. Mr. Teddy stated that was correct. He noted the Council could make the elevations an exhibit to the ordinance, but it was not something required per the Code of Ordinances. He considered it a voluntary exhibit, but noted it could be added as a special condition.

Mr. Schmidt understood this was a vote on the plan as well. Mr. Teddy stated that was correct.

Ms. Thompson commented that if Council wanted to ensure the design elements shown were incorporated as a requirement on the developer, a condition to the ordinance would need to be added.

Mr. Schmidt asked if there was anything else that had been presented that was not part of the plan and voluntary. Mr. Teddy replied all of the site plan sheets were a part of the plan. The Charrette had only been used for reference. The landscape plan, the preliminary engineering plan and site plan were all a part of the ordinance. There were also design parameters that discussed some of the spatial relationships in case there were adjustments to the plan.

Ms. Hoppe understood there would not be an entrance from Broadway to the CVS. Mr. Teddy stated the access would be near the southeast corner, off of Fourth Street, if one was traveling on Broadway and wished to enter the site. Mr. Thomas asked if she meant the pedestrian access. Ms. Hoppe stated she was referring to the entrance. Mr. Teddy explained there was only a service door. He understood there would be a decorative treatment of the corner, but not an actual entrance on northwest side of the building. Mr. Thomas understood the doorway was at the southwest corner. Mr. Teddy stated that was correct.

Mr. Schmidt understood some believed the pedestrian traffic would come from the east and asked if a study or survey had been conducted. Mr. Teddy replied a traffic study had been submitted and a directional distribution had been modeled as a part of it. The pedestrian trips had not been modeled or observed.

Mr. Skala understood there had been some consideration with regard to another entrance. He believed pedestrian traffic was low now and that this development would affect pedestrian traffic. He thought the pedestrian traffic could be modeled and eventuate the necessity for another entrance. Mr. Teddy stated this development would attract pedestrians more so than what was there now, and pointed out quite a few pedestrians visited the Walgreens across the street from this development.

Robert Hollis, an attorney with offices at 1103 E. Broadway, provided a handout and explained the current zoning designation was M-1 and C-2. The proposed plan could not exist with current zoning, but the CVS use along with many other uses could exist with the current zoning. The rezoning permitted a much better plan for all involved, to include the City property at the northwest corner. The Planning and Zoning Commission had a few conditions for approval. One was for the right in/right out on to Fourth Street to be a right out only or for it to be slid to the south. It was now shown as a right out only. The other conditions were for 16 foot maximum lights adjacent to the park and the construction of the extension of the right turn lane on to Providence, and both of those conditions had been met. He stated they did not agree with 16 foot lights across the entire site. He noted he provided the Council a letter earlier today clarifying the 16 foot lights would be along the south park boundary and that had been agreed upon. He pointed out this development would create an additional \$85,000 in revenues for the school district if his calculations and assumptions were correct, which he believed was conservative. He explained all of the tenants were gone except for the owner of one of the buildings, so he felt there were no jobs at this development currently. As a result, however, many jobs were created by this development would be additional to what was there now. He believed the site would encourage pedestrian and bicycle traffic since Providence was an impediment for those in the downtown that would now be required to go to Walgreens. In addition, the FastCAT route as it currently existed traveled and stopped on Sixth Street, so those utilizing FastCAT could be at CVS in a short period of time. He commented that if one followed the Charrette, literally, in terms of the Providence corridor, Lucky's could not exist where it was currently being developed. He pointed out the Downtown CID had been consulted early and often, and that one of the staff recommendations was the removal of certain portions of the statement of intent, to include the granting of rights to the Downtown CID, but CVS would be breaking a promise to the Downtown CID if it agreed to the change.

David Barnett, a civil engineer with Carlson Consulting Engineers, explained they would reduce the amount of impervious surfaces on the site today and replace it with more greenspace and landscaping. This would decrease the stormwater runoff from the site and the stormwater from the parking lot would be gathered into one water quality inlet that would treat the water before it discharged from the site. The pocket park layout at the intersection was heavily landscaped, and a few of the amenities of the park would be sidewalks, benches and a pedestrian plaza along the frontage of Broadway. He stated bicycle parking would be

provided there as well. It would be a brick building with some intricate decorative detailing on the columns and window sills, and a large number of windows would be provided along the Providence and Broadway elevations. He displayed the elevations and proposed layout of the site.

Brian Rensing, a traffic engineer with Crawford, Bunte and Brammeier, explained they had evaluated the existing conditions and provided recommendations to mitigate the impact of traffic that would be generated by the development. He pointed out the access management along Providence and Broadway was poor, and there was limited right-of-way to do much for the Providence and Broadway intersection. He listed the improvements that would be made by the development to assist with the traffic situation.

Mr. Thomas asked why he felt the site would generate minimal traffic when it was designed with a 68 space parking lot and drive-thru. Mr. Rensing replied half of the trip generation was expected to be pass-by trips, which meant they were already on the roadway system and would only enter the site to get the items needed and would then exit. The other half of about 50 or 60 would be new to the system, and once they were distributed to the different access locations, it was relatively minimal.

Mr. Skala commented that according to the International Traffic Engineering Group, a pharmacy with a drive-thru generated about 8.62 times more traffic, so he felt this development would create more than a minimal impact on the adjacent streets. Mr. Rensing stated he was unsure what Mr. Skala was comparing. He explained they went above and beyond the rates for a drive-thru pharmacy of 3,000 square feet. It would generate about 200 trips during the peak hour with 100 being in bound and 100 being out bound. They did a worse case scenario of the existing uses and traffic volumes. The 100 trips in bound and out bound was considered above and beyond. Mr. Skala stated he was using the basis of the Infrastructure Task Force report, which was generated using the International Traffic Engineering Institute data in terms of trips generated by a pharmacy with a drive-thru, and that factor of trip ends was 8.62 times the 13.3 thousand square feet for the facility. He thought they disagreed as to whether they had gone above and beyond or not. Mr. Rensing stated City staff and MoDOT had reviewed their report, and neither had complaints regarding the trip generation used. He reiterated he believed it went above and beyond the standards rates.

Pat Fowler, 606 N. Sixth Street, stated she lived less than a mile from this site. She explained she was from Massachusetts and CVS was founded in 1963 on Merrimack Street in Lowell, Massachusetts. She displayed a photo of that CVS and other CVS stores as those CVS stores had been incorporated into existing buildings. She noted there were multiple facades for CVS stores that could be utilized. She pointed out the CVS at Charlottesville, Virginia had been pleased with the initial design that included a mixed use design with second floor residences, but when CVS came back the second floor was faux and there were false windows. She stated Redlands, California recently turned down a CVS due to some of its vinyl qualities. She commented that she had attended many meetings on this subject and staff had recommended against this rezoning request at the Planning and Zoning Commission meeting. She wondered why that had not come up in the comments of staff today. Mr. Teddy replied they normally reported the recommendation of the Planning and

Zoning Commission when an item came to Council, and staff felt the resubmitted plans met some of the recommended conditions of the Commission. Ms. Fowler understood Public Works was opposed to the undergrounding of the creek because it was an effective storm sewer now, and by covering it up, that ability was limited. She explained she and her neighbors were stakeholders since the building was adjacent to the Downtown CID and because she paid extended sales tax when she shopped in the downtown, and they cared about the look and feel of the historic downtown. They felt a generic out of the box pallet type building was inappropriate for the site, and CVS had lots of other designs they could incorporate. She thought they should follow in the footsteps of other communities that had said they wanted a better design.

Brent Gardner stated he was the Chair of the Downtown Columbia Leadership Council and noted they were opposed to the rezoning of this corner for the use proposed by CVS. They acknowledged the fact the owners had a right to sell their property and buyers had the right to purchase the property, but the request for rezoning could be opposed. The City had placed a lot of time, energy and money into Flat Branch Park and it was a gem in the downtown. The Charrette Report showed Flat Branch Park being built to the corner of Providence and Broadway. He was uncertain as to whether this transaction involved the purchase or lease of the land, but if it was a lease the use could change. The proposed building would be squeezed on to the lot, and Kilgore's Pharmacy was about a mile away and Walgreen's was across the street. The Downtown Columbia Leadership Council believed a CVS in the downtown would be great, but did not feel it should be placed at that intersection as it was a gateway to the community.

Rosie Gerding, 101 S. Fifth Street, stated her home was caddy-corner to the CVS site and noted she had no objection to the company. She would welcome the store to the neighborhood, but felt they had not yet shown them a building that would suit the location where they proposed to locate. The one-story suburban style cookie-cutter building and large parking lot was unattractive, was not pedestrian friendly and did not meet the density guidelines the community had set for the downtown area. She commented that CVS was used to hearing communities object to their building plans and their feelings would not be hurt if the City told them they expected better. They saw the mistakes made with the Walgreens property, which included a blank wall facing Providence, the unattractive surface parking lot and the yellow delineators on Broadway. She wondered why they would want to make the same mistake and thought they should encourage the best possible project for the site. She asked the Council to remember the community did not owe any favors to CVS and that the citizens had indicated a preference for a walkable downtown that included multi-story dense developments occupied by a variety of users. She pointed out the granting of a variance to a project that did not meet the guidelines made no sense and noted she did not want to see more of Flat Branch Creek covered up. They had the opportunity to have an open water feature at the entrance to the downtown, which was a great asset. In addition, they had spent \$1.7 million developing Flat Branch Park, so she wondered why they would then encourage an ordinary single-story closed off box store on an asphalt parking lot to be built adjacent to the park. She asked the Council to vote against the rezoning request.

John Clark, 403 N. Ninth, commented that the proposed plan was suboptimal for the site, the larger area and the community in the short and long term. He believed the plan should lead them to reject the rezoning. He pointed out the CVS would not produce much in sales tax for the City of Columbia as they would be stealing business from other area pharmacies. He felt the Council would see plans for this corner and another nearby corner that were wonderful within the next 5-10 years, and suggested they not allow this rezoning and project.

Charlie Graznak stated she ran McAdams Limited for her mother and explained she was concerned about traffic. She thought Fourth Street would become a nightmare due to the traffic generated by this plan. It was not much of a street now and did not have a centerline. She believed a stop light would need to be added to the Fourth and Broadway intersection. She felt this project would generate a lot of traffic. She also pointed out that not all of the tenants had left so some jobs were still at this location.

Sue Tillema, 306 Westridge Drive, stated she was concerned with regard to the building of a CVS at this location for a number of the reasons. Various City plans had a different emphasis for this location, and those were important. She recommended the Council vote against this proposal as she believed the proposal would severely compromise Flat Branch Park and destroy any attempt to create a corridor between Flat Branch Park and the Blind Boone Home.

Mr. Skala commented that he did not like the process of placing a bill on the agenda that combined a rezoning issue with a plan. In this case, he thought a rezoning might be appropriate as C-P zoning was an improvement over C-2 and M-1 zoning, but the plan was insufficient in terms of aesthetics, park encroachment and traffic. He pointed out they now had a Comprehensive Plan that had more weight than previous plans, and in that plan were a lot of principles of Smart Growth of which he read two parts dealing with livable and walkable neighborhoods and fiscally sustainable growth. Per the International Traffic Engineering Institute, a pharmacy with a drive-thru generated 8.62 trip ends per thousand square foot unit. Given the development fees at 50 cents per square foot, they would receive far less than it would cost to cover the wear and tear of the road immediately adjacent to the development. He stated the revenue from the development was far less than what was needed to recover the actual cost of the development on infrastructure. As a result, he thought they should deny the rezoning request.

Mr. Skala made a motion to deny the rezoning request. The motion was seconded by Mr. Thomas.

Mayor McDavid asked why they could not just vote down the bill. He wondered why it was being done by motion when there was legislation. Mr. Skala replied he thought it was a legitimate motion that could be made. Mr. Schmidt felt the motion to deny would cutoff debate. Mr. Skala stated he did not agree.

Mayor McDavid stated he would vote against this motion as a matter of principle even though it might mimic his views as he felt it created a bad process. They would call roll on the legislation at which time they could all vote no. He thought this impeded the ability for each of them to state their opinion publicly.

Mr. Thomas commented that he agreed the subject property needed to be improved as it was at a critical location. The proposal made some steps toward what they wanted to see at this corner as it would increase the economic activity at the corner, extend the downtown to Providence Road and create infrastructure improvements, but it did not meet the recommendations in the Charrette Report. He noted the drive-thru was a very pedestrian unfriendly feature and wondered if they should approve new drive-thru facilities in the downtown area at all since it went against the desire for a pedestrian friendly area. He listed some of the features of the plan that were inconsistent with the Charrette and Vision Reports and explained he believed CVS could do better in terms of design. He stated he planned to vote against this request.

Mr. Schmidt stated he did not believe a motion to deny was necessary since they could vote for or against the rezoning request and plan through the proposed legislation. Ms. Nauser agreed.

Ms. Hoppe commented that she believed the motion to deny was appropriate and proper and referred to the Planning and Zoning Commission Meeting minutes whereby the first motion was a motion to deny that had been defeated by a vote of 4 to 5. A subsequent discussion was then held with another vote for approval with conditions by a vote of 6 to 3. She did not feel the fact they had a motion to deny or a motion to approve was important. She stated she agreed with Mr. Skala in that it made sense for this area to be zoned C-P and pointed out they had made efforts in the past to encourage people to separate the zoning from the plan so they could determine whether the zoning was appropriate on its own and whether the plan was appropriate on its own. She believed there were serious problems with the plan. It was a suburban model CVS that would be placed in the downtown area in a highly congested and important corner in terms of an entrance to the downtown. She felt they needed a proposal that would generate pedestrian traffic versus vehicular traffic and a proposal that would fit with the Comprehensive Plan, the Vision Report and the H3 Charrette. She noted the Downtown Columbia Leadership Council, the Historic Preservation Commission and staff opposed the development. She believed there was nothing more they could do in terms of economics than to plan and develop correctly. She felt they saw this with Central Park in New York, and thought Columbia would reap economic benefit in terms of property values with the right development. She commented that the corner was owned by the City and would be a City park, and noted she had very little faith in the ability of private developers to comply with development agreements. She provided the Scenic Rock Quarry Road Park as an example as the development agreement associated with it had not been carried out and the City had not enforced it. She pointed out the statement of intent provided the CVS the ability to veto anything and felt the City should have the ability to control anything that went into a City park. She did not want to relinquish that authority.

Mayor McDavid reiterated he would vote against the motion as he believed the public was entitled to a roll call vote.

The motion made by Mr. Skala and seconded by Mr. Thomas to deny the rezoning request was defeated by voice vote with only Mr. Skala, Mr. Thomas and Ms. Hoppe voting yes.

Mr. Trapp commented that he believed it was a cleaner process to do the roll call vote on this item and noted they had not done a motion to deny since he had be on the Council.

Mr. Trapp explained he was opposed to this development. He agreed there were some positives to the plan. It would provide people a reason to walk versus crossing Providence, improve the sidewalks and add to the connectivity between Fourth and Broadway. The buildings currently located there might not be ideal, but they had a cool urban feel to them, and the proposed CVS had a generic design with no sense of place. He noted the people of Columbia preferred a design that created a sense of place. He agreed with Mr. Hollis in that the planning documents were contradictory as one plan called for the daylighting of Flat Branch Creek, which would be a taking as it would take half of the site. He thought they would need to buy the property if that was what they wanted. He stated they were moving in the direction of walkability and this decision was not just for today, but for a period in the future. He thought they had reached peak car useas miles per driven had not been as high as it had been in 2008. They could not continue to assume they would continue to drive more and more. Although he believed there were some admirable qualities to the plan, he did not believe it fit any of the contradictory plans. The downtown was small, and this development would make it even smaller due to its design. He understood the City had approved the Walgreens across the street, but felt they had the capacity to learn from their mistakes. He reiterated he planned to vote against this proposal.

Mayor McDavid stated he was supportive of private property rights, but this was a signature corner for Columbia and they needed something better. He agreed the pharmacy design was too generic and suburban, and as a result, he planned to vote to deny the request.

B285-13 was given third reading with the vote recorded as follows: VOTING YES: NAUSER. VOTING NO: TRAPP, SKALA, THOMAS, HOPPE, MCDAVID, SCHMIDT. Bill declared defeated.

B287-13 Approving the Final Plat of Old Hawthorne, Plat No. 11 located on the northeast corner of State Route WW and Old Hawthorne Drive; authorizing a performance contract; setting forth a condition for approval.

The bill was given second reading by the Clerk.

Mr. Teddy provided a staff report.

Tim Crockett, an engineer with offices at 2608 N. Stadium Boulevard, stated he represented the developer on this plat and it would typically be on the consent agenda, but an official of Joint Communications felt the street names were inadequate. In 2005, the Preliminary Plat for Old Hawthorne had been submitted and approved using these exact same street names. At that time, two Joint Communications officials had approved the street names. His client had spent money on advertising, promotional materials, displays, etc., which incorporated these street names. They viewed the preliminary plat as an agreement between the City and developer.

Mr. Trapp asked for the similar street names. Mr. Teddy replied there was a list of 60 street names that had “Creek” in them. After a while, a dispatcher could potentially hear something different. In addition, “Shallow” was used twice within the same development. The concern was that an emergency responder could go to the wrong place. Mr. Matthes

pointed out they dispatched for the entire County so they were not looking at just streets in the City of Columbia. They were comparing street names in five municipalities.

Ms. Hoppe stated she lived on Bluff Creek and was not worried about Cobble Creek and Bluff Creek sounding the same. She recalled the changing of street names that were really close and could be mistaken, but she did not believe that situation would be created in this instance.

Mr. Trapp asked for the other two street names that had “Shallow” in them. Mr. Crockett replied he did not have that information with him. He pointed out that when they originally submitted street names, a significant number had been denied for various reasons.

Mr. Trapp commented that he thought they should live up to the promise they had made in the absence of any more specific safety risks, especially in light of the printed materials that had already been created.

Mr. Skala stated he felt there was a significant distinction with a two word name to a street whether it shared one of the words or not. He believed there was justification for changing those that were close to sounding alike or similar, but did not think this situation created a huge problem.

B287-13 was given third reading with the vote recorded as follows: VOTING YES: TRAPP, SKALA, THOMAS, NAUSER, HOPPE, MCDAVID, SCHMIDT. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B289-13 Amending Chapters 13, 16 and 22 of the City Code as they relate to the duty of real estate agents, landlords and others to disclose occupancy limitations under the zoning code.

The bill was given second reading by the Clerk.

Mr. Teddy provided a staff report.

Ms. Nauser asked how a seller that was not utilizing the services of a real estate agent would know about this disclosure requirement. She felt they would essentially make law abiding citizens violators of the law through this disclosure. Mr. Schmidt thought the same argument could be made with the lead based paint disclosure. Mr. Matthes believed there were points in the process where they could teach them about it. If they were following the rules, they would ask the City for an inspection to turn it into a rental property, and at that point, the City would notify them of the residency requirements. Ms. Nauser pointed out that would be done after the fact as it would occur after the property was sold. She also noted the City ordinances did not require the disclosure of lead based paint. Mr. Matthes stated he thought it was tertiary as they required the obeying of all federal, state and local laws.

Ms. Nauser commented that she felt this should be an obligation of the City since they were issuing the certificate of occupancy for those with rental properties. She asked if the option of placing that information on the certificate of occupancy and for the City to disclose that information to the future tenant had been discussed. Mr. Matthes replied he thought they did this in many instances as many people went to the website to determine occupancy limits. He explained this came about as a result of Council asking why the City was having such little luck in enforcing the over occupancy rules they had.

Ms. Nauser asked for the penalty to a landlord that violated the ordinance. She wondered if it was substantial enough to deter behavior. She questioned whether it was

more cost-beneficial to rent to more occupants than allowed. Ms. Thompson replied she believed the penalty was up to \$1,000 and 90 days in jail.

Mr. Thomas asked for the penalty for a private seller not disclosing this information at the point of sale. Ms. Thompson replied it was dependent upon the circumstances in terms of its egregiousness. There was a range that was allowable under municipal code violations, so it was dependent on the nature of the violation. Mr. Skala understood there was flexibility in the system in terms of the fines to accommodate different situations. Ms. Thompson stated there was discretionary authority on the part of the prosecutor and judge. Ms. Nauser asked if there was a penalty to a seller for failing to disclose this information. Mr. Matthes replied this was geared toward those that knowingly mislead a buyer.

Mr. Schmidt wondered what percent of transactions involved sales by owners, and what percent did not use a title attorney or title company. He thought it would be a small number. Ms. Nauser pointed out she had worked at a title company and this was not something the title company would be concerned about on a real estate contract. They were only concerned with the title of the land.

Ms. Thompson pointed out that if it was a rental unit, the certificate of compliance and the zoning occupancy disclosure requirement were contained in the same code section, so they should have knowledge of the zoning occupancy disclosure form, which would allow staff another opportunity to educate those that came in for the certificate of compliance.

Stanley Diaz stated he was representing the Columbia Apartment Association and commented that they had two problems with the proposed changes. They were concerned with the ability of the City to investigate any code violation or a violation of this article because the Fourth Amendment provided for the right of people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures. The lease agreement and the City provided over occupancy disclosure form was a contract between a landlord and tenant. It was not a contract involving the City. The certificate of compliance was a contract between the landlord and City so requiring landlords to turn over papers with personal information of tenants was a violation to their privacy rights. He noted there were people in the community that did not want others to know where they were living because they were hiding from criminal activity, domestic abuse, etc. He was not certain how changing it from any code violation to a violation of this article changed anything since Article V was the Rental Unit Conservation Law and covered any code violation. Since this was an over occupancy disclosure ordinance, he wondered why it could not be written to say an over occupancy code violation. The other concern they had was that the properly executed document had to be produced within seven days or ten business days because they felt a mechanism to allow for extenuating circumstances, such as an extended vacation or being in the hospital for an extended period of time, was needed. He asked that wording be included to allow the time to be extended for unusual circumstances up to a maximum of 45 days so landlords were not arrested in those situations.

Brian Toohey, 3306 Snow Leopard Drive, stated he appreciated the changes from what was originally passed in January, but noted he was still concerned about the sell by owner situation in that if the seller did not disclose the occupancy limitations, the buyer who decided to turn the property into a rental property could sue the seller for an over occupancy

violation because of the failure to disclose that information. He noted he felt this ordinance was hard for those not in the real estate industry to understand because for sale by owner and rental property were two different transactions. He believed Section 16-166 should be reviewed by itself as requiring a property owner to disclose this to anyone purchasing the property.

Jessica Kempf, 2309 I-70 Drive Southwest, stated she was the President of the Columbia Board of Realtors and thanked the Council for opening this up for discussion and making the amendments requested. They felt the changes addressed the conflicts with their code of ethics and state license laws and some concerns they had with regard to Fourth Amendment violations. She thanked City staff for its time and effort in making these changes. They had a few concerns even with the changes, but supported the amendments as written this evening.

Mayor McDavid asked if staff felt the amendment sheet provided the needed clarity and whether any other changes were necessary. Ms. Thompson replied the amendment sheet limited production of the occupancy disclosure form and the certificate of compliance to violations of the article, which was the rental unit conservation law. It did not limit it to the particular section on occupancy disclosure as suggested by Mr. Diaz. The amendment sheet also provided for a ten day window. This would allow for prosecutorial or staff discretion if there were extenuating circumstances in the failure to produce the necessary documents. She thought staff was willing to work with those that truly had special circumstances.

Mr. Thomas asked why they would not go with the suggestion of Mr. Diaz and limit the types of code violation investigations to over occupancy. He wondered why they wanted to broaden it to the article. Ms. Thompson pointed out they were actually narrowing it from the entire code to the article. It was at the discretion of Council to limit it further to that section. She understood the original intent was to bring more clarity to this section. Mr. Thomas asked about the downside to limiting it to this section. Ms. Thompson replied if the goal of the Council was to allow for access to the information for the enforcement of the rental unit conservation law, they would need access to that information for any violation of that law.

Mr. Trapp understood if someone was investigating cars parked in a yard, narrowing this to the section would not allow staff to pursue over occupancy even when there was some evidence of it. Ms. Thompson stated that was correct. Mr. Thomas thought if some evidence was seen and over occupancy was suspected, he felt it would meet the condition of being an investigation of over occupancy and the inspector could then ask for those documents. Mr. Matthes stated staff preferred to leave it at the article level.

Ms. Nauser felt individuals lost some of their freedom with overarching ordinances. She thought they should narrow it as much as possible. She pointed out this ordinance made any property owner a potential law violator due to a few bad landlords.

Ms. Hoppe understood staff would not ask for the occupancy disclosure for a situation in which a tenant was complaining about repairs. Mr. Matthes stated they could, but it was unlikely. He pointed out they did not want to be precluded from it. Ms. Thompson pointed out the City could ask for a copy of the certificate of compliance for that type of violation, which would be evidence of whether the structure had been inspected. Ms. Hoppe asked if there was a way to word it so anything related to occupancy could trigger this without it being

overly broad. Mr. Matthes replied they had done this in staff's opinion. They would be supportive of whatever the Council wanted, but the preference by those trying to enforce the ordinance was to leave it to article as it was more efficient.

Mr. Schmidt made a motion to amend B289-13 per the amendment sheet. The motion was seconded by Mr. Skala and approved unanimously by voice vote.

Mr. Skala commented that he felt the position of staff was a reasonable compromise and did not agree there was a government conspiracy. He thought this would be used for valid violations and would not be used to prosecute people for other related activities.

Ms. Nauser asked if there was a mechanism whereby the City notified landlords of code changes. Mr. Teddy replied the Office of Neighborhood Services tried to inform the public and landlords by putting information on the web and through a list serve. Ms. Nauser asked if notification was provided when there was a potential change. Mr. Teddy replied a notice with the amended language would be provided if the Council approved the changes tonight.

Ms. Hoppe stated she believed the changes were reasonable, but thought it would be useful to be provided feedback within six months or another reasonable time frame with regard to how this had been used and its effectiveness, and whether there were any over-reaching issues. This would allow them to adjust the process again if necessary.

Mr. Trapp stated he appreciated the work of staff in fine tuning this as it had been a contentious issue due to the difficulty in balancing the rights of residents to not have the negative impacts of over occupancy versus creating undue hardships for landlords. He thanked the Board of Realtors for being patient and working through the process in order to reach some sort of agreement. He appreciated Mr. Diaz's points in terms of the Fourth Amendment, but was convinced the narrowing from article to section would reduce the effectiveness of the law.

Ms. Nauser thanked everyone for working together on this issue. She pointed out she was not happy with these changes and could, therefore, not support the ordinance. She explained she believed in protecting the freedom of people. She understood there was a problem, but felt this went too far. She wanted to narrow it specifically to the over occupancy issue. She did not believe they should rely on the argument that efficiency necessitated the taking away of freedoms. She reiterated she would not support this as she felt there were other ways to resolve the issue as there were only a few landlords that were causing the problem. She was also concerned about creating a law every potential seller of property would likely violate.

B289-13, as amended, was given third reading with the vote recorded as follows:
VOTING YES: TRAPP, SKALA, THOMAS, HOPPE, MCDAVID, SCHMIDT. VOTING NO:
NAUSER. Bill declared enacted, reading as follows:

CONSENT AGENDA

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

B286-13 **Approving the Final Plat of Magnolia Falls Plat 2, a Replat of a portion of Magnolia Falls, located on the southeast corner of Old Mill Creek Road and State Route KK.**

- B288-13 Approving the Final Plat of Rock Valley, Plat 4 located on the north side of Chapel Hill Road, between Face Rock Court and Madison Park Drive; authorizing a performance contract.
- B290-13 Vacating sewer easements as part of the South Country Club Drive PCCE #6 sewer improvement project; accepting conveyances for sewer purposes.
- B291-13 Vacating a water utility easement located on the west side of Old 63 and north of Grindstone Parkway; accepting a conveyance for water utility purposes.
- B292-13 Amending Chapter 14 of the City Code to establish parking fees for the Short Street parking facility.
- B293-13 Amending Chapter 14 of the City Code to prohibit parking along the southwest side of Sandifer Avenue.
- B294-13 Authorizing conveyance of a water line easement to Consolidated Public Water Supply District No. 1 of Boone County, Missouri necessary for the relocation of a water line as part of the Scott Boulevard Phase 2 project.
- B295-13 Authorizing a right of use permit with 1101 East Walnut, LLC to allow construction, improvement, operation and maintenance of balconies to extend within a portion of the alley right-of-way between Orr Street and St. James Street.
- B296-13 Authorizing a right of use permit with Missouri Network Alliance, LLC, d/b/a Bluebird Network, LLC, for the installation of fiber optic telecommunications cable within City rights-of way.
- B297-13 Appropriating funds for the construction of speed humps on Trinity Place.
- B298-13 Accepting conveyances for utility purposes.
- B300-13 Approving the 2013 Parks, Recreation and Open Space Master Plan.
- R209-13 Setting a public hearing: construction of sanitary sewers in Sewer District No. 170 (Poplar Hill Drive).
- R210-13 Setting a public hearing: upgrading the railroad active warning device at the Columbia Terminal Railroad's (COLT) intersection with North Browns Station Road.
- R211-13 Setting a public hearing: construction of repairs to the Hinkson Creek Trail bridge in Capen Park.
- R212-13 Authorizing Amendment No. 1 to the program services contract with the Missouri Department of Health and Senior Services for the Teen Outreach Program (TOP).
- R213-13 Authorizing a Memorandum of Understanding with the Columbia Housing Authority's Low Income Services (CHALIS) relating to Teen Outreach Program (TOP) activities.
- R214-13 Authorizing an agreement with The Curators of the University of Missouri on behalf of the Department of Family and Community Medicine for medical director services.
- R215-13 Authorizing a sidewalk renovation agreement with Jerome Rackers for the removal and replacement of sidewalks along a portion of the north side of Broadway (63 East Broadway); transferring funds.

- R216-13 Authorizing the temporary closure of an alley located between Orr Street and St. James Street, temporarily shifting a portion of the driving lanes of Orr Street and Walnut Street, and periodically closing a portion of Orr Street between Ash Street and Walnut Street to allow for the construction of a new apartment building.
- R217-13 Approving the Preliminary Plat of Magnolia Falls Plat 3, a revision to a portion of the Preliminary Plat of Magnolia Falls, located southeast of the intersection of Route KK and Old Mill Creek Road.
- R218-13 Authorizing the Finance Director to write off certain uncollectible receivables and CDBG and HOME housing loans.

The bills were given third reading and the resolutions were read with the vote recorded as follows: VOTING YES: TRAPP, SKALA, THOMAS, NAUSER, HOPPE, MCDAVID, SCHMIDT. VOTING NO: NO ONE. Bills declared enacted and resolutions declared adopted, reading as follows:

NEW BUSINESS

- R219-13 Authorizing an agreement with Columbia Eve Fest, Inc. for support of the New Year's Eve Celebration; authorizing the City Manager to provide support services.

The resolution was read by the Clerk.

Mr. Griggs provided a staff report.

Greg Ahrens, 1504 Sylvan Lane, explained he was the President of Columbia Eve Fest, Inc. and offered to answer any questions.

The vote on R219-13 was recorded as follows: VOTING YES: TRAPP, SKALA, THOMAS, NAUSER, HOPPE, MCDAVID, SCHMIDT. 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.

- B301-13 Approving the C-P Development Plan of Lot 2 – Katy Place Heights located on the southeast corner of Forum Boulevard and Forum Katy Parkway.
- B302-13 Rezoning property located on the south side of Southland Drive and west of Rock Quarry Road from A-1 to R-1.
- B303-13 Approving the Final Plat of Southland Plat 1 located on the south side of Southland Drive and west of Rock Quarry Road; authorizing a performance contract; granting a variance from the Subdivision Regulations relating to sidewalk construction.
- B304-13 Approving the Final Plat of The Villas at Old Hawthorne Plat 8, a Replat of a portion of Lot 5 of Old Hawthorne Plat 1, located on the east side of Diamond Creek Lane and south of Old Hawthorne Drive East; authorizing a performance contract.
- B305-13 Approving the Final Plat of West Lawn Plat 4 located at the termini of Leland Ridge Road and Tiernan Drive; authorizing a performance contract.

- B306-13 Approving the Final Plat of Sutter Industrial, Plat 3, a Replat of Lot 1A of Sutter Industrial, Plat 2, located on the northeast corner of Paris Road and Waco Road.
- B307-13 Vacating a sewer easement on Lot 102 within The Village at Wyndham Ridge, Plat No. 1-A, located on the east side of Scott Boulevard and south of Thornbrook Terrace.
- B308-13 Vacating a utility easement on Lot 17 and Lot 18 within Arbor Falls Plat No. 3, located on the south side of Euliss Drive and approximately 600 feet south of Pergola Drive.
- B309-13 Authorizing an STP-Urban Program agreement with the Missouri Highways and Transportation Commission for the Keene Street pavement improvement project from I-70 Drive Southeast to East Broadway; appropriating funds.
- B310-13 Authorizing Amendment No. 1 to the air service agreement with American Airlines, Inc.
- B311-13 Authorizing an intergovernmental cooperation agreement with The Curators of the University of Missouri for integrated shuttle bus service on campus.
- B312-13 Authorizing an airport aid agreement with the Missouri Highways and Transportation Commission for aircraft rescue and firefighting training assistance at the Columbia Regional Airport.
- B313-13 Accepting certain streets for public use and maintenance.
- B314-13 Authorizing an upgrade of the railroad active warning device at the Columbia Terminal Railroad's (COLT) intersection with North Browns Station Road; calling for bids through the Purchasing Division; appropriating funds; authorizing a supplemental agreement for highway/rail crossing signal improvements with the Missouri Highways and Transportation Commission.
- B315-13 Authorizing construction of repairs to the Hinkson Creek Trail bridge in Capen Park; calling for bids through the Purchasing Division; appropriating funds; authorizing a recreational trails program project agreement with the State of Missouri, Department of Natural Resources.
- B316-13 Accepting a grant from the State of Missouri, Department of Natural Resources for the design and printing of trails system maps and guides and the installation of trail mile markers along the MKT Trail, Scott's Branch Trail, Hominy Creek Trail, Bear Creek Trail, Hinkson Creek Trail, County House Branch Trail and future Grindstone Trail; authorizing a recreational trails program project agreement; appropriating funds.
- B317-13 Renaming the Old 63 Roadside Park to the Sterling W. Wyatt Park.
- B318-13 Authorizing a contract with the Missouri Department of Transportation – Traffic and Highway Safety Division for a DWI enforcement unit; appropriating funds.
- B319-13 Authorizing a contract with the Missouri Department of Transportation - Traffic and Highway Safety Division for occupant protection safety checkpoints relating to seat belt and child restraint violations; appropriating funds.
- B320-13 Authorizing a contract with the Missouri Department of Transportation - Traffic and Highway Safety Division for DWI enforcement relating to sobriety checkpoints and saturation patrols; appropriating funds.

- B321-13** Authorizing a contract with the Missouri Department of Transportation - Traffic and Highway Safety Division to conduct special traffic enforcement of hazardous moving violations; appropriating funds.
- B322-13** Authorizing a subrecipient monitoring agreement with Boone County, Missouri relating to acceptance of the FY 2013 Justice Assistance Grant (JAG) Program Award to purchase equipment for the Police Department; appropriating funds.
- B323-13** Authorizing a program services contract with the Missouri Department of Health and Senior Services for the Healthy Families America program; appropriating funds; amending the FY 2014 Annual Budget and Classification Plan to add a social services specialist position in the Public Health and Human Services Department – Human Services Division.

REPORTS AND PETITIONS

REP152-13 Communication from the Citizens Police Review Board regarding the Mayor's Task Force on Community Violence.

Mayor McDavid stated he felt the Task Force on Community Violence had been doing good work and had a lot of momentum, and did not believe anyone was excluded from the Task Force. He hoped members of the Citizens Police Review Board, the youth, the Columbia Public Schools, etc. were engaged and participating. He did not feel additional Task Force members were needed, but noted he would defer to Ms. Nauser and Mr. Trapp on the issue.

Ms. Nauser agreed the Task Force was moving along wonderfully and pointed out they had received requests from others wanting to be a part of the Task Force. She thought the Task Force should be left as it was in terms of membership, but would encourage anyone that wanted to provide input to attend and speak at the end of the meeting.

Ms. Hoppe understood the Citizens Police Review Board could send a representative to the Task Force on Community Violence meetings to listen and comment. Ms. Nauser stated that was correct.

Mr. Trapp stated he agreed with Ms. Nauser as he believed the Task Force already had a nice mix of people. They had already done a lot of work, and to get any new member caught up would be difficult. He saw some overlap, but pointed out there was overlap with a lot of bodies. He noted the Citizens Police Review Board was welcome to make a presentation of any proposal or idea to the Task Force. He suggested those interested in the Task Force attend the meetings as it was a good working group.

REP153-13 Communication from the Citizens Police Review Board with regard to televising meetings.

Mayor McDavid commented that he did not have any objection to the request of the Citizens Police Review Board since it was a public meeting regardless of whether it was televised.

Ms. Hoppe made a motion to not require the Citizens Police Review Board meetings to be televised. The motion was seconded by Mr. Skala and approved unanimously by voice vote.

REP154-13 Proposed policy for the repair, maintenance and treatment of Columbia's brick streets.

Mayor McDavid understood there was some historic value and ambiance to brick streets, but bicyclists and disabled citizens did not like brick streets, so it was not a simple issue. He suggested this policy recommended by the Historic Preservation Commission be submitted to a public hearing.

Ms. Nauser made a motion to accept the report and to proceed with a public hearing on the proposed policy for the repair, maintenance and treatment of brick streets. The motion was seconded by Ms. Hoppe and approved unanimously by voice vote.

REP155-13 Report from the Board of Health on City water fluoridation.

Mayor McDavid commented that the Council had received hours of testimony on fluoridation for the last six months and on that basis the Council had asked the Board of Health to review the issue. He understood the Council could accept the report from the Board of Health, which meant nothing would change, any member of Council could ask for legislation to be brought forward for discussion on the topic, any member of the Council could ask for legislation to put the issue of fluoridation before the voters of Columbia or the public could move forward with the initiative process in an attempt to get the issue on the ballot for the voters to decide.

Ms. Nauser stated she was concerned about the due diligence and safety aspect of the product used in fluoridating the water supply. She asked if the Board started out with a preconceived notion of the results of their study. Dr. Michael Szewczyk, the Chair of the Board of Health, replied the Board did not have a preconceived notion, but had a sense that it was supported by many different entities as they were in the public health industry. He thought they felt it would take something significant to determine the Center for Disease Control, the American Academy of Pediatrics, etc. were wrong. He felt they delved into the issue to the fullest extent possible recognizing the fact the studies were complicated. He commented that the Board of Health had a lot of knowledge and experience, and noted they had someone who used to work for the World Health Organization, worked for the State Health Department, a representative of the schools, an attorney, etc. As a result, they were confident they could look at this issue from an evidence based standpoint.

Ms. Nauser understood the report indicated the Board had the opportunity to hear over five hours of in person and video testimony by experts, concerned citizens and local dentists. Dr. Szewczyk stated the majority included people that were against fluoridation. He noted they did not go out and contact people. Those interested came to them.

Ms. Nauser asked if any toxicological studies were reviewed by the Board. Dr. Szewczyk replied they reviewed a lot of toxicological studies. He referred to the Chinese study that was a meta-analysis of all of 100-200 different studies in China with regard to IQ. In a review of the study, it was an analysis of villages in China where the fluoride levels were 4-6 parts per million and much higher than what they had in Columbia. In addition, it was not controlled for other contaminants. He pointed out the difference in IQ was less than one point in terms of high fluoride and low fluoride even without those controls. Ms. Nauser asked if those were epidemiological studies or toxicology studies. Dr. Szewczyk replied they were

epidemiological studies. Ms. Nauser asked if any toxicological studies had been reviewed. Dr. Szewczyk replied yes, but noted he had not brought the list with him. He commented that he understood Mr. Redmond presented some information to the Council at a prior meeting, which involved the toxicology of fluoride in terms of infants. He understood Mr. Redmond had referred to the 2006 Report of the National Research Council and had indicated they had concerns about fluoride in neonates, but he did not mention that in 2007, the National Research Council had a second report in which they did not find any problems with fluoride. He read part of the 2007 National Research Council Report on Earth Materials in Health – Research Priorities for Earth Sciences and Public Health, which indicated fluoride could positively influence human health. While earlier reports were not conclusive, this report concluded fluoride was considered to be an element essential for human life based on the role in cellular functions, including metabolic or biochemical processes. The report further stated fluoride in drinking water had two beneficial effects, which included the prevention of tooth decay and contributing to bone mineralization and bone matrix integrity.

Ms. Nauser commented that she had two reports which indicated fluoride increased lead concentrations in whole blood and the exposure to lead exasperated dental fluorosis.

Ms. Nauser asked Dr. Szewczyk if he knew the City's product manufacturer was Mosaic and whether the Board had communicated with them in its investigation. Dr. Szewczyk replied the Board reviewed the analysis of the product used and had asked the Water and Light Department to conduct its own independent analysis, but they did not talk to Mosaic on the phone. Ms. Nauser asked if the Board would expect the manufacturer of the product to back up their statements or their conclusions regarding the safety and effectiveness of fluoride. Dr. Szewczyk replied he would not care what the manufacturer said. Ms. Nauser asked if he would not care if they complied with NSF standards. Dr. Szewczyk replied he thought they were in compliance with NSF standards based on the information provided Mike Anderson of the Water and Light Department. He explained he would not have taken the word of the company because he preferred an independent analysis of the product to find out whether or not it was safe. Ms. Nauser stated they were required to follow the Ten State Standard, which indicated they were to comply with Standard 60 and that they were to notify the City when they were asked about product formulation and information. She explained she had contacted Mosaic and the other 54 manufacturers of fluoride by certified mail and they had refused to respond, which was concerning to her. Dr. Szewczyk explained she might want to check with the Water and Light Department as they had communicated with Mosaic and had received reports.

Ms. Nauser understood the memo from the Board of Health indicated there was no convincing evidence showing the recommended level of fluoride caused any concerning health issues and asked if this was a fact or opinion of the Board. Dr. Szewczyk replied it was the opinion of the Board based on the facts read. Ms. Nauser asked if anyone on the Board had been a part of a peer review board or a published researcher in a peer reviewed scientific or medical journal. Dr. Szewczyk replied he suspected Mr. Fierman had been as he had been involved with the World Health Organization and thought Ms. Phillips might have been as well as she was with the Department of Public Health at the University of Missouri.

He commented that he would have been more prepared had he been given these questions in advance.

Dr. Szewczyk explained the Board of Health had spent hours on this issue and had reviewed hundreds of articles and documents, and pointed out everyone could come to their own opinions and conclusions based upon their own review.

Ms. Nauser commented that the memo had indicated the reports brought forward that were contrary to the safety of fluoridation were not appropriate studies, which she did not feel could be true since those types of studies were in peer review journals, etc., and as a result, she wanted to know the basis of that comment. Dr. Szewczyk referred to the China study as it was frequently quoted, and pointed out it was poorly designed with meta-analysis and the data was flawed because there were no controls for variables. As a result, he had a problem with that study.

Ms. Hoppe asked for information regarding the average cumulative effect of fluoride in different age groups from all sources of fluoride as fluoride was not only in the water supply. She did not believe the issue was whether fluoride was good for preventing cavities. She felt the issue was whether there were negative effects in terms of other health issues. Dr. Szewczyk replied there was a difference between children and adults. Children were developing at the time fluoride would be incorporated in their teeth and bones. As they became adults, they already had their permanent teeth and no more fluoride would be accumulated in the teeth and bones. There was bone metabolism that still occurred, but to a certain extent, their body would reach a steady state in terms of the amount of fluoride. The fluoride they ingested was excreted by the kidneys and had a half-life of about 30 minutes. The fluoride did not stay in them and was not incorporated in the teeth since the bones were not growing and the teeth were not producing new enamel. As a result, there was not a lifetime accumulation of fluoride. Ms. Hoppe understood the recommended amount to be put in water had been reduced to .7 parts per million recently, and wondered how many parts per million they were consuming through various fluoride consumption. She also wondered if they were getting too much. Dr. Szewczyk replied he thought that was dependent on what they did, what they ate and drank and the type of toothpaste they used. Ms. Hoppe asked if there were studies or information on the issue and whether those studies had been reviewed by the Board. Dr. Szewczyk replied they could look at the number of bone fractures, the number of people that developed osteosarcoma, neurotoxicity or thyroid disease, etc. for adults, and he did not believe studies supported the accumulated effect even though they were getting the additional burden as adults. He pointed out the City of Columbia was well below what everyone else in Boone County was getting in terms of fluoride, and they did not see people with thyroid and other problems in those areas from those levels. He felt the impact was at 4-6 parts per million as indicated in the Chinese study.

Mr. Thomas asked if the Board had been able to look at longer term outcomes in communities that might have discontinued fluoridation in terms of dental health. Dr. Szewczyk replied there were not a lot of communities in which they could review that type of data. He pointed out those communities tended to start using fluoride toothpaste, etc. to increase their fluoride levels.

Ms. Nauser understood fluoride was in everything and asked if there were any long term studies that looked at the cumulative effect of all of the fluoride. Dr. Szewczyk replied he did not know of anyone that had tested blood levels for fluoride. He pointed out it was hard to control as people did not know how much fluoride they were getting.

Ms. Nauser asked who regulated fluoride. Dr. Szewczyk replied the EPA. Ms. Nauser stated the EPA had given up their regulatory authority over fluoride in 1988. Dr. Szewczyk noted the EPA regulated water in terms of acceptable levels of various items, such as arsenic, lead and fluoride. Ms. Nauser understood fluoride was regulated by Standard 60.

Ms. Nauser commented that she had recently read an article from the CDC that indicated recent evidence suggested mixing powdered or liquid infant formula with fluoridated water on a regular basis could increase the chance of a child developing enamel fluorosis, but there was no warning on the formula labels. Dr. Szewczyk stated the ADA had indicated that it was okay to use fluoridated water to reconstitute infant formula and noted the American Academy of Pediatrics had also stated that it was safe to use fluoridated water to mix infant formula according to the ADA. They further stated the risk of mixing infant formula with fluorinated water was mild fluorosis, but to talk to a pediatrician or dentist if they had concerns. He understood the CDC had indicated it was okay as well.

Mr. Schmidt wondered how it would even be possible to do a blood test if the half life of fluoride in the blood stream was so quick. Dr. Szewczyk replied they would likely have to take a bone and determine the density of fluoride in it. He pointed out a blood test could indicate whether someone was consuming a lot of fluoride on a consistent and regular basis as their blood level of fluoride might be higher than someone that did not consume as much, but it was dependent on the absorption of fluoride, which was dependent upon the pH in the stomach. This was why the studies did not review fluoride level, but looked at the health impacts that could be attributed to fluoride.

Mr. Thomas asked about the impact of dental health in discontinuing fluoridation. Dr. Szewczyk replied he did not believe many disagreed with the fact fluoride helped prevent dental carries. The only questions was whether there were risks, and if done at an optimum level, the Board found there were not significant risks.

Ms. Hoppe asked if they were getting fluoride from other sources whether the City needed to spend \$50,000 per year, and wondered how they could use the \$50,000 to affect dental health to low income individuals more directly, such as through the promotion of brushing teeth, etc. Dr. Szewczyk replied the Board of Health had not reviewed that objective, but had discussed it, and noted they were working on a Dental Education Subcommittee to educate kids and their parents. He wondered how they would allocate the \$50,000 if they chose to move in a different direction as it was not a lot of money and would likely not be as cost-effective as this method. He pointed out that once a child's permanent teeth received the necessary fluoride, they were good for life, so the money spent would help them for the rest of their life. He commented that testimony had been provided that this program was bad for low income people because they could not choose to opt out of fluoride, but they were the ones that needed fluoridated water since they could not afford to buy the necessary products or did not have the proper parental education with regard to fluoride. He

noted he had two kids that brushed their teeth well and one that did not brush his teeth as well, so he was glad they got the fluoride necessary from living in Columbia.

Mr. Skala commented that although he was not an expert on fluoride, he had some credentials on toxicology and teratology as his first assignment as a graduate student was to work with the National Center for Toxicological Research in Little Rock, Arkansas, dealing with methyl, mercury and lead. He pointed out the reason people did meta-analyses like the analysis from China was because they did not have reliable analyses. They grouped it together to ensure they could get effect. He noted there was nothing to assure that just because a journal was peer reviewed that there was not controversy in terms of the results. There were flaws and that was the reason hundreds of articles needed to be evaluated. He understood the Board of Health had evaluated a lot of peer reviewed articles and evaluated whether or not they had value.

Dr. Szewczyk stated he felt this was a public health issue and it was right for the Council to make the decision. He did not think it should go to the vote of the people as other public health issues were not put to a vote. It was the role of government to make these decisions.

Mr. Schmidt made a motion to accept the report. The motion was seconded by Mr. Trapp.

Ms. Nauser commented that she felt public discussion was needed on the issue as there were many people in the community that had concerns. She asked for legislation to be brought forward to discontinue the use of fluoride in the water supply.

The motion made by Mr. Schmidt and seconded by Mr. Trapp to accept the report was approved unanimously by voice vote.

Mayor McDavid understood Ms. Nauser was asking for a public hearing on a resolution regarding the issue. Ms. Amin asked for clarification with regard to whether they wanted to hold a public hearing as that was different than just allowing public comment. A public hearing needed to be advertised. Public comment could be held on the item if it was placed under new business. Ms. Thompson commented that from a legal perspective the resolution would be placed under new business and public comment would be allowed. It would not be an advertised public hearing. Ms. Nauser stated she wanted the public to have the opportunity to comment.

REP156-13 City costs for the 2013 Roots N' Blues N' BBQ Festival.

Mr. Skala asked if the additional \$20,000 went toward the rental of the ferris wheel and the associated liability insurance. Ms. Rhodes replied it did. Mr. Skala commented that his reading of this was that they came out even.

Ms. Hoppe pointed out the City received additional economic benefits due to sales tax, etc., which went into the general fund. She noted she felt Stephens Lake Park was a great location for this event, and it went well for a first time event. She understood there were some glitches and things that could be done better, but she felt it was good overall. She thought it was a more family friendly event at Stephens Lake Park than it was downtown.

Ms. Rhodes stated City staff had held a debriefing meeting with the representatives of Thumper and they planned to make it a better event next year.

Mr. Skala asked for a report of the debriefing conversation to help their understanding as some of his constituents were not happy with the event.

REP157-13 Update from the Building Construction Codes Commission regarding radon control in the City building code.

Mayor McDavid understood the report provided was incomplete. Mr. Matthes explained the Building Construction Codes Commission needed more time. Mayor McDavid understood the Council would be receiving another report in the future.

REP158-13 Intra-Departmental Transfer of Funds Request.

Mayor McDavid understood this report had been provided for informational purposes.

COMMENTS BY PUBLIC, COUNCIL AND STAFF

Amy Bremer, 2301 Silver Leaf Court, explained fluoride affected every citizen in Columbia everyday of their life regardless of age and stated she hoped the Council took this more seriously than the Board of Health as she believed they spent more time on the chicken ordinance than they had on the fluoride issue. She explained the Board had also indicated they were providing too much information and believed it was obvious from the conversations that they had not read what had been provided. She commented that they had received a copy of the report through a Sunshine Law request since it had been delayed in being provided to the Council, and it had even changed since then to add more information. She felt it was disingenuous to mention the fluoride levels in Boone County and at the University because her issue was not with the level of fluoride. Her concern involved the fact the City was adding a chemical, hydrofluorosilicic acid, which was different than naturally occurring calcium fluoride. She believed this was forced medication and noted many states required physicians to visit with patients to obtain a medical history prior to prescribing a drug, but the City was forcing the consumption of fluoride without that information and without dosage control. Fluoride came from a lot of sources and those that consumed a lot of water were getting more fluoride than necessary. In terms of the infant calculations, Dr. Szewczyk was not reading the full documentation from the groups. They provided the Board of Health the infant calculation as had been seen by the Council and others, and no one had refuted it. She noted the dentist on the Board of Health voted to stop fluoridation. He felt those with low income could have wonderful teeth while the rich could have bad teeth, and stated it came down to parents making children brush their teeth. She wondered why low income people drank fluoridated water but still had bad teeth, and pointed out it was due to dental health and poor diet. She commented that she believed \$50,000 could buy a lot of toothpaste and toothbrushes. She stated the Board of Health had not requested an expert, such as Dr. Featherstone, for the other side of this opinion, and noted the EPA Union of Scientists were against fluoridation although the bureaucrats were not. In addition, the Harvard IQ study showed a difference of seven points, and not one point as indicated by the Board of Health. She felt they had not read the study or had not understood it.

Daniel Redmond, 2301 Silver Leaf Court, understood Dr. Szewczyk had indicated fluoride was cleared from the body in 30 minutes, but the National Research Council Report

indicated 50 percent was stored in the bones. He noted Dr. Szewczyk had also indicated fluoride had no effect on the thyroid, but he believed the MERC manual indicated fluoride had been used to treat hyperthyroidism in the 1960's. He stated Dr. Szewczyk had indicated kids were good for life once they had fluoride, but he understood the July 2000 Journal of the American Dental Association had indicated systemic fluoride created an insignificant outer layer on developing teeth so it did not have an effect on adult teeth. He believed topical fluoride made more sense since it changed the crystal structure. He commented that aluminum had been rare until the turn of the century when it was discovered a type of fluoride could assist in extracting it, and fluoride had also been used to purify uranium for bombs during World War II. He noted fluoride was also used to polish large telescope mirrors, etch metal and glass, make enamels, etc. It had a lot of interesting properties, which he did not feel should be consumed.

Lori Henderson stated she was a pediatric dentist and asked Ms. Nauser to provide her and Dr. Szewczyk her questions so they could address those questions. She noted she had provided materials in the past that addressed dose response and considered fluoride from a number of sources. She commented that it was not correct that the EPA relinquished the regulation of fluoride in the drinking water in 1988. The EPA and HSS had a joint announcement in 2011 recommending 0.7-1.2 parts per million as the range for drinking water. They also set the secondary contaminant level and the maximum contaminant level at 4 parts per million. She believed the discussion on this topic would involve discrediting experts, name calling and cherry picking articles, and felt Dr. Szewczyk was an expert as he was a physician and qualified to have an opinion about thyroid health and other medical issues. She commented that she had heard Dr. Featherstone lecture and believed Ms. Bremer had misrepresented what he stood for in terms of how fluoride helped and affected children's teeth.

Eugene Elkin, 3406 Rangeline, commented that he had attended the meeting of the Board of Health regarding fluoride and believed fluoride was not good for children. He wondered if deaths could be contributed to overfluoridation as well. Mr. Elkin noted he was also concerned with the proposed additional student housing east of the Stadium exit and in the downtown and asked the Council to review these issues carefully in future decisions.

Mayor McDavid commented that he had struggled over the pension plan deficit and the amount of the general fund budget that paid for pensions, and asked for a financial and actuarial analysis on two scenarios. He understood the City had \$6 million in the reserve fund over the 20 percent and wondered if it would be beneficial to move that \$6 million to help pay the pension costs. He also wondered if it was possible to sell general obligation bonds and pay 3.5 percent instead of 7.5 percent. He asked for a legal, actuarial and financial analysis on those options. He felt any savings could be used to fund more police officers.

Mr. Trapp commented that he did an interview for KOMU and they had summed him up as saying boards and commissions were at risk. He noted he appreciated the work of the various boards and commissions, and wondered if they could do some targeted advertising to

reach out to various constituencies to fill the vacancies. He pointed out he had received input from the Columbia Vision Commission with regard to some of the challenges of boards and commissions, such as the Sunshine Law, as it made it difficult for the group to form when they were told not to talk to each other. He wondered what they could do to be more welcoming.

Mr. Skala asked about the status of the proposed tree board and a task force on community policing.

Mr. Skala noted he had been contacted by a constituent regarding the unwanted advertising signs in round-a-bouts. He understood they were limited in terms of staff driving around and looking for illegal signs in round-a-bouts, but wondered if something could be done.

Ms. Hoppe understood the Planning and Zoning Commission had canceled its work session for October 24 and had canceled quite a few other work sessions. She asked for a list of the pending Council work requests involving the Planning and Zoning Commission, such as the steep slopes issue. She was concerned the cancellation of work sessions would delay the items they had requested be reviewed.

Ms. Hoppe commented that there continued to be a problem with street signs being stolen in the East Campus area, and noted that was a safety issue. She asked about the possibility of painting street names on the street sign poles and/or painting the names of the streets on the curbs at the intersections. She was looking for a more permanent solution and asked for a report.

Ms. Hoppe understood Macadoodles at Green Meadows and Providence would open soon and the development agreement had indicated a landscape buffer to the north would be installed. She noted the buffer was not there now and asked that staff to ensure compliance with the development agreement.

Ms. Hoppe noted the speaker under scheduled public comment had made a lot of statements with regard to smart grids and smart meters, and asked staff to provide a report clarifying whether those statements were true or not as that information would be helpful to Council and the public.

Mr. Schmidt commented that he and Mr. Thomas had attended the Bicycle/Pedestrian Commission meeting last Wednesday and it was refreshing to see the level of detail at which they discussed issues. He asked for a report from staff to go through the Bicycle/Pedestrian Commission regarding why the traffic engineers designed the intersections along the Stadium Boulevard corridor improvement project so only three of four legs had crosswalks.

Mr. Schmidt stated he was continuing to receive noise complaints, and the most recent one involved Mojo's. He thought they needed to revisit the noise ordinance. He felt the way the music venues were playing music was changing while more people were living downtown.

Mr. Thomas thanked the Board of Health for its work in studying the fluoride issue and for Dr. Szewczyk's patient and calm analysis and response to the questions that had been asked.

Ms. Hoppe thought they might want to consider holding a special meeting on separate date on the fluoride issue. Mayor McDavid stated he would oppose holding a special meeting. He thought that was a meeting at which they needed to limit repetitive testimony and enforce the three minute rule. Ms. Hoppe stated she was concerned about the meeting going until 2:00 or 3:00 a.m. Mayor McDavid pointed out the Council was contributing to a lot of the lateness of the meetings themselves.

Mayor McDavid made a motion for the City Council of the City, Missouri to meet on Monday, November 4, 2013 at 6:00 p.m. in Conference Room 1A/1B of City Hall, 701 East Broadway, Columbia, Missouri for a closed meeting to discuss personal information relating to the performance or merit of individual employees as authorized by Section 610.021(3) RSMo and individually identifiable personnel records or performance ratings as authorized by Section 610.021(13) RSMo. The motion was seconded by Mr. Skala and the vote was recorded as follows: VOTING YES: TRAPP, SKALA, THOMAS, NAUSER, HOPPE, MCDAVID, SCHMIDT. VOTING NO: NO ONE.

The meeting adjourned at 11:24 p.m.

Respectfully submitted,

Sheela Amin
City Clerk