

**SPECIAL CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBER, CITY HALL  
701 E. BROADWAY, COLUMBIA, MISSOURI  
MARCH 19, 2014**

**INTRODUCTORY**

The City Council of the City of Columbia, Missouri met for a special meeting at 12:00 p.m. on Wednesday, March 19, 2014, in the Council Chamber of the City of Columbia, Missouri. The roll was taken with the following results: Council Members NAUSER, HOPPE, MCDAVID, SCHMIDT, TRAPP, SKALA and THOMAS were present. The City Manager, City Counselor, City Clerk and various Department Heads were also present.

**APPROVAL AND ADJUSTMENT OF AGENDA INCLUDING CONSENT AGENDA**

The agenda was approved unanimously by voice vote on a motion by Mr. Skala and a second by Ms. Nausser.

**OLD BUSINESS**

**B61-14 Authorizing a development agreement with Columbia Properties II, LLC relating to property located on the south side of Conley Avenue, between Fourth Street and Fifth Street.**

The bill was given third reading by the Clerk.

Mr. St. Romaine provided a staff report.

Mayor McDavid understood this plan had been approved by the Council in July of last year. Mr. St. Romaine stated that was correct. Mayor McDavid asked if Collegiate Housing Partners had complied with all of the rules, regulations, and ordinances of the City of Columbia to date. Mr. St. Romaine replied they had. Mayor McDavid understood staff, with the presentation of this development agreement, was stating the City had the capability to supply utilities to this development. Mr. St. Romaine stated that was correct.

Mr. Thomas asked for clarification on the number of units as he understood there were 98 units, but the three categories on the slide only added up to 47 units. He wondered if the others were one bedroom units or if a number was incorrect on the slide, and noted the number of beds did not add up either. Mr. St. Romaine replied there was obviously a number missing or an incorrect number, and noted Mr. Stiles of Collegiate Housing Partners stated he thought there were 56 four bedroom units.

Catherine Parke, 413 Thilly Avenue, commented that at the March 17, 2014 Council Meeting, the public saw the pattern of how major decisions were made and how the City government and elected representative body functioned. This pattern included misinformation countered by emergency corrections of misinformation; the failure to know history accurately countered by emergency reminders and the insistence of how crucial it was to know and act on history in order to have good policy, follow policy, make plans, enact plans and commit to accountability; an unaccountable, speeding up of a process and the emergency insistence that a process needed to be slowed down; and the claims that the piecemeal approach to development in the City was almost over or would happen one more time and the City would then commit to and follow policy and procedures. She believed the City was in a situation of grave institutional dysfunction as the City government and the

representative elective body were dysfunctional. She commented that Columbia was no longer in the realm of individuals because the very structure of civic activities was contaminated and destructive. She thought this dysfunctionality needed to be addressed before any other decision was made, or the City would continue to stumble from crisis to crisis.

Deanna Walkenbach, 407 Pyreness Drive, asked about accountability and wondered who was responsible for the infrastructure problems and why the City was contemplating all of this new development when they did not know how much it would cost the public as they only knew how much the developers were contributing. She felt there was something intrinsically wrong, and wished she knew how to fix it. She hoped Monday night's meeting had informed the Council of the anger and mistrust that was rampant in the community. She also hoped the Council would vote down all three development proposals, and that a lesson had been learned about the importance of including citizens in the process as that had been ignored.

Traci Wilson-Kleekamp, 2905 Greenbriar Drive, commented that she believed the public would welcome a conversation about infrastructure financing. If the City wanted the public to support what it was doing, she suggested this conversation occur prior to approving any development as it would lessen the anguish in the community and build trust. She felt trust was important in terms of process, and a good process and good data produced good outcomes and happy people. She stated she had not seen good data or a good process, and was not sure of the outcomes, and noted the process had disenfranchised people. She asked the Council to put an infrastructure financing conversation on the table, and to set policy first so everyone had the same rubrics to follow, it was not piecemeal, and the playing field was level.

Dawn Zeterberg, 608 Hunt Avenue, stated she was having plumbing issues of her own, and did not think these developments should be approved until the infrastructure issues throughout the community were resolved.

Carol Riesenberg, 409 Maupin Road, commented that she was not sure how anyone could approve this development when it would affect so many lives, the infrastructure, etc. and when the presenter did not have his facts straight. She wondered what else might be unknown about the project.

John Clark, 403 N. Ninth Street, commented that he supported the fact the City Manager decided to implement part of Chapter 4 of the Comprehensive Plan with regard to the sufficiency of resources requirement by denying the issuance of a building permit, and noted this meeting would not be happening if it was not for that action. He stated he had reservations in terms of adequate protections within the actual development agreement, and suggested the Council engage outside counsel to help develop the framework so they did not accidentally take on more than in the past. He also did not feel the \$150,000 was an adequate measure of the fair proportion of infrastructure costs. He believed this decision could start the meaningful implementation of Chapter 4 in a responsible way.

Mary Zieha, 1315 St. Christopher Street, asked the Council to consider how it appeared to the citizens by voting at a noon meeting. In addition, the citizens could not get a hold of anyone on the Council since they had been in the retreat meetings. She asked the

Council to consider the democratic process and for a day in between the retreat and the meeting when they made a final decision.

Monta Welch, 2808 Greenbriar Drive, commented that Brookside had purchased five years of bus passes, and provided that as a comparison for this development. In addition, the cost of this development to the City was unknown, and she felt the amount contributed by the developer was inadequate. She understood the Council had held some good discussions, and noted she would appreciate it if the public was allowed to hear future discussion on the issues.

Jack Cardetti stated he was with Tightline Strategies, which had offices at 122 E. High Street, Jefferson City, Missouri, and noted he was representing Brookside. He explained the issues Columbia was facing were problems most cities would love as many Midwest cities had half-empty downtowns and boarded-up squares. The overall economic health of Columbia was strong, and downtown Columbia was and would continue to be an attractive to investment. He commented that he was asked if student housing in Columbia was overbuilt, and he believed it was, but did not think that should be the focus of the City Council. He felt the Council should ensure everyone that entered the student housing market was on a level playing field, and explained Brookside had been required to buy a \$125 bus pass for every resident at Brookside Midtown for a period of five years. He felt these three developments should abide by the same requirement. He understood the Council had indicated one of its top priorities was to extend the operation of the new bus system for 1-2 hours each evening, and that would cost about \$160,000 per year for each hour added. Coincidentally, requiring these three developers to purchase a bus pass for every resident would add \$165,000 to the transit system, which would total \$882,000 over five years. He noted the Council had the opportunity to use an asset, which was the desire to build more student housing, to help an underfunded priority of city government, the transit system, and suggested it require that of these developers.

Sid Sullivan, 2980 Maple Bluff Drive, stated he was amazed at the speed the Council had decided to handle these issues when the Clark Lane issue, which had been an issue for the past ten years, was still unresolved. He noted he lived in the southwest part of the community, and the Scott Boulevard issue had taken 20 years to settle. In this situation, there were suddenly three developments, and the community had not been fully informed of the specifics so it was a great concern to them all. The downtown area was very attractive to developers because there were few restrictions, and developers from Kansas City and St. Louis had indicated they preferred Columbia because it did not have the regulations Kansas City or St. Louis had. He thought it was too soon to move forward until the regulations in Columbia were satisfactory to everyone. In addition, the speed at which this had been brought forth had created a real distrust between the community and the City. He also felt City administration did not talk to or provide the truth to Council, and this attitude undermined the control the Council had. It was the responsibility of the Council to inquire and understand where Columbia was headed. He urged the Council to table these issues in order to provide the community the time to understand because they wanted to build a city, and not just a bus system.

Don Stamper, 2604 N. Stadium Boulevard, commented that he would normally talk about jobs, taxes, economic impact, land rights, etc., but he did not believe that mattered in these situations any longer as they tended to debate things that were not based in the reality of the rules or law, but on individual perception. He thought it was interesting that many felt there had not been a dialogue on financing as the Council had established an Infrastructure Task Force that had worked on the issue for a year and had completed a report that outlined how infrastructure funding should be handled, which he felt had been disregarded. He commented that he believed this problem was partially the fault of the Council as the capital improvement fund had been reduced from 41 percent to 22 percent, which was a net of \$42 million, from 1983 to 2009. They could not fix the problems because they were taking funding away from themselves. He had heard a lot of acrimony with regard to C-2 zoning, and noted those issues could be fixed by the Council as they had the authority and capacity. In addition, the Council needed to deal with the crisis in the downtown. He stated the responsibility of the Council was to move forward, protect property rights, protect the interest of the people that lived in Columbia, and protect the interests of how the community grew.

Eugene Elkin, 3406 Range Line, suggested the Council vote against moving forward on all three of these projects until all of the information was received as more problems would likely be created by these developments. He thought more streets and basements would be filled with sewage if these developments were approved. In addition, he believed employees should be able to approach the Council on any issue so they knew the problems, and suggested bus passes be required for seven years instead of five years in order to improve mass transit.

Mayor McDavid commented that the Collegiate Housing Partners project had been a two years project that had gone through the Planning and Zoning Commission and the City Council. The project conformed to all of the rules, regulations, ordinances and demands with regard to land use at this time. The City was stating through the development agreement that it had the capability to serve the project with utilities, and as a result, he felt the Council was obligated to grant the building permit. He stated he would support the proposal.

Mr. Thomas agreed the City had a broken process, and felt the loss of confidence in the City Council and the City government was a serious problem as they would not be able to accomplish their goals or visions if they did not have the support of the people. As a result, he believed the repair of this damage needed to be a priority. He thought the reason everything had come together like this was due to the fact the City was in a period of transition, and the Comprehensive Plan, adopted a few months ago, highlighted the differences in the way they perceived the community and the level of engagement and how they wanted to see it grow. Two of the key issues were infrastructure financing and zoning in the downtown. He was encouraged by the conversation the Council had at the retreat earlier in the day, and thought they needed to move forward by discussing the issues and presenting the different opinions in order to find common ground. He felt this momentum needed to continue, and noted he had asked for a series of high profile public meetings on impact fees, downtown zoning and neighborhood participation in the planning process. He commented that he was generally very reluctant to approve any further development during this transition period if he had a legal and legitimate reason, but noted he viewed this particular project

differently than the other two projects. Collegiate Housing Partners had a track record of cooperating with City government and the community at-large and the project corresponded with the philosophy of his reading of the Comprehensive Plan, particularly with regard to transportation. He also felt there had been errors in communication between the City and developer. In addition, the land had been purchased, buildings had been demolished, and the company was moving forward in good faith and with expectations. He stated he planned to support this development agreement, and viewed it as a transition project as Columbia moved into a new paradigm. The staff exacted an infrastructure contribution of \$150,000 from the company to help with sewers. Although it was not solving the big problem, it was a symbolic gesture indicating that developers were willing to pay more. He understood the \$150,000 would go toward a sewer connector, but there was still a \$7 million sewer problem, and in voting in favor of this proposal, he would commit to ensuring they identified that funding to address the problem so this development could open in August of next year.

Ms. Hoppe commented that some of them had been working toward addressing the infrastructure problem for years, but noted the right Council was needed to accomplish it. In planning for the upcoming budget year in November, Mr. Matthes had asked the Council what issues it wanted to tackle at the budget retreat, and infrastructure financing had been identified as an important issue. The Council had spent this entire morning on infrastructure, and the process of developing a policy would include public meetings to obtain public input. She stated she had pushed for the Comprehensive Plan and the C-2 zoning code changes for several years, and an interim C-2 zoning code was in the process of being developed. She explained she was as frustrated as the public with regard to the slowness of that process. In terms of this Collegiate Housing Partners proposal, she felt they needed to consider where they were in the process and determine what was fundamentally fair. The Council had approved their rezoning a year ago, and they had since purchased the property and demolished the structures that had been on the property, so they had been ready to move forward. She believed it would be unfair to hold their project up at this point, and thought there might be a legal issue as well. Although she distinguished this development by where it was in the process, she agreed the general goal and concerns previously stated were important.

Mr. Skala explained some of the Council had been ruminating on the infrastructure problem since 2004, and at the time, one of the consultants had recommended the consideration of a new model for infrastructure financing, but the advice had not been taken. The Council was revisiting it now as a result of the work of the Infrastructure Financing Task Force. He commented that he did not believe the Council had ignored the advice of the majority or minority report as they could choose whether or not to take their advice. He stated he had been encouraged by the discussion this morning and believed the model was changing as they were attempting to provide a more equitable base for those who lived and those that had businesses and developed in Columbia. He pointed out the City had hired a consult to review the zoning code and subdivision regulations, but it would likely be a couple of years before any changes were implemented. They had asked about the potential of a C-2 overlay and were told it would be very expensive, so they decided to move forward with the recommendation of staff to address some of the C-2 issues. He stated he was also frustrated

with this compressed and expedited process as he did not like the idea of holding noon meetings because it was not truly representative of what the public needed to trust government, but he also did not feel there was much choice in this particular situation. The Collegiate Housing Partners development was not on C-2 zoned property, and they had gone the extra mile in terms of cooperation with regard to transportation, reduced parking and minimizing the impact of their development. He commented that he personally felt Columbia was close to a saturation point in terms of student housing, but also did not feel marketing was his business. He thought they needed to honor the commitments made. Collegiate Housing Partners had done everything required and had to go ahead before the added pressure from these other developments had been known. He stated he intended to support this proposal.

Ms. Nauser agreed a conversation regarding infrastructure costs was needed, but pointed out the voters, in 2005, had agreed to increase development fees, but had not agreed to increase the capital improvement tax, and as a result, the City was unable to increase the amount of revenue collected to address infrastructure maintenance issues. She also noted connection fees had been increased per cost of service studies, so they had attempted to address the issue over the past ten years, but she would arguably agree the fees were not sufficient to keep up with the growth and maintenance issues in the community. She reiterated the Council had discussed these issues in the past, and noted there had been some philosophical differences with regard to the approach. It was discussed again this morning, and they had asked for current data to review in order to make decisions and policy. She pointed out the costs assessed to developers were not paid for by the developers. The costs were passed on to the consumer, and the consumer paid the costs. She felt the notion that developers were not paying their fair share was a misnomer because consumers paid the costs regardless of what was charged to developers. If they chose to increase fees, those purchasing homes, renting apartments, purchasing goods, etc. would pay the fees. She understood the Downtown CID had indicated it was underserved in terms of residential units. The National Main Street Center stated 1-2 percent of a community's population preferred to live in the downtown area, and the Urban Land Institute stated 75 percent of millennials preferred to live in a central city location. Columbia's central city location included a lot of students because one of the community's largest employers was the University of Missouri, and students were needed to keep the University in business. She noted the University had made a conscious decision many years ago to not keep up with needed student housing and to allow the market to address the situation. In addition, this sewer improvement project had been on the City's Capital Improvement Project (CIP) Plan for years. The timing, however, had not been anticipated as it was on the 6-10 year project list. Columbia had gone for years with very little interest in the downtown, and all of a sudden there was a rash of interest in the downtown from both local and out-of-town investors. She noted she planned to support this particular project because she did not believe they should be before Council with a development agreement. She understood they had everything in place and all of their approvals, and were then told they needed to contribute toward these improvements. In addition, she felt the public had been provided the opportunity to speak on the issue previously since it had gone through the Planning and Zoning Commission and the

City Council. She felt denying this development agreement would negate the entire process, which was inherently unfair and bordering on illegal.

Mr. Trapp commented that he believed there had been discussion with regarding infrastructure funding, and noted infrastructure deficits was not unique to Columbia as every community had the same issue. The cost of maintenance had not been fully addressed with fees, and as a result, they had fallen behind. He pointed out they had been trying to address stormwater, which very much related to this issue, and inflow and infiltration as the capacity in the First Ward had been inadequate for what existed before any of this development started. It was a capital improvement issue, which they took care of as they were able. In addition, they were looking for other resources to magnify the impact. As they reformed how they dealt with infrastructure financing and zoning and subdivision regulations, the City also needed to continue to operate. He did not believe it was acceptable to put this on hold for a couple of years as the pressures that allowed people to raise funding for these projects would still be there, and he preferred a denser central city development that was highly walkable and efficient in the ways services were provided as it was cheaper overall. He noted these types of developments were alternatives to developments on the edge of the City or in the County or adjoining counties that did not have the same level of environmental responsibility as Columbia. He thought they needed to be careful to not create unintended consequences by restricting development in the downtown. He commented that the Council understood it needed to facilitate infrastructure in order to meet the current needs of those in the First Ward and these projects, and believed this development agreement was a great step toward improving the infrastructure problems. He agreed with Ms. Nauser in that it was unfortunate that Collegiate Housing Partners was in front of them again as there had already been a robust public process. In terms of communication with Collegiate Housing Partners, he read the will serve letter and believed it was clear the City could not serve them, but if he had read it six months ago, he would have thought it was typical legalese by which a community protected itself from something unforeseen. As a result, he felt there was truth to this on both sides. He agreed the money proposed in this development agreement would not fix the trunk sewer line, and shared the conviction of Mr. Thomas in that the City would find a way to fix that trunk sewer line. He explained the Council was trying to find a means that was acceptable to the community, and had tried a few things in that effort. He commented that he was not interested in facilitating developers making a lot of money. He wanted to ensure people did not have sewage in their basements, the City's water was clean, and Columbia was a dense, walkable community with a vibrant downtown. He referred to the Downtown CID report and noted every metric was great. It was not a place that was under assault. It was a hip, vibrant place where people were having a good time. He agreed they had issues they needed to address, and this development agreement was one small step. He noted there were a lot of side issues, and believed fear and resistance change was a part of the concern. He liked the current Columbia, but did not feel these developments were a threat. He felt they were a step towards a dense, walkable community, which he believed was the fundamental answer to long-term sustainability in terms of how Columbia would grow in way they were proud. He apologized to those that felt ill-used by this process, and pointed out evening meetings were inconvenient to some and an occasional daytime meeting was not a

terrible thing. He believed allowing the hours of public comment Monday night fulfilled some of the inconvenience of the day meeting. He knew it was an abbreviated schedule, but felt they could not kill this project with a delay as student housing needed to be ready to open by August. He pointed out this should never have come back in front of the Council as it had been approved in July. It only came back to address the needed infrastructure. He stated people were quick to blame staff for not doing a better job, but noted public processes took time and resources. He understood people tended feel the Council was not listening to them when they did not do what was requested, but the Council could not do everything for everyone because people frequently asked for opposite things. The reason for elections and representative government was to allow the Council to look at the facts and make those decisions. He understood public comment had already been allowed with regard to this development, and this decision involved only the development agreement that would bring in resources to help improve the infrastructure deficit, which would move them toward the dense, walkable City he believed was needed. He stated he would support it.

Mr. Schmidt commented that he agreed with a lot of the comments of Mr. Trapp. They had heard the concerns of the community and had learned a lot. He stated the Council was aware of the flooding basements mentioned by Mr. Stern and others, but allowing or not allowing this development would not change the City's ability to pay for those problems. It would not be fair or possible to ask this developer to fix a problem on another site. A sewer bond had recently passed, and quite a bit of those funds would be used for inflow and infiltration. He believed these problems were of serious concern, which the Council should continue to work to resolve. In terms of whether all of his questions had been answered, he noted this particular development had been discussed for a year, and although there were always more questions, he felt his concerns had been substantially answered. In terms of the flawed process, he explained they were not trying to defend the process. They were trying to determine the best way forward given this infrastructure situation. The City was in a situation where they had not had enough funding for roads, sewers, electric, etc. for a long time, and the Council was left with unpalatable choices. He noted the Council had been working on these issues for years, and this particular development for over a year. He agreed they had not conducted this process in a way that was conducive to public trust. If he thought this proposal was inconsistent with the best interest of the City or the future plans for the downtown, he would vote against it, but he did not believe it was inconsistent and noted he would support it.

The vote on B61-14 was recorded as follows: VOTING YES: NAUSER, HOPPE, MCDAVID, SCHMIDT, TRAPP, SKALA, THOMAS. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

**B62-14 Authorizing a development agreement with Opus Development Company, L.L.C. relating to property located on the north side of Locust Street, between Seventh Street and Eighth Street.**

The bill was given third reading by the Clerk.

Mr. St. Romaine provided a staff report.

Ms. Nauser made a motion to amend B62-14 per the amendment sheet. The motion was seconded by Mr. Trapp and approved unanimously by voice vote.

Mayor McDavid asked if Opus had conformed to all of the rules, regulations, ordinances and demands of the City. Mr. Matthes replied they had.

Mayor McDavid understood staff was saying the City could serve this development with utilities by presenting the development agreement. Mr. St. Romaine stated that was correct, and noted that was reflected in the development agreement. Ms. Hoppe asked if that contemplated that the City would find money for \$7 million needed for infrastructure improvements. Mr. St. Romaine replied it did. Ms. Hoppe stated the City had not identified the \$7 million in funding. Mr. Matthes clarified this agreement was similar to the agreement with Collegiate Housing Partners as they were still working on the larger unresolved issue. Mr. St. Romaine explained this was a piecemeal approach whereby there would be some temporary fixes.

Ms. Hoppe understood Opus had not received a will serve letter. Mr. St. Romaine stated that was correct. Ms. Hoppe understood the Opus development was not as far along in the process as the Collegiate Housing Partners development in terms of coming to the City for approvals. Mr. St. Romaine stated that was correct.

Ms. Hoppe understood there were water and sewer infrastructure deficiencies in terms of the Opus development. Mr. St. Romaine stated that was correct, and explained Opus had agreed to pay \$200,000 for the reconstruction of a block of sewer main and \$250,000 for an upgrade to the water system adjacent to their site.

Ms. Hoppe asked how much of the City's limited electric capacity would be needed. Mr. St. Romaine replied he believed it was about 1-2 megawatts, and noted it would be supplied by the new line currently being built as an extension of the Rebel Hill substation, which would be available later this year.

Ms. Nauser asked if staff had projected rate and monthly fee contributions to the utility. Mr. Matthes replied they did not have the monthly fee estimate, and were working to confirm the numbers. Ms. Nauser understood the highly estimated amount for all three developments was about \$500,000. Mr. St. Romaine stated staff was re-reviewing those numbers, but that was the initial estimate.

Ms. Hoppe understood Opus did not currently own the land for the proposed development. Mr. St. Romaine stated that was correct. He understood they felt it would be unwise to move forward if the City could not assure the capacity to serve the development.

Mr. Schmidt understood the bus pass commitment was for two years. Mr. St. Romaine stated that was correct.

Robert Hollis, an attorney with offices at 1103 E. Broadway, commented that the tabling of this item was not an option due to timing. They understood staff had solved the infrastructure issue related to this site, and if they had reached that point months ago, this development would not have been in front of the Council. It already had zoning and was entitled to be developed as proposed. The process issues raised were unrelated to this development. He did not believe there were many distinctions between the Collegiate Housing Partners development and the Opus development. The Collegiate Housing Partners development was a PUD while the Opus development was C-2, but zoning was zoning with respect to the right to use one's land as permitted and entitled. He noted there was a development agreement with concessions and payments, which was above and

beyond what was normal with C-2 zoning. He pointed out Opus was paying substantially more for a smaller project than Collegiate Housing Partners. They were paying \$450,000 and would replace the on-site stormwater structure. He commented that he did not believe the fact that Opus had not closed on the property was relevant from a legal standpoint. Opus had been working on the project for years and had spent hundreds of thousands of dollars based on their understanding of how they could develop the property, which was based on the law. He pointed out they were on the same construction schedule as the Collegiate Housing Partners development. In terms of retail on the first level, they believed it was a bad idea, but noted the development could be modified to include retail if it made sense in the future.

Mr. Skala asked if they would not entertain the idea of tabling this item even if it meant a vote against it. Mr. Hollis replied yes.

Mr. Matthes asked Mr. Hollis for clarification of his comment regarding retail. He asked if that meant he was willing to modify the agreement to include retail or if it meant they would convert the first floor to retail if it made economic sense in the future. Mr. Hollis replied his intent was to not amend anything.

Traci Wilson-Kleekamp, 2905 Greenbriar Drive, commented that the public cared and understood it was a difficult process. She did not believe they all wanted their own way, but were frustrated with the length of the process. While this process was continuing, the negative impacts were still there. She did not believe there had been enough conversation about the negative impacts in terms of what they were and how they would be mitigated. The environmental review process was not conjoined with the evaluation process as far as she could tell. She wanted to understand the negative environmental impacts and their costs. When developers indicated the unfairness of what they were paying compared to others, she did not know if that was true since she did not know the true cost. She wanted to know what the footprint meant in terms of costs and impacts, to include traffic and other items, to the community.

Peter Yronwode, 203 Orchard Court, stated he believed the process mattered because the process dictated the outcome. Collegiate Housing Partners had contributed two percent of the sewer infrastructure costs and Opus was offering three percent, which he felt was paltry. He noted Ms. Nauser had indicated the consumer would pay for any increased costs, but believed those same consumers received services for those increased costs while the developer just took the money. He commented that he believed the C-2 zoning rules were inadequate. He noted negotiations occurred with any project, whether at the staff level, at the Planning and Zoning Commission or at a City Council meeting, and he did not believe it was inappropriate to apply, amend or reject these development agreements. He did not believe they should be concerned with whether the developer lost construction schedule time. He stated the job of the Council and staff was to reject or approve projects based on the needs and desires of the citizens. Their job was not to facilitate these projects or the time frame of a developer. He urged the Council to reject this development agreement even if meant the development would not go forward.

Bill Weitkemper, 3717 Bray Court, explained the lack of sewer capacity mainly caused manhole overflows and water backup in basements. Last year, 168 manhole overflows were

reported to Missouri Department of Natural Resources and 36 basement backups were reported to the City. He noted the City had no idea if that was all of the basement backups, and noted there were likely 3-4 times that number or 140, as many were not reported. He pointed out none of the basement backups or manhole overflows occurred in the downtown area. In addition, the \$6.7 million in relief sewers would not prevent any of the basement backups or sanitary sewer overflows. This development would cause overflows at the bottleneck, which was by the University golf course and the MKT trail. He understood the Flat Branch relief sewer would be constructed from Douglass School to the end of Lakeshore Drive on the MKT, which was far from the bottleneck. He noted 25 percent of the 168 overflows occurred at the bottleneck, and reiterated there would be more overflows at the bottleneck after this development was constructed. He thought staff was mistaken in the thought the relief sewer would solve these problems.

Janet Hammen, 1844 Cliff Drive, stated this project did not adhere to the Avenue of the Columns plan, the recently adopted Comprehensive Plan, or the Charrette Report. She understood the developer thought retail was a bad idea, but felt it was only a bad idea to them. It was not a bad idea to the planners the City contracted with to develop the plans or to those residing in Columbia that walked on Eighth Street, and the idea of the Avenue of the Columns was to enhance Eighth Street by making it a desirable place through more pedestrian traffic and business uses. The developer indicated the development could be modified in the future, but there was no guarantee, and it was not something that should be counted upon. She also understood Opus did not have a good reputation in St. Louis and suggested the City look at their track record. She asked the Council to not approve the development agreement.

John Clark, 403 N. Ninth Street, stated he thought it was appropriate for the City Manager to deny the building permit. He noted he did not trust the numbers or assertions the City could adequately service this development without resorting to rate increases that would affect utility users, and had reservations with regard to the development agreement as to whether it protected the City. He commented that he believed this should be an administrative denial of a building permit, which was a process that did not include the Council. He thought the developer should have applied for the permit and the City Manager or the appropriate person in the Community Development Department should have denied it. The applicant could then have appealed through the Board of Adjustment where there would have been a fuller discussion and more time, and the developer could then appeal it to Boone County Circuit Court depending on how the Board of Adjustment voted. His point was that the applicant had a well-established route by which to deal with this, and for whatever reason the City opted for the process of the development agreement to Council. He encouraged the Council to reject this agreement as they would then be supporting the implementation of the policies of Chapter 4 of the Comprehensive Plan and the existing processes in place.

Mary Zieha, 1315 St. Christopher Street, commented that people had knocked on her door indicating they were being paid by the City to go around her neighborhood because the pipes were wrong and the City intended to replace them. These replacements should be budgeted and she was concerned with how much more she would have to pay. She pointed

out there were issues throughout the City, and not just the downtown as her neighbor's basement flooded.

Monta Welch, 2808 Greenbriar Drive, stated she was happy to hear the developer would consider adding businesses to the development, but did not believe they should assume it would happen. She suggested the Council voted down this agreement, and ask the developer to create a development the community wanted. She pointed out smart growth valued long-range, regional considerations of sustainability over short-term focus, and its goals were to achieve a unique sense of community and place, expand the range of transportation, employment and housing choices, equitably distribute costs and benefits of development, serve and enhance natural and cultural resources, and promote public health. She felt there were a lot of red flags when comparing the definition of smart growth with this project and the situation in Columbia. She suggested the project be modified to include businesses to fit the historic Avenue of the Columns plan. In addition, the modern look did not fit the architectural style that was seen on the historic avenue or the historic downtown. She thought the developer might be willing to make changes if the Council voted against this agreement.

Eugene Elkin, 3406 Range Line, commented that he thought it was time for the City to be honest in terms of the facts. The City had recently been sued, and thought they would likely be sued again if the flooding in basements increased. He suggested the Council vote against these projects.

Mayor McDavid commented that he agreed with the recent editorial of Hank Waters. An abandoned parking lot and empty building currently existed on Locust Street, between Seventh Street and Eighth Street. He felt those that opposed this development had not looked at this site recently as he was not proud of it and did not want it to stay in that condition, but noted that did not matter. He explained he liked the Opus proposal, but felt that did not matter. He stated they had heard from people that did not like University students or developers, did not want any changes to the downtown, were unhappy about the noon meeting, or wanted commercial or retail at the site, but those things did not matter. The two things that mattered were that Opus had conformed to all of the rules, regulations, ordinances and demands of the City regarding the use of the land, and that staff had indicated the City could service Opus with utilities based on the development agreement. He believed rejection of this development agreement would be unfair, unethical, immoral, arbitrary, capricious and arguably illegal. He understood the citizens of Columbia expected the Council to respect the rule of law, so he felt they had to approve the development agreement. He did not believe they had any other option.

Ms. Hoppe stated she disagreed with Mayor McDavid. The City was currently looking at a \$6-\$7 million cost to fix the sewers to serve these developments, and they had not yet determined how to pay for it, so she did not believe they could say the City had the ability to serve the development. In addition, the City had heard from residents for years with regard to existing sewer needs throughout the community, and they needed to determine how to pay for those problems while balancing it with the needs of new development in terms of what was fair and equitable. She believed new development needed to pay its share, and noted that conversation had begun. She noted the Opus development was different from the

Collegiate Housing Partners development as they had not yet received a will serve letter and the City did not know how it would supply the sewer services needed. She stated they had the opportunity to take the time to decide how to fund these needs and to ensure the downtown developed in a manner that was in conformance with the Comprehensive Plan. She thought the Council had the legal authority to deny this agreement as they had a \$6 million fix, and not a \$400,000 fix. She also thought they needed to analyze how much of the fix should be paid for by this development and other future developments, and how they could pay for this infrastructure need in addition to other existing infrastructure needs. She reiterated this was a different situation than the Collegiate Housing Partners situation, and believed it would be ethical, legal and fair to deny this agreement. She commented that she felt there was a fundamental first in line/first served situation, and fortunately for the Collegiate Housing Partners, they were first in line as they were further along in the process. She stated there were many features of the Opus development she liked, but noted it was C-2 zoning so it did not have to look like the renderings provided, and they had to draw the line in terms of the infrastructure issues at some point.

Mr. Skala commented that he saw the Collegiate Housing Partners and Opus development agreements as fundamentally different. He agreed the anticipated changes in the C-2 zoning rules, the location, the lack of commercial on the first floor and the potential for a dead zone did not matter. He noted there was a lot to this development that was commendable as well, such as the underground and secure parking, the contributions to the partial solutions to the infrastructure problem and the diversification of the apartment sizes, but those items did not really matter either. He explained there were some things that did matter, and pointed out he worked for the public, and not the development community. He explained some of his constituents were troubled due to their attempt at trying to promise partial solutions to global problems that needed more attention, and he was uncomfortable with the idea of not being able to deliver \$6.75 million in sewer upgrades that were necessary due to flooding and sewage backing up in basements as they were all connected. He respected the position of the applicant in terms of his attempt to table this in order to restore public trust in the process and indicating they would not be agreeable to a tabling even if it meant voting against the development agreement. He stated he was not confident the City could solve the problem with the contributions offered, and noted he would vote against the proposal.

Mr. Trapp stated he found this proposal to be in conformance with smart growth planning. Columbia had C-2 zoning to facilitate the process of dense, urban planning, which involved moving away from surface parking lots in order to get as much value from the dense urban core as possible. Columbia's downtown was small compared to the downtowns of other cities. He believed this was a quality project that conformed with C-2 zoning and smart growth principals. In terms of equitable distribution, the developer was paying \$450,000 in addition to all of the other normal fees. There was also a commitment with regard to transit. He felt this moved them closer to what many of them wanted in terms of increasing the amount new development paid. He pointed out they would have a downtown sewer issue in the absence of new development, and noted they were trying to address inflow and infiltration and had made huge steps with regard to stormwater. He commented that saying

no to downtown development would just move it as it would not go away since there was still a demand for student housing that had been created by the growth of the University of Missouri. This development would help create a walkable community, and mixed-use was not needed in every building. There was a synergy between where people lived and the places they wanted to go, which improved walkability. He pointed out Lucky's would not have existed without Brookside because there had not been a downtown grocery store until they placed people downtown. He noted that because this property was zoned C-2, it would not have had to come to Council, and the only thing they were looking narrowly at was whether they should approve the development agreement to accept extra resources to meet a small part of the infrastructure needs. He was disheartened to hear some people had casted doubt on the Council's political will to address the trunk sewer issue, which he considered critical and within the means to be able to move forward as it could be addressed by the Council with a rate increase. He commented that it was not a matter of whether they would fund the sewers, but a matter of how they would fund it, and he believed they needed to address that sooner than later. He stated he would support this proposal as he believed this development agreement was in the best interest of the City and moved them closer to the shared vision they had in terms of how they could be healthier and happier

Ms. Nauser felt denying this project because the City could not complete the entire sewer project was essentially placing a moratorium on all development since they could not fix any long-term project immediately, and noted she did not want to live in a community that did not welcome others to come to it. She believed not approving this project due to not liking the current C-2 zoning was essentially another moratorium and would likely create legal problems. Opus had complied with all of the rules and regulations with regard to C-2 zoning. If they wanted to amend the C-2 zoning regulations, she thought they needed to go through the appropriate process to make those changes. She noted people were allowed to develop property under the current zoning rules and regulations in effect at the time they wanted to develop, and pointed out plans were guidelines. They were not ordinances set in concrete. Plans provided a vision, and sometimes the vision contradicted the current market conditions. In terms of retail, she thought they should rely upon those evaluating the market and did not believe the Council should tell someone retail was required at a site that did not support retail. She stated she recalled the outrage from some in the community when the City chose to put retail in a parking garage, but noted they had done the analysis and decided retail would work in that space. This project was in conformance with the zoning regulations and would not have come to Council had it not been for the infrastructure issues. Staff had indicated the City had the capacity to serve sewer, electric, water and other utilities, and through the development agreement Opus would contribute more than any other development based on the development charges and fees, and the City would provide the necessary utilities. She stated she would support this proposal.

Mr. Thomas stated there was a lot he liked about this project. It was an attractive building design, it provided dense development in the urban core, it was not an extravagant size, the transportation plan was excellent, and there were a minimal number of parking spaces. He was confident this developer could attract people that did not own cars and would participate in alternate transportation options. He noted he had a problem with the

lack of retail space on the ground floor as there was a strong desire for it in the area, and especially along Eighth Street. The project would create a dead pedestrian space and the view of the building from that side was not in conformance with the pictures in the Sasaki Plan or ideas he and most people had for the downtown. He was surprised to hear an analysis had indicated this block would not work for a commercial enterprise as he thought it would work well, but understood that was not a valid reason to oppose this development agreement. He noted he had other reasons to oppose the development agreement, and one of those reasons was that the City did not have the needed infrastructure in place. He thought they were playing with words when they said they could serve the development. He stated they had to solve the \$7 million sewer capacity problem, and although he was convinced they would do it, it was unsolved at this time. In addition, he felt a proper community conversation about development and infrastructure financing was needed prior to committing to more projects. He believed they needed to slow down at this point and hold those public meetings to determine the options going forward.

Mr. Thomas made a motion to table B62-14, as amended, to the September 15, 2014 Council Meeting. The motion was seconded by Mr. Skala.

Mayor McDavid stated he opposed this motion to table because he felt it was an administrative parliamentary way to kill this project, which he thought was disingenuous.

Mr. Skala stated he disagreed with Mayor McDavid and explained he took Mr. Hollis at his word, which was why he had not made the motion to table. He commented that he had very strong feelings about following through and solving the problems with regard to downtown exigency and everything else connected to it prior to any addition pressures in the downtown area. He stated he still maintained his opposition to this project regardless of whether or not the motion to table succeeded.

The motion made by Mr. Thomas and seconded by Mr. Skala to table B62-14, as amended, to the September 15, 2014 Council Meeting was defeated by voice vote with only Mr. Skala, Mr. Thomas and Ms. Hoppe voting in favor of it.

Mr. Thomas stated he planned to vote against this proposal and hoped a similar development came along after they had the chance to have the community conversation assuming the conversation supported adding residential development to the downtown area that incorporated the aesthetic values written into the City's numerous plans, and the City had a solution to the infrastructure problem.

Mr. Schmidt commented that by his calculation the monetary contribution this developer was making to solve the problem was \$3,800 per unit, which was not unlike development fees that might be proposed in the future. He was pleased to hear that retail could be added later as the market warranted. He stated he would be less reluctant to entertain this proposal if he thought it did not fit within the plans and visions for the Avenue of the Columns and for what C-2 zoning might be in the future. He thought it was beautiful building with lot of merits, and noted the City would always be behind on infrastructure. He understood there was \$300 million in unfinished storm and sewer projects, so they would always be behind. He commented that they had a developer that was willing to add something of value and beauty to the town, and thought they should move forward. He reiterated he would be reluctant if he did not think it was something that should be done and

would be consistent with what they wanted in the future. He agreed it was a conforming use and the developer had followed all of the rules currently in place. He stated he believed it was consistent with what they would want in the future if they waited so he saw no reason to wait.

The vote on B62-14, as amended, was recorded as follows: VOTING YES: NAUSER, MCDAVID, SCHMIDT, TRAPP. VOTING NO: HOPPE, SKALA, THOMAS. Bill declared enacted, reading as follows:

**B45-14 Rezoning property located on the northeast corner of Providence Road and Turner Avenue, and on the northwest corner of Turner Avenue and Fifth Street, from District R-3 to District PUD-52; approving the statement of intent; approving the Preliminary Plat and PUD Plan of ACC OP Development LLC; setting forth conditions for approval; approving less stringent height, setback and landscaping requirements; granting a variance from the Subdivision Regulations regarding dedication of street right-of-way; providing notice as it relates to the provision of utility service.**

**B63-14A Authorizing a development agreement with ACC OP Development LLC relating to property located on the northeast corner of Providence Road and Turner Avenue, and on the northwest corner of Turner Avenue and Fifth Street.**

The bills were given third reading by the Clerk.

Mayor McDavid asked the applicant if he intended to request these items be tabled and for how long.

Robert Hollis, an attorney with offices at 1103 E. Broadway, asked that these items be tabled for two months.

Mayor McDavid made a motion to table B45-14 and B63-14A to the May 19, 2014 Council Meeting. The motion was seconded by Ms. Nauser.

Mayor McDavid explained the issue was electric capacity, and they hoped the City would have the issue resolved by May, but noted he was not optimistic.

Mr. Thomas stated he did not believe two months was long enough to address the issues of public confidence and infrastructure, and suggested a longer tabling. Mayor McDavid agreed it was unlikely the issue would be resolved by May, and noted the applicant could ask for another extension in May or withdraw the proposal. Mr. Thomas stated the tabling to May would only rush them again, and he thought they should slow down and be measured. He thought they needed to create a timeline for meetings, etc. first.

Ms. Hoppe commented that she did not believe they could address the sewer infrastructure issue by then, and suggested four months instead.

Ms. Nauser stated the developer had asked for two months and thought they should give him two months to determine where they were at that time. These issues were not going to be solved in six months or one year.

Mr. Matthes commented that a withdrawal of these items would have the same effect and not impose any arbitrary date, and asked Mr. Hollis if they would be willing to withdraw the items. Mr. Hollis replied he did not disagree that it might have the same effect, but noted it was important to them to know it was clear the City could not provide utilities on or before January 1, 2015. If that was the case, they needed between now and April 1 to determine if there was a way to move forward. He noted this did not mean moving forward in terms of solving the infrastructure issues, but with regard to the potential for another alternative. If an

alternative was possible, they felt the land use, zoning and plan could be discussed at the May 19, 2014 Council Meeting.

Mr. Thomas stated he would oppose this motion because he did not want to provide the wrong signal to this developer that they might be ready to approve this as soon as two months from now.

Ms. Hoppe stated she was skeptical they would be able to make any progress by May, but noted she was willing to agree to table it to determine where they were in two months.

Mayor McDavid commented that there was a real math and physics problem for which no solution was apparent. He stated from his perspective, he would rather have the next 600-700 students living next to campus than on Grindstone, but the location did not have infrastructure now and would likely not have it in the near future. In addition, the electricity problem might require a multi-year solution.

Mr. Skala stated he respected the request of Mr. Hollis and felt it was a reasonable to table it, even if only two months. He noted they had an infrastructure exigency in the downtown in terms of sewer, electricity, etc., and although he did not see a lot of positive that would come from tabling it, he would support it at the request of Mr. Hollis.

Mr. Thomas agreed they had a math and physics problem with respect to infrastructure, but noted they also had a trust and confidence problem within the community that would take longer than two months to solve. He stated he was going to oppose this motion, and hoped that even if it passed, staff would develop a process to rebuild confidence and address the issues properly.

The motion made by Mayor McDavid and seconded by Ms. Nausser to table B45-14 and B63-14A to the May 19, 2014 Council Meeting was approved by voice vote with only Mr. Thomas voting against it.

The meeting adjourned at 2:10 p.m.

Respectfully submitted,

Sheela Amin  
City Clerk