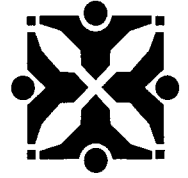


City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B163-14

Department Source: Law

To: City Council

From: City Manager & Staff

Council Meeting Date: June 2, 2014

Re: 6214 Referendum Petition

Documents Included With This Agenda Item

Council memo, Ordinance

Supporting documentation includes: Petition to Repeal Improperly Enacted Downtown Development Bill (page 1); City Clerk's Certification dated May 1, 2014; City Clerk's Certification of Supplementary Petition dated May 29, 2014.

Executive Summary

On May 29, 2014, the City Clerk certified the petition submitted by Repeal 6214 contained a sufficient number of valid signatures of registered voters (certification attached) for a referendum under the City Charter. Two bills have been prepared for Council consideration. One would repeal Ordinance No. 022010, the other would place the repeal of Ordinance 022010 on the November 4, 2014 ballot.

Discussion

Bill 62-14A enacted as Ordinance No. 022010 on March 19, 2014, approved a development agreement with Opus Development Company, LLC. ("Opus"). Ordinance No. 022010 became effective on March 19th and the development agreement was subsequently executed by Opus on March 26, 2014 and the City Manager on March 31, 2014. The development agreement provides for Opus to contribute \$200,000 to sanitary sewer infrastructure improvements and \$250,000 to water system improvements. In addition, Opus agreed to an advance purchase of 118 transit system bus passes in the amount of \$30,680.

Repeal 6214 filed a petition with the City Clerk on April 8, 2014, demanding repeal of Bill 62-14. The petitioners indicated the petition was filed pursuant to Section 129 of the City Charter, thus the petition was processed by the city clerk as a referendum petition. Following an extensive review of the signatures presented, the city clerk certified the petition as insufficient on May 1, 2014 and set forth the particulars in which the petition was defective (see attached May 1, 2014 certification). The petitioners were granted 14 days to file a supplementary petition, which was filed on May 9, 2014. Upon examination of the signatures contained in the supplementary petition, the city clerk determined the petition had been signed by a sufficient number of registered voters (see attached certification dated May 29, 2014).

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Contemporaneous with the petition process, Council Member Chadwick was elected to office in Ward 1 and began working with several of the petitioners to seek a solution which would resolve the concerns expressed. The wording of the petition focused on the manner in which the ordinance was enacted: the bill authorizing the original development agreement was approved following first reading at a special council meeting on March 12, 2014, second reading at a regular council meeting on March 17, 2014 and third reading at a special council meeting on March 19, 2014. As a result, Council Member Chadwick introduced Bill 130-14 on May 5, 2014 at a regular meeting of the City Council with second reading and enactment two weeks later at a regular meeting of the City Council on May 19, 2014. Ms. Chadwick stated the amended and restated development agreement was brought forward in an attempt to resolve the complaints of the petitioners regarding process and improve the development plan.

Bill 130-14, enacted as Ordinance No. 022071 on May 19, approved the amended and restated development agreement with Opus. The amended agreement altered the design of the project so the active living spaces would be consolidated on the ground floor along the Avenue of the Columns. All of the other terms and conditions of the agreement remained the same.

In addition to amending the development agreement, Ordinance No. 022071 contained a repeal of Ordinance No. 022010 (which approved the original agreement between the City and Opus). The repeal of Ordinance No. 022010 was conditioned on no new referendum petition being submitted to challenge the new ordinance approving the amended and restated development agreement. The contingent repeal was to ensure the Council did not engage in an voluntary and intentional act of default under the original development agreement if the plan proposed was unacceptable to the petitioners. In order to be timely, a referendum petition on Ordinance No. 022071 must be filed on or before Monday, June 9, 2014 (the 20th day falls on a Sunday, so the submittal date shifts to the next business day).

Two bills have been prepared for Council consideration. One would repeal Ordinance No. 022010, the other would place the repeal of Ordinance No. 022010 on the November 4, 2014 ballot. The issue will be moot in the event the petitioners do not seek to challenge the revised development agreement.

Fiscal Impact

Short-Term Impact: Because the City will already be paying for a portion of the November election, the extra cost of placing this issue on the ballot would be minimal.

Long-Term Impact: The development agreement requires Opus to contribute \$450,000 for sanitary sewer and water line improvements plus guaranteed purchase of two years of bus transit passes in the amount of \$30,680. In the absence of a development agreement between the City and Opus, the obligation to assist with the cost of off-site infrastructure improvements and the purchase of transit system passes will be eliminated. The City will need to fund the entire cost of the infrastructure improvements through other means.

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701 East Broadway, Columbia, Missouri 65201



Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Development, Downtown, Governance and Decision Making

Strategic Plan Impact: Customer Focused Government, Growth Management, Infrastructure


Comprehensive Plan Impact: Land Use & Growth Management, Environmental Management, Infrastructure, Livable & Sustainable Communities

Suggested Council Action

No suggested action.

Legislative History

Ordinance No. 022010 enacted March 19, 2014; Ordinance No. 022071 enacted May 19, 2014.


Department Approved


City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 163-14

AN ORDINANCE

calling a special election in the City of Columbia, Missouri, to be held on Tuesday, November 4, 2014, for the purpose of approving or rejecting Ordinance No. 022010 passed by the City Council on March 19, 2014, being "An Ordinance authorizing the City Manager to execute a development agreement with Opus Development Company, L.L.C. as it relates to property located on the north side of Locust Street, between Seventh Street and Eighth Street; directing the City Clerk to have the development agreement recorded; and fixing the time when this ordinance shall become effective."; directing notification of the election authority; describing the form of the notice of election; and fixing the time when this ordinance shall become effective.

WHEREAS, on April 8, 2014, a petition was filed with the City Clerk to "Repeal Improperly Enacted Downtown Development Bill" identified as Bill 62-14, which petition was found to contain an insufficient number of signatures of registered voters and certified as insufficient as a referendum petition by the City Clerk on May 1, 2014; and

WHEREAS, on May 9, 2014, a supplementary petition was filed with the City Clerk containing additional signatures for the petition to "Repeal Improperly Enacted Downtown Development Bill"; and

WHEREAS, the City Clerk certified the petition to "Repeal Improperly Enacted Downtown Development Bill" contained a sufficient number of signatures on May 29, 2014; and

WHEREAS, the City Council of the City of Columbia, Missouri has determined the petition to "Repeal Improperly Enacted Downtown Development Bill" related to Ordinance No. 022010 which was approved by the City Council on the 19th day of March, 2014; and

WHEREAS, the City Council has voted not to repeal Ordinance No. 022010 and deems it expeditious to submit Ordinance No. 022010 to the voters for approval or rejection in accordance with Article XVII of the Home Rule Charter for the City of Columbia, Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. A special election is hereby ordered to be held in the City of Columbia, Missouri, on Tuesday, November 4, 2014, on the following question:

PROPOSITION 1

SHALL ORDINANCE NO. 022010, PASSED BY THE CITY COUNCIL ON MARCH 19, 2014, BEING "AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT WITH OPUS DEVELOPMENT COMPANY, L.L.C. AS IT RELATES TO PROPERTY LOCATED ON THE NORTH SIDE OF LOCUST STREET, BETWEEN SEVENTH STREET AND EIGHTH STREET; DIRECTING THE CITY CLERK TO HAVE THE DEVELOPMENT AGREEMENT RECORDED; AND FIXING THE TIME WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.", BE APPROVED OR REJECTED?

SECTION 2. The City Clerk is hereby authorized and directed to notify the Clerk of the County Commission of Boone County, Missouri, of the adoption of this ordinance no later than 5 o'clock p.m. on August 26, 2014, and to include in the notification all of the terms and provisions required by Chapter 115, RSMo. as amended.

SECTION 3. The form of the notice of election shall be substantially as set forth on "Exhibit A" attached hereto.

SECTION 4. The election shall be held and conducted, and the results thereof canvassed and returned, in all respects in accordance with the laws of the State of Missouri and the Charter and Ordinances of the City of Columbia, Missouri.

SECTION 5. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2014.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

NOTICE OF SPECIAL ELECTION
City of Columbia, Missouri

Notice is hereby given to the qualified voters of the City of Columbia, Missouri, that the City Council of the City has called an election to be held in the City on Tuesday, November 4, 2014, commencing at six o'clock a.m. and closing at seven o'clock p.m., on the question contained in the following sample ballot:

OFFICIAL BALLOT
Special Election
City of Columbia, Missouri
Tuesday, November 4, 2014

PROPOSITION 1

SHALL ORDINANCE NO. 022010, PASSED BY THE CITY COUNCIL ON MARCH 19, 2014, BEING "AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT WITH OPUS DEVELOPMENT COMPANY, L.L.C. AS IT RELATES TO PROPERTY LOCATED ON THE NORTH SIDE OF LOCUST STREET, BETWEEN SEVENTH STREET AND EIGHTH STREET; DIRECTING THE CITY CLERK TO HAVE THE DEVELOPMENT AGREEMENT RECORDED; AND FIXING THE TIME WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.", BE APPROVED OR REJECTED?

- ☐ FOR THE ORDINANCE
- ☐ AGAINST THE ORDINANCE

If you are in favor of approving the ordinance, place an "X" in the box opposite "For the Ordinance". If you are in favor of rejecting the ordinance, place an "X" in the box opposite "Against the Ordinance".

The election will be held at the following polling places in the City:

[polling places to be added by election authority]

Dated this _____ day of _____, 2014.

Wendy Noren
Clerk of the County Commission



SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Petition to Repeal Improperly Enacted Downtown Development Bill (page 1); City Clerk's Certification dated May 1, 2014; City Clerk's Certification of Supplementary Petition dated May 29, 2014

PETITION TO REPEAL IMPROPERLY ENACTED DOWNTOWN DEVELOPMENT BILL

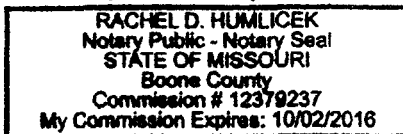
Bill 62-14: a proposed 6-story, 260-beds, 62-parking space student housing development at Eighth and Locust

Seven calendar days from the date this bill was first introduced, it was finally passed by Council. This is less than half the usual time for consideration of any bill by our City Council. This bill was also introduced and voted upon at weekday, noontime Special Council Meetings where the opportunities for public input were compromised. This bill was passed without adequate time for Council consideration, without understanding the environmental impact of this development, and without regard for public input and concern. In using a hasty and extraordinary method for consideration and passage of this ordinance placing another 260 new student housing beds into the heart of our downtown, Council has unreasonably limited or excluded adequate public participation in these decisions and elevated private interests over the interests of the constituents that they have been elected to serve.

For these reasons, we, the undersigned petitioners and registered Columbia voters, consistent with Section 129 of the Charter of the City of Columbia, demand that Bill B62-14 be repealed.

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street)	ZIP CODE	NAME (Printed or Typed)
1. Glenda Kelly	3/30/14	500 Overland Ct	65203	Glenda Kelly
2. Patricia Kelly	3/30/14	500 Overland Ct	65203	Patricia Kelly
3. Sarah L. Hill	3/31/14	3005 GREENBRIAR DR	65203	SARAH L. HILL
4. John Leuk	3/31/14	3801 Citrus Dr	65203	John Leuk
5. James W. Reese	4/1/14	410 CUMBERLAND RD	65203	JAMES W REESE
Jean Brueggemann	4/1/14	410 CUMBERLAND RD.	65203	JEAN BRUEGGENJOHANN
M. Grace Vega	4/1/14	3008 Middlebush Dr.	65203	M. Grace Vega
8. Nancy D. Welch	4/2/14	2901 Greenbriar Dr	65203	Nancy D. Welch
9. Linda Shumate	4/2/14	2905 Greenbriar Dr	65203	Linda Shumate
10. Linda Shumate	4/2/14	2822 McLOOY LANE	65203	Linda Shumate

I, Traci L. Wilson-Kleckamp (Petition Circulator) being first duly sworn, say that the above listed persons signed this page of the recall petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri, County of Boone, City of Columbia.



Traci L. Wilson-Kleckamp
Signature of Circulator
2905 Greenbriar Dr. Columbia
Address of Circulator

Subscribed and sworn to before me this 7 day of April, A.D. 2014.

Notary Public (Seal)

Rachel D. Humlicek
Signature of Notary

My commission Expires: 10.2.16



CITY OF COLUMBIA, MISSOURI

OFFICE OF CITY CLERK

CERTIFICATION RE: THE "PETITION TO REPEAL IMPROPERLY ENACTED DOWNTOWN DEVELOPMENT BILL"

Per Section 130 of the Charter of the City of Columbia, Missouri, I, Sheela Amin, City Clerk in and for the City of Columbia, County of Boone, State of Missouri, hereby certify today, May 1, 2014, that the referendum petition entitled "Petition to Repeal Improperly Enacted Downtown Development Bill" is insufficient as it has been sign by only 3,118 City of Columbia registered voters.

The required number of City of Columbia registered voter signatures needed was equal in number to at least 25 percent of the number of votes cast for council member-at-large at the last municipal election, which by my calculation comes to 3,209 signatures (12,835 x 25%).

Section 130 of the Charter of the City of Columbia, Missouri further states that if the clerk certifies the petition is insufficient, the clerk shall set forth in the certificate the particulars in which it is defective.

In addition to being short the requisite 3,209 signatures of City of Columbia registered voters, the petition is defective in that:

1. The petition did not contain the full text of the measure as required by Section 129 of the Charter;
2. The petition did not contain the accurate bill number, ordinance number or bill title explaining the substance of the measure sought to be repealed, in that the petition contained the following description of the subject matter of the matter sought to be repealed:

Bill 62-14: a proposed 6-story, 260 beds, 62-parking space student housing development at Eighth and Locust

Seven calendar days from the date this bill was first introduced, it was finally passed by Council. This is less than half the usual time for consideration of any bill by our City Council. This bill was also introduced and voted upon at weekday, noontime Special Council Meetings where the opportunities for public input were compromised. This bill was passed without adequate time for Council consideration, without understanding the environmental impact of this development, and without regard for public input and concern. In using a hasty and extraordinary method for consideration and passage of this ordinance placing another 260 new student housing beds into the heart of our downtown, Council has unreasonably limited or excluded adequate public participation in these decisions and elevated private interests over the interests of the constituents that they have been elected to serve.

For these reasons, we, the undersigned petitioners and registered Columbia voters, consistent with Section 129 of the Charter of the City of Columbia, demand that Bill B62-14 be repealed [emphasis in original].

The accurate bill number, bill heading and ordinance number on the matter sought to be repealed are as follows:

Bill 62-14A; Ordinance No. 022010: An ordinance authorizing the City Manager to execute a development agreement with Opus Development Company, L.L.C. as it relates to property located on the north side of Locust Street, between Seventh Street and Eighth Street; directing the City Clerk to have the development agreement recorded; and fixing the time when this ordinance shall become effective.

3. The petition language requests only that "B62-14 be repealed", not that the ordinance "be either repealed or submitted to the voters" [emphasis added] as required by Section 128 of the Charter; and
4. The circulators' certificate verified "the above listed persons signed this page of the recall petition" [emphasis added] as opposed to referencing the signatures to a "referendum petition".

Given under my hand and seal of said City this 1st day of May 2014.

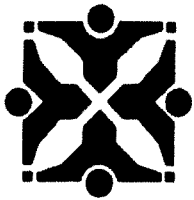
(seal)



Sheela Amin

City Clerk

City of Columbia, Missouri



CITY OF COLUMBIA, MISSOURI

OFFICE OF CITY CLERK

CERTIFICATION RE: THE "PETITION TO REPEAL IMPROPERLY ENACTED DOWNTOWN DEVELOPMENT BILL" AFTER THE SUPPLEMENTARY PETITION WAS SUBMITTED

Per Sections 130 and 131 of the Charter of the City of Columbia, Missouri, I, Sheela Amin, City Clerk in and for the City of Columbia, County of Boone, State of Missouri, hereby certify today, May 29, 2014, that the referendum petition entitled "Petition to Repeal Improperly Enacted Downtown Development Bill" has been signed by a sufficient number of registered voters after receipt and review of the supplementary petition as it has been signed by 3,446 City of Columbia registered voters.

The required number of City of Columbia registered voter signatures needed was equal in number to at least 25 percent of the number of votes cast for council member-at-large at the last municipal election, which by my calculation comes to 3,209 signatures (12,835 x 25%).

This certification does not waive any rights or obligations the City may have, on behalf of itself or others, to claim or declare deficiencies in the form, content or subject matter of the petition, including but not limited to, the defects enumerated in the initial certification dated May 1, 2014 or any allegation or finding the substance of the ordinance relates to exercise of administrative powers by the City which are not subject to referendum under law.

Given under my hand and seal of said City this 29th day of May 2014.

(seal)

Sheela Amin
City Clerk
City of Columbia, Missouri