

**MINUTES**  
**CITY COUNCIL MEETING – COLUMBIA, MISSOURI**  
**DECEMBER 4, 2006**

**INTRODUCTORY**

The City Council of the City of Columbia, Missouri met for a regular meeting at 7:00 p.m. on Monday, December 4, 2006, in the Council Chamber of the City of Columbia, Missouri. The roll was taken with the following results: Council Members CRAYTON, JANKU, HUTTON (Mr. Hutton left the meeting at 10:23 p.m.), LOVELESS, NAUSER, HOPPE and HINDMAN were present. The City Manager, City Counselor, City Clerk and various Department Heads were also present.

**APPROVAL OF MINUTES**

The minutes of the regular meeting of November 20, 2006 were approved unanimously by voice vote on a motion by Mr. Janku and a second by Mr. Loveless.

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

The agenda, including the Consent Agenda, was approved unanimously by voice vote on a motion by Mr. Hutton and a second by Mr. Janku.

**SPECIAL ITEMS**

**R264-06      Authorizing agreements with local organizations to fund human rights education programs.**

The resolution was read by the Clerk.

Marie Glaze, 2209A Creasy Springs Road, Chair of the Human Rights Commission, explained in addition to conducting the Let's Talk Columbia Community Study Circles Program, community education/outreach was one of the main functions of the Human Rights Commission. The Commission provided funding support to local organizations conducting human rights educational activities and programs in the community through the Human Rights Enhancement Program. She noted the purpose of the funding was to provide financial support to local organizations engaged in programming that promoted cultural understanding, human rights education and the reduction or elimination of discriminatory practices in the community. The program was also intended to encourage collaborations between organizations and individuals concerned with human rights issues and to assist them with leveraging other monies in support of human rights issues. The Commission used a well developed funding process designed to reach a variety of community groups and audiences. She pointed out community organizations were required to provide an equal match of financial support or in-kind resources. This year the Commission received twelve proposals and was recommending funding for nine of those proposals. The Commission felt the Human Rights Enhancement Program was an effective way to promote human rights education in the community while building the capacity of local organizations to provide important

programming to a variety of diverse audiences. She thanked the Council for their ongoing support.

Mark Thomas, 608 Morningside Drive, a Human Rights Commission Member, agreed with Ms. Glaze's remarks and also thanked the Council for their support of these programs.

Mr. Watkins noted this amount was included in the budget and these contracts were specified at that time. They were now being asked to approve the actual contracts with the agencies.

The vote on R264-06 was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

#### **SCHEDULED PUBLIC COMMENT**

None.

#### **PUBLIC HEARINGS**

##### **B386-06      Amending Chapter 27 of the City Code as it relates to electric connection fees.**

The bill was read by the Clerk.

Mr. Watkins explained they had been talking about a two step electric connection charge. One would be a per meter charge and the other involved assistance in actually placing the lines underground. There had been a lot of good discussion with the development groups and home builders and he thought they were close to having something everyone felt good about. Staff was asking this be tabled to January 2, 2007.

Mayor Hindman opened the public hearing.

There being no comment, Mayor Hindman continued the public hearing to the January 2, 2007 Council meeting.

Mr. Janku made a motion to table B386-06 to the January 2, 2007 Council meeting. The motion was seconded by Mr. Loveless and approved unanimously by voice vote.

##### **B466-06    Amending Chapter 29 of the City Code to establish outdoor lighting regulations.**

The bill was given second reading by the Clerk.

Mr. Watkins explained this ordinance was a reflection of what the Planning & Zoning Commission was recommending and was based on the Illuminating Engineering Society of North American Standards (IESNA), which was a well recognized national standard.

Mr. Teddy noted this would be an amendment to the City's zoning ordinance. It would only pertain to outdoor lighting on private site development, not public streets, and included parking lots, gas station canopies and apron areas, outdoor display areas, building mounted lighting, landscape lighting, athletic field and outdoor arena lighting, private streets, security lighting and signs. The ordinance would apply to commercial, institutional and multiple-family residential installations on new buildings, new site developments or new parking lots or a combination. Existing developed properties would be exempt from any requirement that lighting plans be submitted unless redevelopment or major additions occurred. The proposed ordinance would require submittal of lighting plans for all new developments requiring outdoor

site lighting and would consist of a photometric layout, cut sheets, catalog drawings of lighting fixtures and a certification from the plan preparer noting the plan complied with the standards in the ordinance. He presented an example of a photometric layout on the overhead screen.

Mr. Teddy explained the proposed ordinance would regulate the location of light fixtures for building mounted lighting and the maximum and minimum lighting levels at property lines. The limit was 0.5 footcandles on adjacent property if it was residential and 2.0 footcandles if it was non-residential property. This was to protect adjacent properties from light spillage. The uniformity ratio, which was recommended by the IESNA, varied by type of application and was done as a maximum to minimum ratio. He noted there was a lighting curfew for athletic fields and stadium lighting, but not a general lighting curfew. They did encourage the use of timers and shut-off devices for energy efficiency. The maximum height of lighting fixtures, when pole mounted, was 25 feet plus an additional three feet if the light pole had to be mounted on a protective pedestal foundation, which was common practice for parking areas. He pointed out there was a provision, which would allow Council to consider exceptions, on a case by case basis, for large sites with planned zoning that were away from residential areas. There were also cutoff angle and shielding requirements. For security lighting, there was a color rendering index, which was a measure of the ability of a light fixture to replicate sunlight or represent true color. Using the overhead, he showed a diagram illustrating ten acre or greater tracts with planned district zoning overlaid with the 250 foot radius of known residential zoned areas. He noted there was some overlapping. He explained full cutoff referred to a lighting fixture where no light level was recorded at a 90 degree angle from a straight downward direction. The other extreme was non-cutoff where there was no limit to where the light was directed. The height standard for a non-cutoff lights was 15 feet.

Mr. Teddy stated this ordinance was developed by the Planning & Zoning Commission with the assistance of staff and a number of individuals who attended the work sessions. After the last hearing, the Planning & Zoning Commission voted 7-1 to recommend approval of this ordinance. They strongly urged the Council adopt IESNA standards. He pointed out the tables in the proposed ordinance came from IESNA publications. He explained the Law Department made modifications to the ordinance since it came from the Planning & Zoning Commission, so it was a different format than was seen at the public hearing level. He noted it was substantively the same product recommended by the Planning & Zoning Commission.

Mr. Teddy understood the Law Department created an amendment sheet that would prohibit search lights per Council discussion. He also noted staff had identified a need for taller light poles on athletic fields. For standard baseball fields, which were fields for adult or high school level play, 80 foot poles were recommended by the manufacturer the City used. Although that was not in the ordinance or in the amendment sheet, they were asking Council to consider that as well. He pointed out the normal standard was 70 feet for athletic field lighting.

Ms. Hoppe understood tracts of ten acres or more could have 35 foot light poles with a 3 foot base and asked for examples of where those were now and why they would be needed. Mr. Teddy replied a grocery store on West Broadway had poles in excess of that height. The Best Buy anchored shopping center on Stadium had lights around the 35 foot

height. He thought the lights at the Home Depot on Clark Lane were also about that height. Ms. Hoppe asked what the City's highest light height was currently. Mr. Teddy thought most of the lighting fell within a range of 0-40 feet, but noted he did not want to guess as to what the tallest structure was since they had not completed a full inventory.

Ms. Hoppe understood the recommendation for the ball field was to allow up to 80 feet even though none of the current poles were over 70 feet. Mr. Teddy replied that was correct. Mr. Hood explained, currently, 70 foot poles were the highest they had and they met all of their needs for almost all of their sports. The one exception was adult baseball fields with high school age or older players. While the current baseball fields had 70 foot poles, lighting manufacturers were now recommending 80 foot poles for baseball due to the amount and quality of light needed on a field with a smaller ball, higher speeds and the new technology for bats. They were also anticipating that what had been the standard for many years of 50 footcandles on the infield and 30 footcandles on the outfield would increase, so they were strongly recommending 80 foot poles for the future of standard baseball fields.

Ms. Hoppe understood the Planning & Zoning Commission thought the Council should consider neon lighting, but that was not part of the proposal. She asked for clarification regarding that issue. Mr. Teddy understood that would be an additional topic to look at. Up to that point, they had not had work session discussion of trim lighting, decorative neon or other types of conventional forms that commercial lighting took. Ms. Hoppe understood they did not want Council to address it now, but in the future. Mr. Teddy replied he thought that was the nature of the suggestion.

Mayor Hindman asked about the theory of the darker and lighter lighting at service stations. It appeared that if a service station was in a dark area, it was set at one lighting level, but if it was in a brighter area, it would need brighter lighting. Mr. Teddy replied there was a table in the proposed ordinance, which was taken from an IESNA recommended practice publication and established maximum average lighting levels that differed according to whether or not the station had light surroundings or dark surroundings. The idea was that where there were light surroundings, there might be a less dramatic adjustment the human eye had to make when passing through the site. The literature on lighting control placed a fair amount of emphasis on the uniformity of lighting. Bright lighting was more of a problem in dark surroundings because the eye could not adjust rapidly.

Mayor Hindman asked if the current search lights would be eliminated voluntarily. Mr. Boeckmann replied he thought Public Works had tried contacting them and the ones contacted were willing to discontinue. Mr. Glascock replied that was correct. Mr. Glascock noted two owners had not returned their call. From what they understood, the corporate office decided how to advertise. He anticipated the others would also be agreeable to stopping.

Mr. Hutton asked if the athletic field lighting experts were agreeable to 70 foot lights for adult softball and fast pitch softball. Mr. Hood replied they had indicated yes. Mr. Hutton understood the footcandles for the infield was 50 and the outfield was 35. Mr. Hood replied it was 30 for baseball and had been the standard for many years. He was anticipating it would increase with aluminum bats, the speed of the ball and technology. Mr. Hutton asked if it was realistic to be able to limit spillage to one footcandle on adjoining properties. Mr. Hood

replied it depended on the location of the field and how close it was to the property boundary. He noted they had developed some very efficient cutoff fixtures for athletic fields. He commented that he had seen videos illustrating very minimal spillage outside of the field, but noted he was not familiar enough with them to state that if they built next to the property boundary, they would not exceed the limit. He thought they could meet the ordinance with the combination of using cutoff technology and siting the ball fields properly.

Ms. Hoppe asked for clarification on the rationale behind this only applying to additions that were more than 50 percent. Mr. Teddy replied they decided these would apply to future construction, like most standards in zoning, and that there should be a threshold for requiring up to date standards for existing developed property if improvements were made to it in the future rather than grandfathering it in its entirety. He explained 50 percent indicated a substantial addition. It could be a 50 percent increase in the size of the parking lot with or without a corresponding increase to the size of the building or it could be an increase in the size of the building. In either case, it was an event where it would be reasonable to request a lighting plan for the overall site. He noted there was a build back provision in the current ordinances for existing legal, but non-conforming buildings, and that was set at 75 percent. If the cost of building back a facility exceeded 75 percent of the estimated value of the total facility, it had to be built back in accordance with current ordinance. He stated that was an alternative that could be used. The 50 percent would allow for City review on a facility with open land where a parking lot might be added. Ms. Hoppe asked if they could get around it by doing only 49 percent or if there was some discretion. Mr. Teddy replied there might be instances where it would be worthwhile to get the plan done, so there was no dispute as to whether the lighting conformed. He did not think it would be a force influencing the size of a project.

Ms. Crayton was concerned about safety since Columbia was a transient town and many stores were open 24 hours. She felt lighting would essentially be non-existence in the parking lots with the lower poles. Mr. Teddy stated the Commission took the need for adequate light for security into consideration. It was not just about minimizing glare. They reviewed a lot of literature indicating brighter was not necessarily safer. It involved how uniform the light was as well as some other factors. They included standards to encourage more uniform lighting, which was supported by individuals who were knowledgeable with security concerns.

Mr. Loveless noted in the hours of operations of athletic fields, it stated the lights must go off within two hours after the event or the close of the period, and asked why it was two hours. Mr. Hood replied he did not know why the two hour figure was chosen, but explained they left the lights on for a period of time after the event ended, so the spectators and participants could safely leave the facility. They had someone assigned, often the umpires, to turn the lights off at the end of the evening. He noted they were comfortable with two hours and were sure they would be under that in most instances.

Mr. Janku understood this was like other zoning ordinances in that they could request a variance from the Board of Adjustment if there was a situation. Mr. Boeckmann replied that was correct.

Mr. Hutton understood they were talking about the maximum average luminance in regard to the service station or gas pump illumination levels, so underneath the fixtures it might be more than the standards, but the average on the photometric chart would have to be these numbers. Mr. Teddy replied that was correct and added the photometric plan would do a calculation of what they averaged. Mr. Hutton wondered how realistic this was. They were talking about 10 footcandles under a canopy above a pump and thought there were existing stations that exceeded 100. He understood where the standards came from, but questioned how realistic they were. Mr. Teddy replied he thought the figure was trying to draw a line between where necessary light for doing business at a service station began and where lighting for basic security ended.

Mr. Hutton asked if the height and placement of light affected the uniformity. Mr. Teddy replied yes and noted sometimes more lights were necessary to achieve desired lighting, particularly if lower light fixtures were used and the cutoff remained the same.

Mayor Hindman opened the public hearing

Karl Skala, 5201 Gasconade Drive, stated he was the current Vice-Chair of the Environment and Energy Commission (EEC) and that he was in support of this ordinance. He commended the Planning & Zoning Commission for inviting a number of people, to include EEC representation and several local commercial developers, to some productive work sessions on this issue. He noted there was controversy regarding whether or not pole heights were even necessary for parking lots and outdoor applications. One side felt they were not necessary because uniformity ratios and photometric reports were sufficient. The other side felt they were. It depended on what they were after. If they were trying to eliminate some of the point source glare, the recommendation of the Planning & Zoning Commission was a good compromise. It established pole heights, but also included uniformity ratios and photometric reports. It would increase the number of standards needed for parking lots, but not appreciably. He thought it would only be 8-10 percent depending on how far the poles were lowered. He noted that as one lowered the poles, they had a chance to decrease the bulb size because the uniformity ratio did not require as bright a bulb when the lamp was lower to the ground. He noted there was one issue with which he disagreed. Initially, staff recommended 500 feet from the commercial/residential interface or ten acre tract. That was decreased to 250 feet. He thought the 500 foot measure was a good standard to use for large applications. They still had the discretion to provide an exception. In addition, they could go to the Board of Adjustment for a variance. He also thought some attention should be given to house-side shields for commercial/residential areas or the ten acre tracts for protection for the people in residential areas. He felt swiveled flood lights was another issue. They could be called full cutoff fixtures, but if the fixtures were swiveled, they could be almost parallel to the ground. He noted an example was at the Tiger Stop Gas Station on Clark Lane. The lights were taller than the building, so if one was approaching the building from the east they would be looking directly into the flood lights. He hoped the Council would look at the angle of those types of lights.

Mayor Hindman understood Mr. Skala would prefer 500 feet between a large scale commercial and residential area in order to allow taller lights and wondered why they would ever allow taller lights if they could get the same lighting with lower poles. Mr. Skala

commented that as much as he would like to see the light height limited as much as possible, when it came to some of the really large commercial developments, a small standard of 25 feet was almost too small for the scale of the project and looked artificial. The largest light poles in the City were 45 feet. They were 42 foot light poles with 3 foot bollards. He thought there were applications with two or three story buildings where they might want something approaching 35 feet. He did not think they would ever need to go higher than 35 feet with a 3 foot bollard. The other problem with establishing pole height limits was that everyone wanted to meet the maximum. He thought there were pedestrian applications where one would only want 10-12 foot lights. The issue of how to encourage people to provide the right lighting for the right application, even esthetically, was not one that could be put into an ordinance. He did not think they wanted to discourage people from doing the right thing and making it look good aesthetically, but at the same time, they wanted to make sure they did not exceed the height where the glare became a problem in terms of safety. He noted there were as many applications for too bright of a light affecting people's vision, so that witness identification was a real problem. It became less secure and more dangerous if there was a big difference between the very dark areas and the light areas versus if the light was more evenly distributed.

Mayor Hindman asked for clarification on house-side shields. Mr. Skala replied they were baffles and explained that one could take a full cutoff fixture where the light was projected inward and put a piece of metal on the pole behind the light, so the point source light and the source of the glare could not be seen. Mayor Hindman asked if the ordinance covered those. Mr. Skala replied he was not sure if it was included. Mr. Teddy stated it was covered in the sense that if lights were installed on the perimeter of the property, there would have to be some type of shielding to meet the 0.5 footcandle standard on residential property. They did not include a design detail to show what a house-side shield looked like. Mayor Hindman asked if that sounded satisfactory. Mr. Skala replied it did, but added that he would love to see something in the ordinance to encourage it.

Mayor Hindman asked for clarification regarding the swivel flood lights. Mr. Skala replied that if one took a full cutoff fixture parallel to the ground and put a knuckle on it, so it could be rotated up and face the building, they could also rotate it all of the way so the light beam that was directed out was parallel to the ground. It was, technically, a full cut out fixture because the lamp was enclosed in the shoebox, but the light was swiveled and provided an enormous glare for traffic. It was a safety hazard. He thought they needed to make sure the lights were lower than the building it was washing or place a maximum rotational tilt of 10-20 degrees. Mayor Hindman asked how they would deal with those in the ordinance. Mr. Skala replied in other ordinances for other cities, they specified the amount of tilt that was acceptable. Mayor Hindman asked what the maximum adjustment would be. Mr. Skala replied the maximum should be 20 degrees. Ms. Hoppe asked if they would only be tilted toward the building. Mr. Skala replied it was hard to regulate and it depended on the standard and direction, but generally they were on the perimeter of the property and used to either wash the building or to wash the parking lot. In the case of the gas station on Clark, they were higher than the building, so one could see in the back of the building. Mayor Hindman understood it would be acceptable if the ordinance provided that swivel lights had to

be below the height of the building they illuminated. Mr. Skala replied that could be a proposal. Another would be for them to reduce the angle to 20 degrees of vertical. He noted a combination would also solve the problem.

Ms. Hoppe asked if the 500 versus 250 feet was for commercial areas ten acres or greater. Mr. Skala replied yes and noted that was staff's original recommendation. It was discussed and reduced by the Planning & Zoning Commission to 250 feet, which he felt was too low.

In regard to Mr. Hutton's comment regarding some canopies already exceeding 100, Mr. Skala commented he personally measured some a few years ago and the highest he found was 60 plus on the ground underneath the brightest part of the canopy.

Mr. Loveless wondered, for illumination levels, why 5.0 footcandles was sufficient for gas pumps in dark surroundings, but 10.0 footcandles was needed in light surroundings. Mr. Skala replied it had to do with the accommodation of the eye and useful light levels to do work. A given amount of light looked much brighter in dark surroundings than the same light did in a light surrounding. He explained when one increased the amount of light in a commercial area, the neighbors wanted to do the same otherwise their places looked darker. Mr. Loveless thought that was more attention getting than task orientation. Here they had one spot where a 5.0 footcandle level was sufficient for the task of using the pump and in another instance, it took 10.0 footcandles. He did not understand that. Mr. Skala replied it had to do with the accommodation of the eye and how the eye worked physiologically to process the amount of light there. In terms of safety, security and the usefulness of the light, when one went from light to dark, the contrast was much greater. It was not just the amount of light, but also the amount of contrast between dark and light in regards to useable light. A lower light level in a dark surrounded area was more comfortable. He reiterated that it was simply the way the eye processed light. Mr. Loveless explained if he was reading in this room with this light intensity, he could take a small light and focus it on his task if the room were dark and have no more light than what he had now and still able to do the same task. He was not sure when he pulled into a gas station that was already bright that it needed to be brighter under the canopy for him to use the pump than if he pulled into the gas station where everything was dark around it and had a lower level of light. Mr. Skala commented that if he was in the dark and came into a very light place, it took less light to make the light look like it was a lot of light. He noted it was a matter of perception.

Mr. Hutton understood in regard to the provisions for the additional height for poles in a planned district, one of the criteria to be met was that the site be ten acres or greater or the finished grade of the site be below the level of the finished grade of the adjacent roadway. He asked if that was worded the way they intended it to be worded. He wondered if that should be two separate criteria. Mr. Hutton understood if it was not a separate criteria, a site of any acreage could have additional height poles if it was below grade. Mr. Teddy replied the intention was for situations where there was a grade condition that affected the perceived height of the poles from outside of the property. Mr. Skala thought the question was whether it required taller poles regardless of whether it was below grade or not and he felt that was debatable.

Don Stamper, 2604 N. Stadium Boulevard, Executive Director of the Central Missouri Development Council (CMDC), stated the CMDC, in general, had not been opposed to the discussion related to standards of lighting within the community. There were exceptions taken, which were noted in the process, and some had been accommodated, while others had not. He thought the meat and potatoes of the lighting ordinance was in the charts and felt the charts could have been adopted achieving more than the document achieved. He thought there was an attempt to teach with the ordinance and they struggled with that because it created some gray areas and difficulties. He noted they supported the document as submitted and pointed out that many of the arguments Mr. Skala brought up were in previous discussions and were not adopted for a reason. He commented that the originally expressed intent of the ordinance was to create some energy conservation and efficiency, but by shrinking the poles, they were creating more fixtures. He questioned whether they were losing the equation of energy efficiency as a result. He stated their greatest concern tonight was the amendment. They felt the retrospective enacting of a zoning ordinance was a dangerous precedent. They believed it was unwarranted and were not convinced it was legal or that the City had the legal authority in which to defend it. They would be very concerned if it began to apply over other zoning ordinances. He stated he did not know of a place in history in the City's ordinances where they had made a retrospective application of an ordinance which resulted in a regulatory taking of sorts. He asked the Council and/or staff to articulate the findings of facts and conclusions of law that led them to doing this. He wondered what it could be applied to in the future, how the retrospective applications could occur and where that would result in a taking versus a non-taking. He reiterated that while they understood the reason, they felt it was a dangerous precedent.

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

Mr. Janku stated one of the advantages of this ordinance was that it introduced some clarity and structure for lighting into the zoning process, so they would no longer knit pick over lighting plans in meetings. There would be a science based document with the requirements for a plan to meet. He noted there was one exception in the document. It involved the 38 foot standard and provided the potential for Council to discuss the building designing and the grade of the road. He stated he was considering an amendment to delete that section, but would be willing to leave it with some modifications in hopes it would limit the number of requests for exceptions. He suggested they use 500 feet as opposed to 250 feet as the absolute standard. He suggested having (a.) read "there is no residential zoning within five hundred feet of the parking lot perimeter;" (b.) read "the buildings are configured so that the lighting is shielded from the residential area;" and (c.) read "the site is 10 acres or greater." He would remove the language regarding the finished grade. He understood with the sign ordinance, the relationship of the street to the sign could be an issue because one needed to be able to see the sign to identify the property. Lights, however, were needed to light the parking lot and were not relevant with identifying where the building was located.

Mr. Hutton asked how many sites on the map would apply to a 500 foot standard. He thought there would be very few sites that would not have residential property within 500 feet. Mr. Janku stated he did not think 250 feet was that far. He noted it was less than the length of a football field. He pointed out they started with at 25 foot standard and were going to a 28

foot standard, so they would have higher lights than originally thought, which would address some of the issues.

Ms. Nauser noted they had a group of people from diverse backgrounds that had spent many months on this. They had compromised on 250 feet. She did not think they should alter a lot of the recommendations. She suggested keeping it at 250 feet. If they found a problem, they could then change it.

Mayor Hindman stated he had a hard time logically understanding why they would change the requirement for a big development. It had been pointed out that there was a relationship between the height of the poles and the strength of the bulbs, so the argument being made indicating the lower height increased the energy use could be wrong due to the size of the bulb. If the purpose was to accomplish the lighting pattern and the amount of light, he wondered why they would allow the exception. He stated he was prepared to make an amendment to make it uniform no matter what the size of the development before Mr. Skala's argument of it possibly looking better. He noted a shopping center in his neighborhood and stated the height of the lights definitely had an impact on the neighbors. With the justification of architecturally in scale lights, he thought it should be a significant distance from the neighbors and thought 500 feet was better than 250 feet.

Mr. Loveless understood since this was part of the zoning ordinance, anyone could go to the Board of Adjustment and ask for a variance for higher poles. Mr. Boeckmann replied that was correct. Mr. Loveless stated if they were to delete the 38 foot light section completely, it would not preclude someone with a big scale development going to the Board of Adjustment and asking for a variance. Ms. Nauser asked if an aesthetic need would be justification for the Board of Adjustment to allow a variance. Mr. Hutton understood for a planned district, it could not come to the Council for debate, but would have to be a Board of Adjustment decision. They could not request it of the Council in their plan. Mayor Hindman stated it had to be justified by necessity for the Board of Adjustment. Mr. Boeckmann explained the Board of Adjustment had to follow some strict standards to grant a variance and it was a five member body requiring four votes for approval. It was a different matter for the Board of Adjustment in its review as opposed to the City Council. Mr. Hutton understood it would have to be a Board of Adjustment issue, even for a planned district. Mr. Boeckmann replied with the way the ordinance was written, it would go to the Board of Adjustment.

Mr. Janku commented that one of the reasons he had supported the standard for development over the years was because he wanted to be willing to accommodate commercial and residential coming together and he thought the stronger standards made that more possible. That was one of the reasons he wanted a larger buffer. He felt if a rezoning came up near a neighborhood, there would be less concern in opposing the rezoning.

Mr. Janku made the motion to amend B466-06 by changing Section 1, Sec. 29-30.1(g)(3) to read (a.) There is no residential zoning within five hundred (500) feet of the parking lot perimeter; (b.) The buildings are configured so that the lighting is shielded from the residential area; and (c.) The site is ten (10) acres or greater. The motion was seconded by Mayor Hindman.

Ms. Hoppe commented that since she had been on the Council, she had been involved in a variety of lighting issues where the light was high and shining in residences.

She felt they needed to err on protecting the residential area and thought the 500 feet was a wise and prudent thing to do.

Mr. Loveless thought it was very straight forward and easily defined. Mr. Hutton understood it had to meet all three of those criteria. Mr. Boeckmann replied yes.

Mr. Stamper asked if the motion applied the 500 feet to all perimeters of commercial zones. If it did, he felt they might render a site unusable. Mr. Janku replied he changed the 250 to 500. Mr. Stamper asked if it applied to 10 acre tracts or all commercial zonings. Mr. Hutton clarified this was for the 35 foot poles, not the 28 foot poles. Mr. Janku stated that was his intent.

The motion, made by Mr. Janku and seconded by Mayor Hindman, was approved by voice vote with only Ms. Nauser and Mr. Hutton voting no.

Ms. Nauser made the motion to amend B466-06 by changing Section 1, Sec. 29-30.1(l)(2) to read "... Athletic field other than adult baseball fields and arena lighting fixtures shall not exceed seventy (70) feet above finished grade directly below the lighting fixture. Adult baseball field lighting fixtures shall not exceed eighty (80) feet above finished grade directly below the lighting fixture." The motion was seconded by Mr. Loveless.

Mayor Hindman asked if adult baseball fields was a fair term to use if it included high school participants. Mr. Hood replied they referred to it as full size baseball fields and noted they were talking about fields youths 16 years old or older would use. He was okay with the term adult or full size. Mr. Boeckmann thought if they were building a ball field that could be used by adults, it would be an adult ball field. It did not mean kid under a certain age could not play on them. Mr. Hood clarified they were talking about fields that had roughly a 400 foot center field and were 320-350 feet down the foul lines. Mr. Loveless understood it also involved 90 foot base paths. Mr. Hood replied that was correct.

The motion, made by Ms. Nauser and seconded by Mr. Loveless, was approved unanimously by voice vote.

Mr. Loveless commented he had some stylistic changes. He noted, on the first page of the ordinance under the purpose and intent, items (1) – (4) had a different tense than items (5) – (6).

Mr. Loveless made the motion to amend B466-06 by replacing "minimize" with "minimizing" in Section 1, Sec. 29-30.1(a)(5) and replacing "encourage" with "encouraging" in Section 1, Sec. 29-30.1(a)(6). The motion was seconded by Mr. Hutton and approved unanimously by voice vote.

Mr. Loveless noted Sec. 29-30.1(h)(1) dealt with glare minimization and it discussed low glare luminaires that did not cause light pollution or deliver nuisance glare. He pointed out neither "light pollution" or "nuisance glare" were defined in the ordinance. He suggested they change the wording to read "this lighting shall be provided with low glare luminaires that do not deliver light to adjacent properties." Mayor Hindman wondered if one stood on the adjacent property and could see the light, if that would be considered delivering light to the adjacent property. Mr. Boeckmann thought they could delete "that do not cause light pollution or deliver nuisance glare to adjacent properties" from the sentence. Mr. Loveless understood it would read "this lighting shall be provided with low glare luminaires."

Mr. Loveless made the motion to amend B466-06 by changing the last sentence in Section 1, Sec. 29-30.1(h)(1) to read “This lighting shall be provided with low glare luminaires.” He noted the intent was to keep all of the light under the canopy and was indicated in the other wording in the paragraph. The motion was seconded by Mr. Janku and approved unanimously by voice vote.

Mr. Hutton asked for an explanation of Table 29-30.1(a). Mr. Teddy replied it provided minimum lighting levels measured horizontally as the light fell on the ground. The two categories were basic and enhanced security. The plan would have to be one or the other. He noted there was not guidance in the ordinance saying when either had to be used. The enhanced security had a tighter uniformity ratio and a larger value for the minimum light required. They choose not to make one or the other mandatory. Mr. Hutton understood horizontal involved using the measuring device horizontally and the vertical involved using the measuring device vertically. Mr. Teddy replied that was correct. Mr. Hutton understood they were saying the minimum was either 0.2 or 0.5 footcandle and the maximum could be 20 or 15 times that. Mr. Teddy replied that was correct. Mr. Hutton asked if that was an average. Mr. Teddy replied no. Mr. Hutton asked if one could have a hot spot that was greater than the maximum in a parking lot. Mr. Teddy replied no and explained the ratios were measured by taking out 2.5 percent of the extreme values at the top and bottom ends.

Ms. Hoppe commented that she had a suggested change for the purpose and intent section. It indicated the purpose was to enhance the attractiveness of the community and she thought it did more than that. She thought it also enhanced the livability because it limited a neighboring property’s light shining in one’s window.

Ms. Hoppe made the motion to amend B466-06 by adding “and livability” to Section 1, Sec. 29-30.1(a) so it would read “...purpose of this section is to enhance the attractiveness and livability of the community for its citizens....” The motion was seconded by Mr. Janku and approved unanimously by voice vote.

Mayor Hindman stated he wanted to discuss Mr. Skala’s concern regarding swivel lights. Mr. Hutton thought that issue was addressed in item (j)(a) on page 10. He interpreted that to mean a swivel light pointing upward was illegal. Mr. Janku noted this only referred to building mounted lights. Mr. Hutton thought the example referred to was a building mounted light because they were on the canopy, which he felt was the building. Mayor Hindman thought Mr. Skala indicated they were pointed downward. Mr. Hutton interpreted the standard to mean it had to be straight down. Ms. Hoppe thought Mr. Skala was talking about lights that were not mounted on the building. Mayor Hindman stated the ones he was complaining about were mounted on the roof of the building. Mr. Skala explained it was a combination of all of the things mentioned. Swiveled flood lights could be mounted on the building and in his example they were mounted on top of the canopy, which was separate from the building, or they could be mounted on their own separate poles, which were routinely seen around town. The “downward” was a soft description because they did not know what down was. He questioned if down was 45 degrees or perfectly parallel to the ground. If it was parallel to the ground, it was not a swivel flood light. It was then a plain

cutoff fixture. He felt if they did not specify an angle for a swivel flood light, they could not define what “downward” meant.

Mayor Hindman stated he planned to propose an amendment. Mr. Hutton asked how many places downward was used within the ordinance. He thought they would have to change every one to establish a standard. He thought they might just want to define downward. Mr. Janku thought they could just add a statement specific to rotating light to the end of this section. Mr. Loveless suggested adding “if swivel mountings are used, lights may be raised a maximum of 20 degrees from horizontal and may not be mounted so as to be above the building.” Mr. Teddy noted there were two places addressing structures that might be mounted on top of a building. In the section Mr. Hutton pointed out, they did not allow light fixtures to be mounted above the parapet or on a roof unless it was security, decorative, or accent lighting. The problem expressed was that they could be mounted on the side of a building. He thought they wanted to allow a certain amount of tolerance where it could vary up to 20 degrees from horizontal. They would also want it to function as a full cutoff fixture because the ordinance, under gas station lighting, indicated lights could not be mounted on top of canopies unless they were full cutoff. He thought the 20 degree was reasonable, but suggested they also specify full cutoff.

Mr. Loveless made the motion to amend B466-06 by adding an item (h) reading “If swivel mountings are used, lights may be raised a maximum of 20 degrees from horizontal and may not be mounted above the buildings and must be full cutoff fixtures” under Section 1, Sec. 29-30.1(j)(1). The motion was seconded by Mr. Janku and approved unanimously by voice vote.

Mayor Hindman commented that he thought what they were doing was really good, but was concerned about an issue that was not addressed. He agreed with Mr. Janku’s statement regarding commercial and residential being more compatible and this helping to sell neighborhoods on having commercial near the neighborhood. His experience was that neighborhoods tended to object strenuously to any commercial and would point to many issues as to why there should not be commercial in the neighborhood. He noted with the development at Forum and Nifong, the neighbors were greatly opposed to the development, but the developer agreed to various Council suggestions, which included lower light fixtures. The neighbors now thought it was compatible and a great thing for the neighborhood. He thought they needed some flexibility to deal with issues like that. He felt one item that could make these developments incompatible were the tall light standards and by automatically allowing 28 foot light standards, he thought they would run into issues where the neighbors would state it was affecting the neighborhood. He suggested adding a statement indicating that if it was a commercial area immediately adjacent to a residential area, the Council could reduce the height requirement for light poles. He thought it would be helpful to the development community because it would give them a better chance of getting some of these approved and it would be helpful to the neighborhoods because one of the weaknesses in the City were the large areas where there was inadequate commercial service. Ms. Nauser stated she did not agree because she felt the purpose of the lighting ordinance was to have a standard, so they did not negotiate light standards every time. Mayor Hindman agreed. Ms. Nauser noted that although she was not in disagreement with having 28 foot light poles, she

was frustrated that they were talking about it because for the past year and a half they held developers to 20 foot light poles. She felt they needed a standard. She did not think they needed to toy with lights for every C-P plan. Mr. Hutton pointed out some of the developers would look at the sensitivity of an area and understand they might get a better response from Council, if they showed what was voluntarily done to alleviate neighborhood concerns. Mayor Hindman agreed that was a decent argument. Mr. Hutton noted they did not have to be 28 feet, they could be shorter. Mayor Hindman agreed, but pointed out they could not require it to be shorter. Mr. Boeckmann stated there was a good argument for having standards and if they were met knowing the Council would approve the plan, but if someone came in for a rezoning or plan approval, it was within the Council's power to make that a condition. He noted he would not advocate that as a policy because there was a benefit to having rules. Ms. Hoppe stated it might allow for more commercial development by neighbors if the Council had a little leverage to assist in making it more appropriate and agreeable to the neighborhood. Mayor Hindman commented the counter argument being made was a good one. He just thought it might be a good to have more discretion when they were talking about neighborhood type commercial developments. Ms. Nauser understood with this ordinance they were trying to get a standard photometric level across a piece of property regardless of whether it involved 28 or 20 foot poles. They were looking for uniformity and the amount of light. Mr. Teddy noted there were factors other than height that would govern the quality of the lighting installation. Ms. Nauser was not sure it was the light poles people complained about. She thought it was the amount of light and traffic. She pointed out HyVee had tall light poles and she had not heard any complaints regarding those. They also did not bother her when she drove by. Ms. Nauser stated she was not sure they wanted take this path because the purpose of the ordinance was to have a standard. Mr. Janku suggested they pass this ordinance and ask for a report and further study if needed in the future.

Mr. Janku asked how they would determine a light area from a dark area in regard to enforcement. Mr. Teddy replied light surroundings meant there was commercial lighting around the site and dark surroundings meant a similar land use was not around the site. The code official would have to apply some judgment to it or the developer would have to make a case when they prepared the plan. He thought some appeals might be generated from the issue. Since the IESNA published this standard, the Planning & Zoning Commission strongly desired the City follow those recommendations. Mr. Janku asked if it would be considered light or dark surroundings for the first tenant of a vacant site with commercial zoning. Mr. Teddy replied he thought if an area was planned commercial and one could reasonably anticipate there would be similar lighting intensities around the site, a case could be made for the light surrounding standards. Mr. Janku understood they might look at the land use plan as opposed to the current zoning. Mr. Glascock noted it would also depend on where it was located in the commercial development. If it was on the edge, it might be in a darker area. If it was surrounded by commercial, it would be a light surrounding. Mr. Janku asked if they were comfortable making those types of judgment calls. Mr. Glascock replied yes.

Mayor Hindman made the motion to amend B466-06 per in the amendment sheet. The motion was seconded by Mr. Janku.

Ms. Nauser stated she was strongly opposed to making ordinances and laws retroactive. She noted it would not be done in criminal or civil law and she did not know why it would be done here. She commented that she did not like spotlights, but she did not feel they should make ordinances retroactive to solve the problem.

Mr. Hutton asked for an explanation as to how they had the right to make a retroactive law. Mr. Boeckmann agreed that this could be a dangerous precedent if they thought they could start eliminating grandfathering with zoning. He gave a history of Missouri court decisions and views and explained that, in general, new zoning regulations had to allow existing uses to continue, but for several reasons, the Council could validly require existing businesses to discontinue the use of spotlights. He noted the use of a spotlight could be considered a nuisance and a property owner did not have the right to continue causing a nuisance. In addition, he understood the businesses that were using the spotlights only used them occasionally. They were using them twice a year for ten day periods. Therefore, the use was incidental to the main use of the property and incidental uses were generally not sufficient to create nonconforming use rights. There was a question in regard to whether this was a zoning issue. He agreed the prohibition of the use of spotlights was really not a zoning issue and could be placed somewhere else in the City Code. He noted non-zoning exercises of police power could be applied to existing uses of property. He pointed out those were the reasons he felt this was an exception to general non-conforming use rights.

Mr. Janku thought this was similar to the sound pollution situation where they had numerous complaints and amended the ordinance to make it illegal for the sound to carry over to adjoining property. He thought spotlights impacted his ability to enjoy his property and agreed with Mr. Boeckmann in that this could be put under the nuisance part of the ordinances. He noted it was an alternative to putting it in the zoning portion of the Code. He suggested they introduce an ordinance in two weeks. If the problem went away, that would be great. If not, they could proceed with the ordinance. Mr. Boeckmann noted that if the Council did not pass the amendment sheet and if they voluntarily stopped using the spotlights, they would lose any grandfathering rights they had.

Mayor Hindman withdrew the motion to amend B466-06 per the amendment sheet. Mr. Janku, who seconded the motion, agreed to the withdrawal of the motion.

Mr. Janku stated he thought this would significantly improve the attractiveness and livability of the community and would help businesses proceed more quickly and easily as they tried to get plans approved.

Ms. Hoppe thought this process showed all different segments of the community could come together to solve a problem to their mutual agreement.

The vote on B466-06, as amended, was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

**B467-06 Amending Chapter 29 of the City Code as it relates to violation and penalties.**

The bill was given second reading by the Clerk.

Mr. Watkins explained this proposed revision to the zoning regulation would increase the maximum fine for zoning violations and bring it into conformance with recent changes in

State law. The Planning & Zoning Commission recommended approval of the proposed revisions.

Mayor Hindman opened the public hearing.

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

The vote on B467-06 was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

**B474-06 Authorizing Change Order No. 1 to the contract with J.C. Industries, Inc.; approving the Engineer's Final Report; levying special assessments for reconstruction of Donnelly Avenue from West Boulevard to Hardin Street and from Ridgeway Avenue to Cook Avenue, and to construct a sidewalk along Donnelly Avenue from Hardin Street to Ridgeway Avenue; appropriating funds.**

The bill was given second reading by the Clerk.

Mr. Watkins explained this was a public hearing for the conclusion of the Donnelly Avenue project. If Council approved this ordinance, they would be accepting the final engineer's report, accepting and approving the work, levying some special assessments and issuing tax bills on those assessments. The total project cost was approximately \$355,700. Community Development Block Grant (CDBG) funds were being used for the project. He noted the policy when CDBG money was being used involved reducing the tax bills by one half regardless of low or moderate income. It was then also possible for eligible residents to apply to get their reduced tax bill completely paid for with CDBG funds. If all of the tax bills were levied on this project, the total tax bill amount would be just over \$27,000.

Mayor Hindman opened the public hearing.

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

The vote on B474-06 was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

**B475-06 Authorizing construction of water main serving Westbrook, Plat 1; providing for payment of differential costs.**

The bill was given second reading by the Clerk.

Mr. Watkins stated this was a standard water main differential project and would install 12 inch and 8 inch water mains in southwest Columbia.

Mayor Hindman opened the public hearing.

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

Ms. Hoppe noted at the last Council meeting she requested a staff report for charging future developers these differential costs. She commented she was concerned with how much the City was spending per year on differential costs. She noticed another related item was on the consent agenda. Mr. Watkins stated staff was looking at some options. He did not feel the report was ready to be provided to the Council at this time.

The vote on B475-06 was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

**(A)      Daniel Boone Building first floor renovation/addition project.**

Item A was read by the Clerk.

Mr. Watkins stated this was the required public hearing for Phase 1 of the Daniel Boone Building expansion and renovation project. He explained the first piece of this project was to renovate the lobby of this building to permanently move utility billing into the building. It would then allow the City to tear down the other buildings and begin expansion. He noted this would be bid as a separate project so they could get started before having all of the plans for the entire building completed. The goals of the project were to keep the improvements made to the lobby several years ago intact to the extent possible and to add a drive-thru facility with a pneumatic tube to maintain a drive-thru option. He illustrated the floor plan on the overhead.

Mr. Janku asked if it would make sense to reverse the direction of the drive-thru so people would come off of Seventh and then swing around to go back out while using the primary flow. That would eliminate the multiple flow of traffic through the one area. Ms. Fleming replied there were two reasons for the proposed layout. They needed to allow for the driver's side of the vehicle to be against the wall. Also, this layout provided a stacking area. They did not want cars backing out onto Seventh Street. Mr. Loveless noted it was much easier to take one lane and divide it into two lanes versus taking two lanes in and corraling them into one lane to exit. Mr. Watkins pointed out this also provided for a manual drawer system next to the building in case the pneumatic tube broke.

Ms. Hoppe asked if any energy efficiency or green features would be included in the renovation, such as the windows, etc. Mr. St. Romaine replied the windows on the first floor/basement were fixed windows and they were not anticipating the replacement of those windows. Improvements would be made to the heating and air conditioning of this building eventually. At this time, they would install a stand alone HVAC system to serve the first floor. It would later be hooked up to the final HVAC system installed when the building renovations were complete. He noted they were looking at energy efficient features. Mr. Hutton understood they were also still looking at the whole thing being a LEED certified building. Mr. St. Romaine replied that was correct.

Mayor Hindman asked, with the problems of stacking and parking within downtown, if any thought had been given to having the drive-thru window outside of the downtown area. Mr. Watkins replied they discussed it. They felt the manual back up might be needed at some point and distance would be a problem without adding a new person. Mayor Hindman understood no one would be staffing the window. Mr. Watkins replied they would, but pointed out they could be doing other things when no one was at the window. They did not have someone dedicated 100 percent to staffing the window. Mayor Hindman commented that the banks did not really have drive-up windows in the heart of downtown. Mr. Watkins replied that was not true and noted Commerce, Bank of America and Premier all had drive-up windows downtown. Mr. Watkins pointed out this would not preclude them from having a remote location at a future date. He noted they were trying to push internet payments and automatic monthly deductions in order to lessen the traffic flow. Ms. Fleming commented that they were also investigating kiosks at other places that did not need to be staffed. Mayor Hindman asked if they would eventually abandon the drive-thru downtown. Ms. Fleming she

stated she doubted they would ever abandon it. She noted it received a lot of usage because many customers wanted a “live” person or wanted to be sure they had a receipt. Mayor Hindman did not think a drive-thru was a downtown kind of thing. Mr. Hutton disagreed and noted they had the entire alley available for stacking distance. To staff it remotely, they would have to create a new position. He questioned what would happen when that person went on vacation or was out sick because then another person would be needed. He questioned if they wanted a downtown drive-thru window using existing staff or if they wanted to hire two new people to staff a new location. He thought they would rather hire two new policemen or firemen. Mr. Janku noted it also brought people into the downtown.

Mayor Hindman opened the public hearing

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

Mr. Hutton made the motion for staff to proceed with the Daniel Boone Building first floor renovation/addition project. The motion was seconded by Mr. Janku and approved unanimously by voice vote.

## **OLD BUSINESS**

### **B448-06 Approving the Final Plat of Perry Automotive Plat 4, a Replat of part of Lots 17 and 18 of Barkwell's Subdivision located on the southeast corner of Nebraska Avenue and Illinois Avenue; granting variances from the Subdivision Regulations.**

The bill was read by the Clerk.

Mr. Watkins explained this was a proposed replat and was tabled at the last meeting due to an easement issue. The issue had now been resolved, so staff was recommending approval.

Mr. Janku made a motion to amend B448-06 per the amendment sheet. The motion was seconded by Ms. Crayton and approved unanimously by voice vote.

The vote on B448-06, as amended, was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

### **B468-06 Approving the Final Plat of Copperstone Plat 1 located on the east side of Scott Boulevard, south of the intersection of Vawter School Road and Scott Boulevard; authorizing a performance contract; granting a variance to the Subdivision Regulations relating to sidewalk construction.**

The bill was given second reading by the Clerk.

Mr. Watkins explained this plat would create 56 R-1 zoned lots, including four lots noted as common areas. The applicant was requesting a sidewalk variance for the 120 foot section closest to Mill Creek where the terrain made sidewalk construction difficult. The Planning & Zoning Commission recommended approval of the sidewalk variance request. Mr. Teddy pointed out the bridge did not accommodate the sidewalk, so there was a need for a separate bridge to build a sidewalk in compliance with the Code. He noted there was an alternative walkway, the eight foot pedway, which connected the cul-de-sac to the nearest residential street.

Jay Gebhardt, an engineer with A Civil Group, provided a handout which showed the location of the open spaces, the eight foot pedways and the variance. He explained the

bridge shown on the preliminary plat had been shifted 200 feet to the west due to Corps permits and the floodplain. He commented that they did not have a problem with building the sidewalk. They were concerned with the major drainage structure needed in order to build the sidewalk. He noted there were only two economical places to build the bridge. One was as shown and the other was against an existing bridge on Scott Boulevard and would force the City to either remove or replace the bridge or relocate Scott Boulevard further to the west. The cost to build one of the bridges was around \$90,000 and would triple if they built at any other location. He pointed out the Council had already granted a variance for the cul-de-sac in the back. He believed the variance was granted because it was interconnected to the rest of the neighborhood by the pedway and proposed bridge. He understood Scott Boulevard could be rebuilt in 2008 or 2009 and believed that in order to fix a short term problem, they might create a long term inconvenience. He noted a child living in the south part going to the club house to swim with his friends would have to go to Scott Boulevard and walk along that road and come back into the subdivision. They did not want that to happen. They also did not want to have to have both bridges.

Phebe LaMar, an attorney with offices at 111 S. Ninth, stated she represented the developer and noted there were four factors to take into consideration when granting sidewalk variances. One was the terrain on which the sidewalk would be built and whether it was infeasible to build a sidewalk in that location. She commented that it would be infeasible in this case and they were, therefore, asking for a variance for the 120 feet. She noted they were not asking for a variance for the remaining 500-600 lineal feet of frontage on Scott Boulevard.

Mr. Janku understood the sidewalk being built would accommodate the expansion of Scott Boulevard. Mr. Gebhardt stated that was correct.

Mayor Hindman stated he loved what he saw in regard to the pedestrian routing diagram with the interconnections between cul-de-sacs and the other parts. He understood they were studying the policy on what to do about sidewalks in these types of situations. Since Scott Boulevard would be built reasonably soon and because there would be pedestrian access all over, he felt it was reasonable to grant the variance. He commented that he thought they should look at this and think about a policy for interconnection of cul-de-sacs.

Mr. Janku agreed and reiterated, as mentioned in past discussions regarding variances involving major drainage ways, he thought they should participate in the cost on some level like they did with bridges for cars.

Ms. Nauser commended them for the saving some of the natural features of the property and stated she thought it would be a nice development.

The vote on B468-06 was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

**B471-06 Approving the Final Plat of Steeplechase Estates, Plat No. 1 located on the east side of Howard Orchard Road, north of State Route KK; authorizing a performance contract.**

The bill was given second reading by the Clerk.

Mr. Watkins stated this final plat would create 41 R-1 zoned lots and noted they had received a request from the applicant to table this item to January 2, 2007.

Mr. Hutton made a motion to table B471-06 to the January 2, 2007 Council meeting. The motion was seconded by Mr. Janku and approved unanimously by voice vote.

**B476-06 Authorizing an agreement with the Columbia School District for a Photovoltaic Power Generating System.**

The bill was given second reading by the Clerk.

Mr. Watkins explained this was an agreement between the Water and Light Department and the Career Center, who were Partners in Education. It was an attempt to bring solar power into the renewable energy discussions. He noted the cost of the project was approved in the 2007 budget. The proposed system would be 2 Kw, which was small, but adequate for teaching the principles and practices of solar power.

The vote on B476-06 was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

**B479-06 Amending Chapter 14 of the City Code as it relates to use of motor vehicle passenger restraints.**

The bill was given second reading by the Clerk.

Mr. Watkins explained this would amend the City Code and bring it into conformance with changes in the Missouri statutes pertaining to the use of seatbelts and passenger restraints for children.

Ms. Crayton asked about school buses. Mr. Janku stated he thought there was an exception for that. Mr. Boeckmann agreed and noted the exception was in the last page of the ordinance. He noted this was the same as State law. Mr. Janku understood this was designed to allow the Columbia Police Department to bring it as a City violation rather than a State violation. Mr. Boeckmann replied that was correct. Mr. Janku pointed out it was not making any different conduct criminal.

Ms. Nauser asked who set the fine limits. Mr. Boeckmann replied the fines were the same as State law. Ms. Nauser commented that she did not like these types of laws. She felt people should take responsibility for themselves. She thought it was interesting that people would be fined \$50 for putting their child in danger, but \$250 for smoking a cigarette. If the intent was to deter behavior, she thought the fine should be higher. Ms. Hoppe stated she thought it was trying to get people's attention.

Ms. Hoppe stated she would like to look into getting seatbelt on buses. Mr. Boeckmann thought it had been preempted, but noted he had not looked at the statute specifically for that. Mayor Hindman thought it would be hard for one City to do that.

The vote on B479-06 was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, HOPPE, HINDMAN. VOTING NO: NAUSER. Bill declared enacted, reading as follows:

**B480-06 Authorizing an agreement with the Missouri Symphony Society relating to the renovation of the Historic Missouri Theatre for the Arts; appropriating funds.**

The bill was given second reading by the Clerk.

Mr. Watkins explained The Missouri Symphony Society had submitted an application through the Convention and Visitors Bureau to assist with renovations. The Board reviewed the application and recommended funding of \$250,000, which was the maximum amount that could be provided for any one project.

David White, 107 Knollwood Court, Executive Director of the Missouri Symphony Theatre, thanked the CVB Commission for their recommendation to grant this proposal. He noted they received a generous notice of \$2 million in federal and historic tax credits from the National Park Service two weeks ago. He stated they would be closing the Missouri Theatre next August to begin its restoration.

The vote on B480-06 was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

## **CONSENT AGENDA**

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

- B469-06 Approving the Final Plat of Copperstone Plat 2 located on the east side of Scott Boulevard, south of the intersection of Vawter School Road and Scott Boulevard; authorizing a performance contract.**
- B470-06 Approving the Final Plat of Bearfield Plaza Subdivision located on the northeast corner of Grindstone Parkway and Bearfield Road; authorizing a performance contract.**
- B472-06 Approving the Final Plat of Arbor Falls Plat 1, a Replat of Lot 2 Old Hawthorne Plat 1 located on the north side of State Route WW and on the west side of Old Hawthorne Drive West; authorizing a performance contract.**
- B473-06 Approving the Final Plat of Vintage Falls Plat 1-D, a Replat of Lot 11 of Vintage Falls Plat 1-A located on the southeast side of the intersection of Savoy Drive and Ivanhoe Boulevard, north of West Worley Street; authorizing a performance contract.**
- B477-06 Accepting conveyance; authorizing payment of differential costs for water main serving Wellington Villas, Plat 1; approving the Engineer's Final Report.**
- B478-06 Accepting conveyances for utility purposes.**
- R253-06 Setting a public hearing: voluntary annexation of property located on the south side of Old Mill Creek Road and on the east side of State Route KK.**
- R254-06 Setting a public hearing: voluntary annexation of property located west of Georgetown Subdivision and north of Westcliff Subdivision.**
- R255-06 Setting a public hearing: construction of water main serving Quail Creek West, Plat 5.**
- R256-06 Setting a public hearing: consider approval of a design concept proposed by artists Don Asbee and David Spear for the Wabash Station Percent for Art project.**
- R257-06 Authorizing the City Manager to make FY 2007 Certifications and Assurances for Federal Transit Administration assistance programs.**

R258-06 Accepting the donation of an ambulance from Boone Hospital Center for use by Joint Communications.

R259-06 Accepting the donation of eight laptop computers from the Missouri Department of Public Safety – Department of Defense to be used by the Police Department's school resource officers.

R260-06 Officially recognizing the Country Club Estates Neighborhood Association.

R261-06 Approving the revised Review Plan and Preliminary Plat of Settlers Ridge located along both sides of State Route B, north of State Route HH.

The bills were given third reading and the resolutions were read with the vote recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Bills declared enacted and resolutions declared adopted, reading as follows:

## **NEW BUSINESS**

R262-06 Setting a public hearing: adopting the Sewer Utility Master Plan.

The resolution was read by the Clerk.

Mr. Watkins explained this resolution would set a public hearing for Tuesday, January 2, 2007 for the adoption of the Sanitary Sewer Utility Master Plan. He noted Ms. Hoppe had suggested holding some interested party meetings. They scheduled two of those meeting for the public to get familiar with the Plan and to provide comments that would be recorded and provided to the Council as part of the public hearing process. The first meeting was set for Wednesday, December 13, 2006 from 4:00-6:00 p.m. in the Mezzanine in the Daniel Boone Building and the second meeting would be held on Saturday, December 16, 2006 from 1:00 – 3:00 p.m. at the Sewer Plant. He noted a substantial amount of the proposal of the Sewer Master Plan had to do with the Plant itself and they thought it would be helpful to show people the Plant. He commented that there was a fair amount of urgency and at some point, they would be asking for a ballot issue to fund a number of the capital improvements included in the Plan. The first step would be approval of the Master Plan, which would occur after the public hearing.

Ms. Hoppe noted she requested a cost breakdown for new development and had not yet received that. Mr. Watkins stated they were working on the response and would probably be sending it to the entire Council this week.

The vote on R262-06 was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

R263-06 Setting a public hearing: consider grant applications relating to the Safe Routes to School Program.

The resolution was read by the Clerk.

Mr. Watkins explained this resolution would set a public hearing in regard to ideas for the Safe Routes to School application. He noted there was about \$2.5 million state-wide this year. It was extremely competitive, but they felt it was worth the time to pull together an application. As part of the application process, they needed to set a public hearing.

Mr. Janku asked if staff could look into the Blue Ridge Elementary attendance area. He thought it extended west of Oakland and the sidewalk proposed on the west side Oakland had a mid-block crossing on Oakland, between Smiley and Blue Ridge. It might be there to access the middle school or the junior high, but it could also access Blue Ridge Elementary. This sidewalk on the west side would bring students to and from that crossing. He understood eighth graders were one of the targets and noted Oakland Junior had eighth graders. Mr. Teddy stated he would look at that.

The vote on R263-06 was recorded as follows: VOTING YES: CRAYTON, JANKU, HUTTON, LOVELESS, NAUSER, HOPPE, HINDMAN. 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.

**B481-06 Approving the Final Plat of Bethel Ridge Plat 1 located on the north side of Diego Drive between Santiago Drive and Bethel Street.**

**B482-06 Authorizing renovation and addition to the first floor of the Daniel Boone Building; calling for bids.**

**B483-06 Authorizing a right of use permit with The Curators of the University of Missouri to allow construction, improvement, operation and maintenance of median islands and curb bulbouts within portions of the Hitt Street, Ninth Street and Conley Avenue rights-of-way.**

**B484-06 Authorizing construction of water main serving Quail Creek West, Plat 5; providing for payment of differential costs.**

**B485-06 Accepting conveyance; authorizing payment of differential costs for water main serving Broadway Bluffs Subdivision; approving the Engineer's Final Report.**

**B486-06 Accepting conveyances for utility purposes.**

**B487-06 Accepting a donation of land located on Heying Drive, east of Oakland Gravel Road, from Johnny J. and Marsha C. Nelson for greenbelt and trail purposes.**

**B488-06 Authorizing a first amendment to intergovernmental cooperation agreement with Lake of the Woods Transportation Development District.**

**B489-06 Accepting a donation from Christian Chapel for the purchase of digital cameras and equipment for the Police Department; appropriating funds.**

**B490-06 Accepting a donation from the Wal-Mart Foundation for D.A.R.E. Camp and related supplies for the D.A.R.E. program; appropriating funds.**

**B491-06 Accepting a grant from the State Emergency Management Agency for the Citizen Corps Program; appropriating funds.**

**B492-06 Accepting a grant from the State Emergency Management Agency for the Community Emergency Response Team (CERT) program; appropriating funds.**

**B493-06 Amending the City of Columbia Employee Health Care Plan and the City of Columbia Employee Dental Plan.**

## **REPORTS AND PETITIONS**

### **(A) Smoking ordinance enforcement plan.**

Mr. Watkins explained the smoking ban would take effect on January 9, 2007 and the Health Department had been tasked with its enforcement.

Ms. Browning explained representatives from the Police Department, Fire Department and Environmental Health met in regard to what they already did with the various facilities affected by the ordinance and how they could be efficient. She noted she made some basic assumptions. Based on the history of other communities and states that had put these types of ordinances into effect, a majority of the people complied without any issue. She spoke to people in charge of the enforcement of this type of ordinance in other communities and they indicated they had very little trouble. Typically, in a restaurant or bar, if someone was smoking, someone there would ask them to put it out. It rarely went any further. On occasion, when there were repeated problems, people would call the enforcing agency to make a complaint. Those complaints would be investigated similar to complaints on a food born illnesses or other restaurant complaints. They would make a follow up phone call, go out to the site or talk to the manager. If they had continued complaints, they could have an officer go with them to write a summons or take the necessary action. She did not think enforcement would be a huge issue. She noted they would heavily advertise the complaint hotline, they had signs saying “no smoking” with the ordinance number and they would put information on the website if there were issues. She reiterated that she thought it would be a relatively simple enforcement issue once they got past the first couple of weeks.

Ms. Crayton commented that when the open container law went into effect, some bars were in violation, but got away with it due to the lack of enforcement on football Saturdays. She wondered how they would enforce this, who would be targeted for enforcement and who would be telling if someone was smoking. She questioned whether it would be exercised equally. She noted anyone could make a false hotline call. She wondered if they would be checking for ashtrays. Ms. Browning pointed out the police would not be involved in enforcement unless they had repeated complaints and they had to take action. She did not think that would happen. She thought they had to assume that if there was a no smoking sign, people would not smoke. Because it had not been a problem in other States and communities, she did not think Columbia would be any different. The calls would come to Environmental Health, who dealt with restaurants and bars regularly and had an established relationship with them. She noted law enforcement would not be involved unless they were in a situation where there were repeated complaints requiring them to go out randomly on a Friday night to address the problem. By that time, they would have been in a facility several times talking to someone. She pointed out the \$200 fine was against the individual that violated the ordinance, not the owner of the establishment, but steps could be taken in regard to an establishment that repeatedly failed to take action.

Ms. Nauser asked how they would know who the offender was. Ms. Browning replied they would not. Because it was complaint driven, they would talk to the business owner. If they were receiving lots of complaints, they would go out in the evening or at a non-traditional time and check on the facility.

Ms. Nauser commented that she had a problem with looking for obvious signs of violations, such as ashtrays and odor. She stated a previous smoking establishment would probably still smell like smoke for a while. She also noted that the owner of the restaurant might be smoking on a Saturday morning and accidentally leave his ashtray and cigarette butts out. That was an obvious sign of cigarette usage. Ms. Browning stated they would probably talk to the owner in that case. They might not fine the person or take any action, but they would be having discussions. She pointed out they currently enforced the existing ordinance that had requirements for the numbers of seats and where they could be placed, so this would not be any different than a normal restaurant inspection. Ms. Nauser understood the ordinance did not prohibit an owner from smoking during non-operating hours. Ms. Browning replied that was true only if there were no workers in the establishment.

Mayor Hindman commented that he discussed enforcement with the Mayor of Lawrence, Kansas, who had a similar ordinance, and he indicated there was a little enforcement activity during the first few months. Since that time, it had calmed down. They also used the Health Department as the enforcer and were having almost no problems.

Mr. Janku made the motion to accept the report. The motion was seconded by Mr. Loveless and approved by voice vote with only Ms. Nauser voting no.

**(B) State minimum wage increase impact.**

Mr. Watkins commented that staff reviewed the impact of the passage of Proposition B on the City's wages and salaries and it did not have an impact on any of the City's permanent employees. It did, however, have an impact on two areas of the City's seasonal employment. Recreational employees, such as lifeguards, were traditionally paid \$1.00 over minimum wage because they had some difficulty in getting them. He stated they would bump that salary up in order to be competitive, and although it would have an impact on the budget, he thought the costs could be made up. The area of most concern involved the C.A.R.E. program because they paid the current minimum wage. He noted there was a waiting list for C.A.R.E. participants in the summer. There were three options. They could decide not to pay the higher wage rate for the C.A.R.E. program, they could pay the higher minimum wage with participants working fewer hours, or they could find additional money to pay the higher minimum rate while allowing the number of participants and the participant hours to remain as they had been in the past. The first two options could be done administratively, however, if Council preferred the third option, staff would need to come back to Council with a suggested revision to the appropriations. He pointed out it would soon be time to enroll people in the C.A.R.E. program, so they needed to know how many to enroll and what the rules would be.

Mayor Hindman stated he believed the C.A.R.E. program was a good program. It gave kids a chance they would not otherwise have in many cases. He noted he knew of a couple of success stories and thought they should ask staff to come back with recommendations to carry on the program with the new minimum wage.

Mayor Hindman made the motion for staff to provide Council with funding recommendations to carry on the C.A.R.E. program as in the past. The motion was seconded by Mr. Loveless.

Ms. Nauser asked if staff had looked at the long term implications of this minimum wage law. Mr. Watkins replied the minimum wage law required the wage rate to go up with the cost of living, so they would see a 3-4 percent increase in wages annually. Mr. Loveless understood they would be able to build it into the budget in the future since they knew it was coming. Mr. Watkins stated that was correct. Ms. Nauser asked where the break even point would be on some of these things. Mr. Janku understood they would be reviewing some of the Parks and Recreation programs in terms of fees and possibly making adjustments in the programs as well. Ms. Nauser noted she did not mind approving a supplemental increase now, but felt they could not keep taking these increases for the long term without a plan or rearrangement.

The motion, made by Mayor Hindman and seconded by Mr. Loveless, was approved unanimously by voice vote.

**(C) Fire Station No. 6 antenna/flagpole.**

Mr. Watkins stated the Council had asked for numbers in terms of lighting the flagpole at Fire Station No. 6. Mr. St. Romaine explained there were two sets of costs. There was an initial cost of installing the flag and the lighting hardware, which was approximately \$9,300. Based on experience, SBA indicated flags of this size needed replaced 2-3 times per year and the cost per polyester flag was about \$1,300. Mr. St. Romaine noted, per an internet search, the cheapest he could find was \$957, so the cost per flag was \$1,000-\$1,300.

Mr. Loveless commented that he asked for the report and wanted to think about it before doing anything further.

**APPOINTMENTS TO BOARDS AND COMMISSIONS**

None.

**COMMENTS BY PUBLIC, COUNCIL AND STAFF**

Mr. Loveless complimented Public Works for the monumental task of trying to get the City's streets cleaned off. He asked if they could provide a way for the public to find out the status of the cleanup. He suggested a phone number or having something on the City's website for people to see where the crews were, where they would go next and when they would likely get to a specific subdivision. He thought people were more frustrated about not knowing when they might be able to get out as they were understanding about the difficulty of the job.

Mr. Loveless made a motion directing staff to provide a report regarding how the City might better communicate cleanup activities for future storms.

Mayor Hindman thought they might want to have a debriefing at the end of the cleanup activities. This would allow them review the issues and what they had learned. He suggested they look into the possibility of snow routes. He understood St. Louis and Kansas City had snow routes where the vehicles had to be moved off the road, so they could be plowed more easily. If the vehicles were not moved, they would be towed. He was not sure if this was a good or bad thing for Columbia. He noted communication was definitely an issue. Another suggestion was for some privatization under exceptional circumstances

where the City could hire extra equipment and help. He also thought it would be helpful to let people know of the type of training the snowplow drivers received.

Mr. Loveless agreed to amend his motion to include a review of Mayor Hindman's suggestions. The motion was seconded by Ms. Nauser and approved unanimously by voice vote.

Ms. Hoppe noted the Planning & Zoning Commission, when voting on the lighting ordinance, asked the Council to consider looking at neon lighting. She suggested they ask for a staff report and recommendation on the neon lighting issue.

Mr. Janku asked what they specifically wanted a review of. Ms. Hoppe commented that they did not talk about the details. Mr. Loveless noted neon lights might fall under the sign ordinance. Ms. Nauser asked if there was a problem with neon lighting. Mr. Loveless suggested they ask staff to contact the Chairman of the Planning & Zoning Commission to find out their intent.

Mr. Loveless made a motion to direct staff to contact the Chairman of the Planning & Zoning Commission for further clarification regarding their intent. The motion was seconded by Mr. Janku and approved unanimously by voice vote.

Ms. Crayton stated she received a call from a constituent who indicated her furnace was not working and that her landlord would not fix it even though her rent was paid. She asked if the landlord could deny a tenant heat and wanted to know if the City could be involved. Mr. Watkins stated he thought it might be a violation of the rental property code. He asked her to provide him the address after the meeting.

Mr. Janku stated he received a request from a constituent asking the City to put 20 mph speed limit during school signs in front of Parkade School on Parkade Boulevard. He asked staff to look into that.

Mayor Hindman asked about the status of the red light cameras. He thought they had planned to go out with a RFP. Mr. Boeckmann replied the RFP had not gone out yet, but he thought it was being looked at. He stated he would have to check on the status.

Mayor Hindman thought the parking cards, which could be used for parking meters instead of loose change and allowed for a refund of the unused portion, were really good. He thought it would help downtown if those cards were in wide circulation. He suggested making those available through the merchants to anyone that wanted one. He noted he would be in favor of providing the merchants a cut for their help with distribution because he felt it would be a good investment for downtown.

Mayor Hindman made the motion directing staff to provide a report on using merchants for the distribution of parking cards for the downtown meters. The motion was seconded by Mr. Janku and approved unanimously by voice vote.

Mayor Hindman stated he received some complaints regarding not having disabled parking on Broadway and asked staff to look into that issue as well.

The meeting adjourned at 10:49 p.m.

Respectfully submitted,

Sheela Amin

City Clerk