

MINUTES
CITY COUNCIL MEETING – COLUMBIA, MISSOURI
MARCH 20, 2006

INTRODUCTORY

The City Council of the City of Columbia, Missouri met for a regular meeting at 7:00 p.m. on Monday, March 20, 2006, in the Council Chamber of the City of Columbia, Missouri. The roll was taken with the following results: Council Members LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU and HUTTON 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 March 6, 2006 were approved unanimously by voice vote on a motion by Mr. Janku and a second by Ms. Crayton.

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. Ash and seconded by Mayor Hindman.

SPECIAL ITEMS

None.

SCHEDULED PUBLIC COMMENT

(A) David Holt – Missouri Students Association Senate Speaker – City noise ordinance.

David Holt, 515 E. Cherry, Apartment 102, stated he represented the Missouri Students Association as the Senate Speaker. He wanted it known he had a great amount of respect for Columbia's City Council and the Police Department. He hoped by coming forward the City and students of the City could begin having an open dialog on City issues. He noted the students at the University of Missouri were in opposition to the City Council's recent legislative actions in regards to the amending the City's noise ordinance and felt this ordinance went too far. It gave too much authority to the Police Department to violate the rights of students or any citizen in Columbia. He did not believe there was "loophole" in the previous ordinance and felt having a step in the legal process where a citizen had to complain prior to an arrest or ticket being issued served as a true balance between the general welfare of citizens and civil rights. He understood there was a subsection of offenses in every city law and believed that in our society, it should always be preceded by a formal complaint from another citizen. He felt the amendment gave police officers the authority to violate student rights whether by the First Amendment, Fourth Amendment, Search and Seizure or Fundamental Pursuits of Happiness. He quoted Mr. Watkins as saying "it would be easier to handle noise problems." He disagreed because he did not know of problems handling noise violations under the current system. He also quoted Mr. Watkins as saying "one did not need a neighbor to complain." He felt the only true test of this violation was when a neighbor complained. Mr. Holt quoted Mr. Ash as saying "the police were

unlikely to ticket people without reasonable cause” and that “police were too busy to prosecute this law.” He questioned why the law was passed if the police were too busy to enforce the legislation. He felt this unfairly gave police the authority to make arbitrary observations, such as the measurement of 50 feet, and felt the law was too subjective. He stated the Missouri Students Association disagreed with the law and wanted the opportunity to work with the Council and have input on any further issues that related to students. They believed this ordinance went too far and allowed too many opportunities for people’s fundamental rights to be violated.

PUBLIC HEARINGS

B437-05 Voluntary annexation of property located on the east side of Howard Orchard Road, north of State Route KK; establishing permanent R-1 zoning.

The bill was read by the Clerk.

Mr. Watkins explained this request for the annexation of a 118 acre tract and permanent R-1 zoning returned again, after being tabled, with a development agreement establishing several terms and conditions for future development.

Mr. Boeckmann pointed out the original bill did not have a development agreement, so the amendment sheet would make that amendment.

Mr. Hutton asked if the amendment sheet included the newest development agreement or the one that was in their packet. Mr. Boeckmann replied the newest one. Mr. Ash noted the previous version was 4.5 and this one was 4.8.

Mayor Hindman stated they briefly discussed this situation at the Pre-Council meeting. He noted staff had not had the opportunity to respond to the County’s comments. In addition, with the latest version of the development agreement, there was an inclination to table this once again.

Mr. Boeckmann suggested they amend the bill to include the development agreement before continuing the issue.

Mr. Loveless made the motion to amend B437-05 per the amendment sheet. The motion was seconded by Ms. Crayton and approved unanimously by voice vote.

Mr. Janku asked for a clarification regarding the changes. Mayor Hindman suggested they ask the developer since staff had not had time to review the new agreement.

Mayor Hindman opened the public hearing.

Skip Walther, an attorney with offices at 700 Cherry, stated he represented the contract purchasers of the property. He noted the County submitted a list of comments with respect to the development agreement. A couple of those comments were technical and in regards to the developer’s promise to provide design services for the subdivision in relationship to Howard Orchard Road. He explained the proposed subdivision fronted Howard Orchard Road on the west side and that it was an unimproved, gravel road maintained by the County. He noted it had some hills and dips that would probably be modified when improved, if that ever happened, and the developers had agreed to provide a vertical alignment and grading plan for the subdivision and the road, so they matched. In addition, some language changes were made to deal with the County’s technical concerns. Mr. Walther explained the County also commented about the \$25 per foot contribution from the developer and had concerns regarding the use of Howard

Orchard Road for residential or construction traffic. He pointed out these concerns were not addressed. He noted there were a couple minor changes to the agreement as well.

Mayor Hindman asked if he had any comments on continuing this issue. Mr. Walther replied his clients would love to have the matter concluded, but understood if Council was uncomfortable with passing it with the new information received.

Mr. Ash made a motion to table B437-05, as amended, to the April 3, 2006 Council meeting. The motion was seconded by Mr. Janku.

Mr. Ash stated he appreciated the developer being receptive to the County's concerns, but hoped they could vote on it next time without another change at 5:00 p.m. the night of the meeting.

The motion, made by Mr. Ash and seconded by Mr. Janku, was approved unanimously by voice vote.

Mayor Hindman noted the public hearing was continued to the April 3, 2006 Council meeting.

B101-06 Authorizing construction of water main serving Bradley Place Plat 1; providing for payment of differential costs.

The bill was given second reading by the Clerk.

Mr. Watkins stated the City's policy on differential costs was a good one for both the City and the developer. The City received an oversized line for a fraction of the cost and the developer shared in the cost. The total cost of this project to the City was about \$17,250.

Mayor Hindman opened the public hearing.

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

The vote on B101-06 was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B102-06 Calling for bids for rehabilitation of Deep Well No. 8.

The bill was given second reading by the Clerk.

Mr. Watkins explained this was a public hearing on a project approved by the voters at the last water ballot issue. It would convert deep well #8, located near Fairview Road, to an aquifer storage and recovery well. This would be the second ASR well for the City and the estimated cost was \$325,000.

Mr. Dasho commented they had one ASR in place currently which provided emergency back up for water supply. With the work being done at the Water Treatment Plant, they were able to take advantage of the system and were pleased with the way it was operating. It provided an additional 2 million gallons per day. He noted they were looking forward to getting the next one on line.

Mr. Janku asked when they anticipated it being on line. Mr. Dasho replied by June.

Mayor Hindman opened the public hearing.

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

Mr. Hutton asked why the cost was \$375,000 in 2004 and only \$325,000 now. Mr. Dasho replied the one done in 2004 was the first ASR in Missouri. Since this ASR would follow the exact design, they were able to get a better cost.

Mr. Janku asked if they anticipated further ASR's being completed. Mr. Dasho replied not at this time.

The vote on B102-06 was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

(A) Voluntary annexation of property located approximately 500 feet northwest of the intersection of Waco Road and Brown Station Road.

Item A was read by the Clerk.

Mr. Watkins explained the applicant was requesting R-1 single-family zoning as permanent City zoning. At present, the property was zoned Boone County R-S, which was equivalent to the City's R-1 zoning. The Planning & Zoning Commission recommended approval.

Mayor Hindman opened the public hearing.

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

(B) Consider project suggestions for the City of Columbia's 2006 application to the Missouri Department of Transportation for Surface Transportation Enhancement funds.

Item B was read by the Clerk.

Mr. Watkins explained this was a public hearing on possible projects to be included in the City's 2006 Surface Transportation Enhancement grant. In District 5, which was basically Mid-Missouri, there was approximately \$3 million to be awarded. The maximum grant was \$500,000. In order to secure maximum points in the competition, a 40 percent match was required. Enhancement grants were intended to support non-roadway projects that had a relationship to surface transportation, particularly bicycle and pedestrian, scenic and natural resources, and historic resources improvements and programs. Last year the City received \$342,000 in enhancement funds for the Hinkson Creek Trail - Phase 1.

Mr. Teddy noted they provided the Council some project suggestions, which included 763 sidewalks and pedway, Hinkson Creek Trail Phase 2, County House Branch Trail, a pedestrian connection between Grindstone Canyon/Jefferson Commons and the MU Campus, a pedestrian connection from Rockbridge High School to the business district to the north on the Providence outer roadway and sidewalks on Broadway between Stadium and Fairview. He explained a tentative schedule of events was also provided to the Council. He pointed out MoDOT officials were expecting a lot of applications.

Mr. Ash stated they had six projects and understood the public would ask them to consider others. He asked why they limited the applications to four. Mr. Watkins replied it was primarily because it took a lot of time to pull them together. If Council gave them six to do, they would do six, but realistically no one community would receive funding for all of the applications submitted even if they were well thought out. There was deference to spreading the money around within the District. They, therefore, wanted to focus efforts on Council's highest priorities.

Mayor Hindman opened the public hearing.

Mary Kay Doyle, 1006 W. Rollins Road, explained she was the Vice-Chair of the Historic Preservation Commission and in that regard was asking the Council to consider the idea of brick

streets under the Historical and Archeological category. She noted a questionnaire done by the Convention & Visitors Bureau to find out why people liked Columbia and the downtown area indicated it was due to the brick streets. She pointed out there were brick streets under the asphalt in most of the area and asked the Council to consider removing the asphalt to expose the brick streets.

Brent Gardner, 404 Thilly Avenue, stated he was on the Historic Preservation Commission and had done research through "Google." He found that several cities that had taken the pavement off of their streets to expose brick. In some cases, they took the brick out and did a new under layment. He noted downtown Columbia used to be brick until it was paved over around the 1950's for various reasons. He thought it was interesting that the Old Navy store, which was built a month ago in the Biscayne Mall area, had brick out front for the feel of a historic downtown area. He noted they had spoken to some of the merchants on Eighth Street and seemed to have some support as far as making it a neat area for people to come and hang out. They felt exposing the brick would cause a stir amongst people. He commented that other large cities that had brought back brick streets indicated it was a positive experience for the economy while bringing a warm feeling to their downtown. He felt the same would happen in Columbia and asked the Council to consider this as part of the program.

Carrie Gartner, 11 South Tenth Street, stated she was the Director of the Special Business District and asked the Council to consider funding the beautification and landscaping of Broadway. She noted they just completed their post canopy plan for Broadway. The plan was to remove the canopies, add trees, extra landscaping, and hanging baskets, improve the sidewalks and add more seating areas and benches. She explained it was the main street and needed some help. She felt they had some great property owners that were either in the process of taking down canopies or were talking and thinking about it. She noted traditionally the City paid for trees and benches and property owners paid for sidewalk upkeep and canopy removal. She felt the beautification plan needed to be the length of Broadway and the 40 percent match would be the tipping point for property owners who did not have the funds to take down the canopy, fix the sidewalks and fix the buildings. She believed this would be the perfect push to get them all down in a timely manner.

Mr. Hutton understood a group had been working on the Eighth Street beautification project for about five years and that the project was essentially done. They were only waiting for funding. He asked where this stood in relationship to the Broadway request. Ms. Gartner replied they wanted it all. She commented they had been very involved in the Avenue of the Columns project and the Board supported that with hard work, advice and cash. She noted Broadway was part of the Urban Beautification Plan, which was started in 2000. They worked on all other aspects of the District except Eighth Street since they had their own plan and Broadway because they thought it would take a while to get the canopies down. She felt both Eighth Street and Broadway were keys and was not sure she could choose between the two. She noted this would be the final stage of their HUB plan.

Mr. Janku asked if she had a dollar figure. Ms. Gartner replied they believed they could get the four blocks of canopies down for \$140,000 - \$190,000. That included patching the sidewalk where the canopy stands were rather than repaving the entire sidewalk.

Mr. Janku asked if that included beautification. Ms. Gartner replied no. It was just canopy removal. Ms. Gartner thought a ballpark figure for amenities was \$50,000 - \$60,000 from Waugh to Providence.

Mr. Janku asked if a dollar figure was available regarding the brick streets. Mr. Gardner replied he did not have a specific amount, but had talked to someone in Public Works that indicated it was cheaper over a 100 year period because there was no maintenance with brick. He pointed out it was initially more expensive than repaving a street.

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

Mr. Ash recalled when doing this last year, there were a lot of things to consider including competing with themselves, whether projects were worthy and which project would score well. He thought staff could provide good guidance by providing pros and cons for the proposed projects. Mr. Watkins pointed out the scoring process changed dramatically last year from prior years, but felt they were fairly close on what projects would score well. This year the scoring criteria remained much the same, but the people doing the scoring would be entirely representatives of the various planning agencies in District 5. District 5 would not be voting. Last year there was a bias towards sidewalks along state routes and that was what scored well. This year they did not know what the scoring would be, but stated they could give their best estimate. Mr. Ash felt that would be helpful.

Mr. Hutton understood they would see this again in a work session to narrow it down and bring it back for a vote. He suggested they include the projects mentioned tonight including the brick streets, beautification and landscaping of Broadway, and the Avenue of the Columns. He asked if the sidewalks on Broadway from Stadium to Fairview, which was the last item on staff's list, would include curb and gutter since a large section of that road was unimproved. Mr. Watkins replied probably not. Mr. Hutton asked how that would be done without the curb and gutter. Mr. Watkins explained based upon last year, putting the curb and gutter in would not help with scoring. Mr. Hutton stated he was asking from a practical view since it was hard to put sidewalks on an unimproved street.

Ms. Nauser stated she liked the idea of bricks in the downtown area. If it could not get on the transportation list, she still wanted them review and pursue it. She noted they had received an e-mail regarding a pedestrian bridge over the creek at Forum Boulevard and Green Meadows. She felt that was a bad area and a bad access to the park. She noted the trail was heavily utilized and there was a stretch of Forum Boulevard going up the winding hill where there was no sidewalk or any type of pedestrian access. With the inclusion of the new Wilson's, she felt there would be a lot more health minded people using the area and could see them wanting access the park. She stated she would like to see this added to the list for consideration. Mr. Watkins asked for clarification. Ms. Nauser replied she was talking about a pedestrian bridge over the creek on Forum, near the Wilson's gym. Mr. Watkins asked if it would be on the east or west side of Forum. Ms Nauser thought it would be the west side. Mayor Hindman thought they should look at both sides to see if they could add to the bridge symmetrically.

Ms. Nauser suggested they include the pedestrian bridge over the creek at Forum and Green Meadows on the list for consideration.

Mayor Hindman asked staff to look at other funding sources for all proposed projects. Mr. Hutton agreed and felt projects that were least likely to be funded from other sources could move up on this list.

Mr. Janku asked if the group involved in the Eighth Street project would be interested in having brick streets. He felt it would be good to target one street. Mr. Hutton thought it would take a meeting of the Avenue of the Columns committee to make that determination. He understood the current plan was for brick walkways. Mayor Hindman pointed out there was a system to press concrete where it looked exactly like brick. He thought they should look at that as well.

Mr. Hutton made the motion to include all items discussed on the proposed list of projects for consideration. The motion was seconded by Mr. Loveless and approved unanimously by voice vote.

R76-06 Approving the FY 2005 Consolidated Annual Performance Report.

The resolution was read by the Clerk.

Mr. Watkins explained a public hearing was a required prior to submitting the 2005 Consolidated Annual Performance Evaluation Report (CAPER) to HUD. This report summarized all CDBG and HOME expenditures as well as the progress meeting City's goals and objectives of the 2005-2009 plan. Any comments interested parties wanted to make in regards to this plan would be included in the submittal. The CAPER was reviewed and approved by the City's Community Development Commission.

Mayor Hindman opened the public hearing.

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

The vote on R76-06 was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

OLD BUSINESS

B7-06 Authorizing acquisition of easements for construction of a 161 Kv transmission line from the intersection of Rolling Hills Road and Sugar Grove Road to the Grindstone Substation located on Grindstone Parkway.

The bill was read by the Clerk.

Mr. Watkins explained they had asked the Council to table this legislation at a number of previous meetings. While staff continued to make progress in acquiring the easements, they were now requesting this item be withdrawn. They would bring it back to Council at a future date with the exact easements the City would ultimately need.

Mr. Loveless made the motion to withdraw B7-06. The motion was seconded by Ms. Nauser and approved unanimously by voice vote.

PR48-06 Establishing a policy on requests for variances to subdivision regulation requirements for construction of sidewalks along unimproved streets.

The policy resolution was read by the Clerk.

Mr. Watkins stated this was a policy resolution that would change the current policy on requests for variances regarding the construction of sidewalks along unimproved streets. It was

suggested by Mr. Ash and tabled at the last Council meeting pending the Bicycle and Pedestrian Commission's review of the proposal.

Mr. Hutton felt one thing that might alleviate the need for a variance on an unimproved street would be the ability of a developer to build a temporary sidewalk or something less expensive than the permanent sidewalk. He stated the reason he generally voted in favor of sidewalk variances was because he believed it was a waste of money to force a sidewalk to be built knowing that in 2-7 years, it would need to be torn out for the road to be improved. He wondered if they should be looking at that issue and if there were any legal or liability issues involved. Mr. Boeckmann stated he thought they already had something like that. He noted there was a provision in the subdivision ordinance reading "a variance to the requirement to construct a sidewalk may be conditioned on the property owner paying the City an amount equivalent to the cost of the construction of the standard sidewalk." There was also a provision reading "provided, however, wherein an alternate walkway system is approved as a substitute for standard sidewalks, no payment shall be required." He believed the origin had to do with unimproved streets where one would have something other than a sidewalk. Mr. Hutton suggested making that more of a viable option.

Mayor Hindman commented that the thing they wanted when a subdivision was put in was a safe place for people. Mr. Hutton agreed and clarified he was not arguing that. He was talking about an unimproved street. Mayor Hindman noted, so often, that was where the issue came up. When a subdivision was built with an unimproved street, people were forced to use the ditches, which was not what they wanted.

Mr. Janku felt this issue was included in Sections 4 and 5. Mr. Hutton thought that was the language Mr. Boeckmann read. Mr. Boeckmann stated he was reading from the subdivision ordinance itself rather than the policy. Mr. Hutton asked if the language was new or in the existing policy resolution. Mr. Boeckmann replied it was in the existing policy resolution.

Mr. Janku asked if that satisfied Mr. Hutton's concerns. Mr. Hutton stated it did, but noted Section 5 could pose a problem in that a temporary alternative walkway must still meet all requirements for ADA or accessibility because in some cases, that was virtually impossible. He noted he was only trying to find a way to eliminate multiple variances by having a cheap alternative.

Mr. Ash felt it would do what Mr. Hutton was looking for even though it had not been pursued much. Mr. Hutton agreed and stated the language was good, but rarely, if ever used. He assumed a developer would rather take his chances of getting four votes for a variance. Mr. Janku stated since they were now more aware of it, they might pursue it.

Fred Schmidt, Secretary of the Pedestrian & Bicycle Commission, stated it was very difficult to find any language to nail this issue down precisely. They felt if they tried to make it more precise, it opened up loopholes. They also found it was hard to come up with something that did not ultimately rely on the judgment of the City Council. The few suggestions they had were stated in Mr. Watkin's memo. He thought Mr. Hutton's comments regarding a cheap alternative was very interesting and wondered if there was a way to make that work.

Mr. Ash explained he felt six of the eight existing criteria were not relevant and understood this had caused frustration for developers and staff who felt the Council was not following its own policy. He, therefore, proposed this change. He stated the goal he was trying to achieve was to determine whether or not it was safe for someone to walk in the street, and if

not, he felt there should be a sidewalk. His three suggested criteria included whether the cost of constructing the sidewalk was comparable to the general cost of the development, whether it was physically possible and whether it was infill development on an existing area that had quiet streets without sidewalks. He noted that was not one of the eight criteria, but felt it was important. Mr. Ash stated he agreed with the Bicycle & Pedestrian Commission's recommendation to replace "quiet" with "low traffic volume local" in regards to criteria 3.

Mr. Ash made the motion to amend PR48-06 to replace "quiet" in paragraph (c) of Section 3 with "low traffic volume local". The motion was seconded by Mr. Janku and approved unanimously by voice vote.

Mr. Ash explained he met with Mr. Schmidt before and after the Bicycle & Pedestrian Commission meeting and it was very helpful to obtain their input. In regards to Section 3, the Commission felt the burden of proof should flipped to why one did not need to build a sidewalk. He noted they were suggesting the language stating "determining the need for the variance" be changed to "determining the need for a sidewalk."

Mr. Loveless agreed it did strengthen the legislation to require the variance as opposed to requiring the sidewalk. He suggested the inserting "variance" after "sidewalk" in the first line of Section 3 and then striking the remaining language in front of the comma. He thought it should read "In determining the need for a sidewalk variance, the City Council shall consider but not be limited to the following factors."

Mr. Boeckmann pointed out that if they did that, they would leave out a legal requirement. He noted "the impact of the proposed development justifies the requirement that the sidewalk be constructed" was required. Mr. Boeckmann suggested it read "In determining the need for a sidewalk variance and in determining whether the impact of the proposed development justifies the requirement that the sidewalk be constructed, the City Council shall consider but not be limited to the following factors."

Mr. Ash made the motion to further amend PR48-06 by changing the language in the introductory paragraph of Section 3 to read "In determining the need for a sidewalk variance and in determining whether the impact of the proposed development justifies the requirement that the sidewalk be constructed, the City Council shall consider but not be limited to the following factors." The motion was seconded by Mr. Loveless and approved unanimously by voice vote.

Mr. Ash referred to staff's memo dated March 2, 2006 and stated he left out the criteria mentioned in item (1) on purpose because he did not feel the amount of traffic generated mattered when considering whether or not there should be a sidewalk. Item (2) was already covered by the Council. Mr. Ash stated he was not sure where the change suggested in item (3) regarding deferral would be and asked what it meant. Mr. Teddy replied it applied to where a sidewalk still needed to eventually be built, but Council was willing to accept cash in lieu of sidewalk construction. He suggested that be called a deferral. He noted it was really a comment on the entire policy resolution, not just one specific criterion. Mr. Ash asked if they wanted "deferral" inserted everywhere it stated "variance". Mr. Boeckmann pointed out they did not want to do that because the policy was on variances.

Mr. Janku noted the nearby demand discussed in item (1) was something he always included in the equation. He thought it could tip the scale when the cost factor was involved because they might expect someone to pay more if a school was nearby. He felt leaving it out might affect his decision making. Mr. Ash felt the problem with that was if one was the first one

out somewhere, there would be no demand. Mr. Hutton did not agree and stated demand was not based on whether or not someone was first or last. He felt it was based on what one was connected to or what was around. Mayor Hindman noted that when someone was first, they would not be connected to anything. Mr. Hutton still did not think that affected demand.

Mr. Loveless thought a classic example was the piece of property in front of Rock Quarry on north Route E. There was a golf course at one end, likely housing development on the other side, and an office complex in the process of being developed and a sidewalk variance was requested because there would be a sidewalk linking nothing to nothing. He thought the future and potential demand played a big part of their thinking. Mayor Hindman thought the Council allowed the variance. Mr. Ash agreed and stated that was the reason he did not want this in there. They argued they were an industrial park and no one walked there.

Mr. Janku understood Mr. Ash was afraid it would be used against the sidewalk and noted he wanted it so it could be used for a sidewalk. Mr. Ash felt this would provide another reason for it to be struck down. He thought by adding this they would get less sidewalks.

Ms. Nauser stated she agreed with Mr. Janku. She could see a time when the regulations required sidewalks, but there was no need. She wanted to have that tool to determine if it was truly needed. She pointed out that she believed they needed sidewalks, but felt there were some instances in which they would not be needed.

Mr. Janku explained he used the nearby pedestrian generator criteria along Northland Drive where there were some houses being built very close to the Bear Creek Trail. He argued, given the proximity of the pedestrian generator, they needed a sidewalk where otherwise a variance might be justified because it was an unimproved street. He pointed out they voted to reject the variance based on that. He felt it was a positive thing to put in the equation.

Mr. Ash asked how the lack of that criterion made it more likely to get the sidewalk versus just using these three. He did not agree with the wording in the staff report reading “whether or not the development created a demand for pedestrian traffic either to the site or from the site to a destination along the unimproved road” because he felt that was not the driving reason for why they should or should not build a sidewalk.

Mr. Janku stated the language he wanted to retain, if acceptable, read “parks, schools or other pedestrian generators near the development for which the sidewalk or walkway would provide access.”

Mr. Ash reiterated he felt when someone was the first one out somewhere, they would argue there were no parks, schools or anything else by them. He did not think that was a good thing to keep in there, if one was a proponent for wanting more sidewalks. He felt it would be used against them more than being a positive.

Ms. Nauser thought they could address Mr. Ash’s concerns involving that criterion. She agreed the argument that they were the first one out there, so there was no need, would not hold up. Mr. Janku suggested they try it and if it worked against them, they could amend it to restore the language. Mr. Loveless asked Mr. Janku if he was suggesting adding subparagraph (d) in Section 3 with wording similar to (a) on staff’s February 13, 2006 memo. Mr. Janku replied yes, but noted he was willing to leave it out to see how it worked. Ms. Nauser recommended leaving it in and if they found it was being used against them, they could then delete the language at a later date. Mr. Hutton stated he thought it should be in there.

Ms. Nauser made the motion to further amend PR48-06 to incorporate provision (a) of the February 13, 2006 staff memo in Section 3, subparagraph (d) of the policy resolution. Mr. Loveless asked if she would be willing to include some language about potential future traffic generators as well. Ms. Nauser stated she would. Mr. Janku suggested “current or future” precede the language. Mr. Boeckmann understood subparagraph (d) in Section 3 would read “current or future parks, schools or other pedestrian generators near the development for which a sidewalk or walkway would provide access.” Ms. Nauser agreed.

The motion made by Ms. Nauser was seconded by Mr. Hutton and approved by voice vote with only Mr. Ash voting no.

The vote on PR48-06, as amended, was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. VOTING NO: NO ONE. Policy resolution declared adopted, reading as follows:

B88-06 Authorizing foreclosure on loans in default in accordance with deeds of trust established under CDBG and HOME funded housing and community development programs; authorizing the purchase of property sold at foreclosure and tax sales.

The bill was given second reading by the Clerk.

Mr. Watkins stated this bill would allow the City Manager, upon the recommendation of the City’s Loan and Grant Committee, to initiate foreclosure proceedings on CDBG and HOME funded properties that were both vacant and in default of the provisions of the loan. Currently, the City’s loan portfolio included about 645 loans and as of last week, eighteen were in default. The bill would also authorize the City Manager to purchase properties that were being sold at foreclosure and tax sales, provided the City Council had appropriated funds, for this purpose. He noted, currently, there were no funds appropriated or included in the CDBG budget. He believed these actions would support the City’s Neighborhood Response Team and were appropriate to remove blighted properties, clear up property ownership and save deteriorated vacant buildings from becoming blighted after being abandoned. Under the current policy, the City could not foreclose to obtain title to property to put it back in productive use. This proposal would allow the City to do just that in very limited instances.

Mr. Janku stated he thought this was an excellent idea. He asked how they could put aside funds in the budget to provide flexibility and what staff would need in regards to authorization from the Council to proceed. Mr. Watkins replied he felt the first thing they needed was to get Council’s reaction to the policy and if approved, staff would come back with a proposal on how it might be implemented, as part of the budget. Mr. Hutton understood it would not have a budget impact because the goal would be to turn the property around as quickly as possible. Mr. Watkins agreed and stated the goal would be to come out even, but to put the property back into productive use instead of being abandoned.

Mr. Janku understood, but thought they would have to set aside a portion of funds, which might otherwise be used. He wanted to ensure they had a process where they could react quickly. Mr. Watkins agreed and did not believe they would be in a situation where they could come back to Council every time they wanted to do this. He stated they would have to set up specific criteria and run it through the Loan and Grant Committee for their input.

Mr. Loveless stated that was his big question. He wondered whether the recommendation from that Committee wound up being defacto authorization for the City

Manager or if it was the Council's responsibility to direct the City Manager upon the Loan and Grant Committee's recommendation. He noted, in this instance, the Loan and Grant Committee would be directing the City Manager to do this. Traditionally, that had been a Council purview, which they had not subrogated to another committee. Mr. Watkins stated they saw it as an authorization in that they concurred with the City Manager's recommendation as opposed to a direction. Mayor Hindman stated he thought they wanted the City Manager to make these decisions because time was sometimes a significant factor.

Mr. Hutton asked if someone else bought it, if the City's loan was gone. Mr. Watkins replied if someone else bought it, potentially, the City would get some funds. In some cases, the City was the only loan on the property and in those instances, the City would get the tax sale amount.

The vote on B88-06 was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B103-06 Authorizing Amendment No. 4 to the agreement with Jacobs Civil Inc. for engineering services relating to the expansion of the McBaine water treatment plant.

The bill was given second reading by the Clerk.

Mr. Watkins explained this was a proposed \$29,100 change order in design services for the re-bidding of the 36-inch transmission line from the plant into the City. The City bid the project earlier and the cost came in substantially over estimate. This would allow them to redesign some portions of the project to hopefully get better bids.

The vote on B103-06 was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B105-06 Amending Chapter 14 of the City Code to prohibit the possession of official traffic control devices and railroad signs.

The bill was given second reading by the Clerk.

Mr. Watkins stated current City ordinances prohibited the theft of stop signs and streets signs, but it was difficult for a police officer to catch someone in the act of removing a sign. Stop signs and traffic control devices were sometimes removed for wall decorations and in many cases the removal of these signs created serious traffic hazards. He noted replacement of the signs, to include the cost of the sign and the labor to put them up, ran into tens of thousands of dollars every year. This particular approach was suggested to minimize some of this theft.

Mr. Glascock pointed out the City had their own unique mark as did MoDOT, so the signs would be identifiable.

Mr. Watkins understood if someone stole a sign in St. Louis, it was not illegal to have it possessed here.

Mr. Ash asked what the penalty was. Mr. Boeckmann replied the general penalty provision applied to this and he thought the maximum fine was \$500. Mr. Ash asked if there was a sliding scale or flat fee. Mr. Boeckmann replied the fine was up to the Judge.

Mayor Hindman stated he thought some type of replica or duplicate sign should be sold to the students to deter theft because he did not believe this ordinance would change a lot.

The vote on B105-06 was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. 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.

- B89-06 Approving the Final Plat of First Tier Plat 1 located on the east side of Monterey Drive, north of Nifong Boulevard; authorizing a performance contract.
- B90-06 Approving a Replat of Lot 4 of Vintage Falls Plat 1-A located on the southwest side of Ivanhoe Boulevard.
- B91-06 Vacating utility easements located within Park De Ville Subdivision - Plat 1.
- B92-06 Calling for bids for sidewalk construction on the north side of Business Loop 70 from Creasy Springs Road to Garth Avenue.
- B93-06 Calling for bids for construction of Sanitary Sewer District No. 149 (Edgewood Avenue).
- B94-06 Authorizing acquisition of easements for construction of the C-3 Trunk Sewer Extension, an 80-acre point sewer serving the UMC South Farm Property.
- B95-06 Authorizing acquisition of easements for construction of Sanitary Sewer District No. 148 (South Garth Avenue).
- B96-06 Confirming the contract with Kevin Rackers Excavating, LLC for construction of the EP-1 Trunk Sewer, an 80-acre point sanitary sewer serving the Opal Smith Property.
- B97-06 Authorizing a cooperative agreement with Boone County relating to 2006 revenue sharing funds for the Chapel Hill Road improvement project; appropriating funds.
- B98-06 Allowing a building permit to be issued to Shelter Mutual Insurance Co. for a structure in a utility easement in Shelter Insurance Subdivision Plat 2; approving a waiver of claim and indemnity agreement.
- B99-06 Authorizing a Right of Use Permit with Mill Creek Manor, Inc. to allow the installation of a subdivision sign within a portion of the Barksdale Mill Drive right-of-way.
- B100-06 Authorizing a Right of Use Permit with Rabbit Ears, LLC to allow the installation of landscaping, an irrigation system, lighting, electrical conduits and water service lines within a portion of the Yeoman Way right-of-way.
- B104-06 Accepting conveyances for utility purposes.
- B106-06 Authorizing a chapter grant agreement with the March of Dimes Birth Defects Foundation for the Latino Home Visiting Expansion Project; appropriating funds.
- R63-06 Setting a public hearing: voluntary annexation of property located on the north side of St. Charles Road, east of Talon Road (5301 E. St. Charles Road).
- R64-06 Setting a public hearing: consider the Water and Light Renewable Energy 2006 Report.

- R65-06 Setting a public hearing: construction of Wells #15 and #16 in the McBaine Bottoms.
- R66-06 Setting a public hearing: construction of improvements to park property located between The ARC and West Junior High School, and to Cliff Drive Park and Bear Creek Neighborhood Park.
- R67-06 Setting a public hearing: consider the replacement schedule of emergency outdoor warning sirens.
- R68-06 Setting a public hearing: consider a master plan for Discovery Ridge, a proposed research park to be developed on the University's South Farm located east of U.S. 63 and south of New Haven Road.
- R69-06 Authorizing a Right of Use agreement with SodaWerx L.L.C. to allow construction of an emergency exit in the Eighth Street and Cherry Street parking garage.
- R70-06 Authorizing an agreement with Engineering Surveys and Services, LLC for project surveying and testing services relating to the Grindstone 161 Kv Line project.

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

NEW BUSINESS

R71-06 Consenting to the issuance of a state license for the sale of intoxicating liquor to an establishment called the *Spanish Fly* located at 808 Cherry Street.

The resolution was read by the Clerk.

Mr. Watkins explained an application had been made to the City for the issuance of a liquor license to a nightclub that would be called Spanish Fly at 808 Cherry Street, which was within 100 feet of the Calvary Episcopal Church. A new section of state statute now required written permission of the City Council prior to staff issuing such a license. The resolution would provide such permission and staff was recommending it be issued.

Upon her request, Mr. Janku made the motion that Ms. Nauser be allowed to abstain from R71-06. The motion was seconded by Mr. Loveless and approved unanimously by voice vote. Ms. Nauser noted on the Discloser of Interest form that her husband owned a beverage distributorship and felt this could appear to be a conflict of interest.

Mr. Hutton pointed out there were several other liquor serving establishments within 100 feet of the Church, so this was not the only one. Mr. Watkins clarified this was a result of the law recently changing.

The vote on R71-06 was recorded as follows: VOTING YES: LOVELESS, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. VOTING NO: NO ONE. ABSTAINING: NAUSER. Resolution declared adopted, reading as follows:

R72-06 Adopting guidelines for a Sports Development Fund under the Tourism Development Program.

The resolution was read by the Clerk.

Mr. Watkins explained Columbia voters increased the gross receipts tax of the bed tax by two percent in 1999. One half of that increase or one percent, which was approximately \$325,000 annually, was reserved for a new program called the Tourism Development Program (TDP). This would specifically fund events, festivals and attractions which would attract visitors and add bed nights. Guidelines were developed for festivals and events and were approved by the Council in 2000. Since that time, festivals and sporting events had received more than \$1 million in TDP funding. Sporting events had been funded under the festival and events guidelines, but the original guidelines were not designed to address the special requirements of sports related applications. The guidelines before the Council tonight were reviewed and recommended for approval by the Convention & Visitors Advisory Board.

Mr. Hutton commented that his employer would probably be applying for some of these funds. He did not have a direct financial interest so he did not feel it was a conflict of interest, but he wanted everyone to understand he might be associated with an application for these funds.

Mr. Hutton understood they were taking \$100,000 of the funds currently allocated for the festivals and events part of the TDP. Ms. Steiner stated that was correct. Mr. Hutton noticed in the highlights section, it was stated this would not adversely impact funding for the festival and events, but understood they were taking away \$100,000 of the \$325,000 they had annually. Ms. Steiner replied they were taking \$100,000 and committing it to sports events, but explained, on average for festival and events, including sports, they had allocated \$160,000-\$220,000 per year. The Board had the ability to take as much of that \$325,000 as they felt appropriate. With the fund increasing annually, it was actually more than \$325,000 now. She stated she could not foresee a time when they would have more applications than they could fund for festivals. She noted approximately 35 percent of their funding had gone towards sports.

Mr. Hutton understood there was significant change in the number of points between regional media coverage and national coverage. He asked if coverage meant actually televising the event. Ms. Steiner replied yes, but added it could be a variety of types of coverage or media. Mr. Hutton wondered how they would know that in advance. Ms. Steiner noted the Board discussed that as well and decided they would not get the highest number of points unless they had a letter or commitment from someone like ESPN or NBC to cover a particular event. She pointed out they went through several different trial runs and looked at an average application. One did not have to get the highest number of points in each category in order for the application to be funded.

Mr. Hutton understood there were no points possible between the four and the ten and felt that was a significant difference. Ms. Steiner agreed and noted the Board discussed that.

Mr. Hutton asked for clarification regarding the Percentage of Funding Allowed section. Ms. Steiner stated if they had something that came in with more than 1,000 room nights, they would fund up to 70 percent of their total budget, but would not to exceed \$25,000. Mr. Hutton understood even that had to meet allowable/disallowable expenditure qualifications. Ms. Steiner replied yes.

Mr. Janku asked if the cap of three events per organization was directed toward the Show-Me State Games. Ms. Steiner replied that was one of the issues. She noted they wanted to make sure this fund created the greatest benefit for as many eligible events as possible. She clarified they absolutely supported the Show-Me State Games and their efforts, but explained

they had been submitting 6-8 applications per year for the past four years and those had been funded on an average of \$75,000-\$80,000 per year. If they allowed eight applications to the sports development fund from the Show-Me State Games or any other organization, they would be utilizing 80-90 percent of that fund for one organization. She noted there were many sports events they could go after and explained the hotels were very eager to go out and get new business. In addition, the University had many tournaments they wanted to go after. This would be a tremendous benefit for them. They felt three events from any one organization per year was a fair and reasonable number of events for allocating money from this fund.

Mr. Janku asked why they did not just base it on hotel room stays generated. He thought there could be a fourth event that could possibly generate a lot of room nights. Ms. Steiner replied the Board discussed that at length and noted this was not any different from any other sports fund across the country. It just broadened the pool of eligibility. She pointed out it had to do with eight events from one organization taking up 35 percent of the total fund and potentially 80-90 percent of the sports fund. She also felt it needed to be clear that this was not a guaranteed funding stream. It was meant to be an economic stimulus to create new events for the City and expand existing events.

Mr. Watkins asked if they provided direct funding to the Show-Me State Games every year. Ms. Steiner replied they provided \$15,000 per year out of their core operating budget to the Summer Games. Mr. Watkins understood that was in addition to this. Ms. Steiner replied yes and noted that was guaranteed funding on an annual basis.

Mayor Hindman asked if there was any danger of losing the Show-Me State Games. Ms. Steiner pointed out the Show-Me State Games existed before SDF funding and felt they would exist after SDF funding. She noted they could apply for expansion of their existing events. She commented that she felt they had to have the same fair, equitable process for all events, whether it was the Special Olympics, MS150 or the Show-Me State Games.

Mr. Ash understood this was meant to be seed money to get something off the ground and not an on-going source. He felt this would have the most impact on the Show-Me State Games, both positively and negatively. He also thought they might bring in far more hotel stays than any of the other events combined. Ms. Steiner clarified this was not funding for any of the activities that were part of the core Summer Games. These were fundraising events that were developed in direct response to the availability of funds when this program was created. These were all smaller, new events that were developed to raise money for the Show-Me State Games. Mr. Ash stated he did not realize that and asked what they applied for. Ms. Steiner replied the only thing they had applied for was the third weekend of the Show-Me State Games and the Senior Games, both of which were funded by sponsorship, City funds and City refunds before the TDP was developed. They developed soccer, basketball and boxing events, which had been funded for four years. She noted they tried to encourage groups to use this as seed money to leverage other sponsorships. The idea was to nurture them, get them off the ground, get them developed and move on to another event that needed assistance.

Mr. Ash wondered if there was too much emphasis on the new factor. He did not want to penalize successful, existing programs. Ms. Steiner noted they struggled with that as well. She pointed out there were literally hundreds of sporting events every year that could be funded. She felt if they did not have those criteria, they could fund every event that applied consistently for a lifetime. Ms. Steiner reiterated these were not the Summer Games. These eight events

each year brought in about 3200-3700 room nights. They were smaller fundraising events developed to help support the Summer Games. That support had only been in effect since 2002.

Ms. Nauser understood this would take affect for the upcoming events and asked if the appropriate parties had been notified that this potential change was in the works. Ms. Steiner replied yes.

Mr. Hutton noted Mr. Boeckmann pointed out that he might in fact have a conflict of interest regarding this item, and therefore, requested he be allowed to abstain. At his request, Mr. Janku made the motion that Mr. Hutton be allowed to abstain from voting on R72-06. The motion was seconded by Mr. Loveless and approved unanimously by voice vote. Mr. Hutton noted on the Discloser of Interest form that his employer could request funding under this policy in the future.

The vote on R72-06 was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU. VOTING NO: NO ONE. ABSTAINING: HUTTON. Resolution declared adopted, reading as follows:

R73-06 Authorizing the Mayor to issue a Proclamation establishing a sister city relationship with Laoshan District, Qingdao, Shandong Province, People's Republic of China.

The resolution was read by the Clerk.

Mr. Watkins stated this would establish a fifth sister city for Columbia. The purpose of the sister city relationship, in accordance with the local non-for-profit organization Columbia Friends of China, would be to foster individual and group educational and cultural exchanges, to share activities and projects and for economic cooperation. He noted most of the cost of this sister city would be paid for by the Columbia Friends of China.

Mr. Ross stated the policy resolution required a not-for-profit or for-profit organization be established, which the Columbia Friends of China developed, and for the relationship to continue for a period not to exceed five years unless extended by the City Council.

Paul Fox, Director of the Columbia Friends of China, stated Laoshan was a District of Qingdao, which was a high tech area and large cultural center. The Columbia Friends of China was established and incorporated by the State of Missouri as a non-for-profit and was in the process of applying federally for the 501(c)(3). He emphasized this was a cultural, educational and business exchange. He stated they would function within City policy, so they would be entirely citizen organized, initiated, sustained and funded.

Peng Zhang, President of the Local Missouri Chinese Association, stated they wanted to show their support and make a contribution to the local society and community. He believed this activity would benefit both sides.

Dr. Hsao-Mingzou, Friendship Association of Chinese Students and Scholars at University, stated one of their missions was to hold a cultural event. In January they held the Chinese New Year Celebration, which involved about 700 people, and in February they held China Night, which involved about 1,500 people. He felt they were at a disadvantage because they did not have channels to access resources in China and believed this to be a great opportunity. As an example, he noted that when they wanted to do cultural events, they would

then be able rely on Qingdao to help with costumes and decorations rather than borrowing items from the students.

Jim Demian, 703 W. Worley, a member of Columbia Friends of China, stated he had worked with the Friendship Association of Chinese Students and Scholars for a couple of years and felt this was needed and a good idea.

Mayor Hindman commented that Hsiao-Mei Wiedmeyer, a Columbia resident, who worked for the Asian Affairs Center at the University, had a meeting at her home with the visiting students where they discussed the need for a sister city relationship. He noted there were more than 1,000 Chinese people living in Columbia. Laoshan had become enthusiastic about the idea. He stated they did not yet have a formal invitation to form a sister city relationship, but understood they would. Mayor Hindman noted he was a believer in the sister city idea. He stated when he became Mayor, the City had sister city relationships with communities in Romania, Korea and Japan. There was still an exchange between schools in regards to the one with Japan. The one with Korea had slowed down and the one in Romania went away when the grant involved went away. He thought the policy of requiring a not-for-profit with a constituency behind it seemed to work. He noted that was done with the Republic of Georgia.

Mr. Ash wondered whether they could ever have too many sister cities, but felt the five year renewal would address the ones that became dormant. He noted he was initially worried about cost as well. Mayor Hindman pointed out there were costs, such as when their delegation would come here. Mr. Ash asked if non-profit or City covered those costs. Mayor Hindman stated they covered it up to a point. For example, the trip for the Mayor to sign the proclamation would be covered by them, but if a larger delegation was sent, the City would need to step in.

Ms. Nauser stated she felt anytime they could promote cultural sharing, it was beneficial.

The vote on R73-06 was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

R74-06 Approving the Preliminary Plat of The Villages at Arbor Pointe Phase 1 located on the northwest side of Brown Station Road, between Waco Road, extended and State Route B.

The resolution was read by the Clerk.

Mr. Watkins stated the proposed preliminary plat would create five lots for future a mixed use development. While the exact type of development was unknown at this time, the applicant indicated he might request rezoning for parts of it. The plat met all of the subdivision requirements. The Planning & Zoning Commission voted 8-0 to recommend approval.

Mr. Teddy noted there were five lots all together. The two small ones located on either side of the proposed non-residential local street would become part of an anticipated development to the west. This plat also included an extra wide reservation of right-of-way for the Waco Road extension and there was some discussion at the Planning & Zoning Commission meeting regarding a slight offset of Waco Road due to a gas pipeline that would be in the normal alignment.

The vote on R74-06 was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

R75-06 Approving the Preliminary Plat of Spencer's Crest Plat 4B located south of the intersection of Kennesaw Ridge Road and Chippewa Drive, east of Rangeline/State Route 763; granting variances to the Subdivision Regulations.

The resolution was read by the Clerk.

Mr. Watkins stated this preliminary plat would create three C-3 zoned lots, one of which was a common area. The plat included a southward extension of Chippewa Drive, which was a local non-residential street, from Kennesaw Ridge Road to the south property line. Chippewa Drive was proposed to extend southward to Blue Ridge Road and would be what they would call a rearage road running parallel to Rangeline/State Route 763. The Planning & Zoning Commission voted 8-0 to recommend approval of both the preliminary plat and the sidewalk variance.

Mr. Teddy noted a variance to allow a tighter radius of curvature than was normally permitted on a local, non-residential street was also included in this request. Staff and the Planning & Zoning Commission were supportive.

Ron Shy, 5600 S. Hwy KK, stated the logic behind the request for the sidewalk variance was that this lot was flanked on both sides by roads and the area for which they were requesting the variance was the rear yard of the Spencer Crest Condominium project. In addition, he noted the Spencer Crest Condominium Association was also requesting this variance. They would rather have a landscape area, which they would maintain.

Mr. Janku asked if existing ATM was sitting where the road would be. Mr. Shy replied yes. Mr. Janku understood the asphalt surface was the road itself. Mr. Shy replied the asphalt surface was temporary and a concrete road would be built to replace it. Mr. Janku understood it would be at the same location it was now. Mr. Shy replied yes and added the entrance was identically the same location.

Mr. Ash asked if the area to the east of the condominiums was already built out. Mr. Shy replied yes. Mr. Ash understood the new thing was the bank. Mr. Shy replied that was correct. Mr. Ash understood the road did not exist, but would, when the bank went in. Mr. Shy replied that was right. Mr. Ash asked if there was room for both the sidewalk and the landscaping. Mr. Shy replied there was, but the area there had a rather steep bank toward the east. The east side of the road would be on fill and the area where the garages would be was 8-10 feet lower and on a slope. Since the lot was going to be dedicated as a common area for the Association, they as well as the developer felt it was not necessary to be on that side. He noted sidewalks would be on 763 on the north and on the west side of Chippewa Drive.

Mr. Loveless noted there appeared to be a stub of a sidewalk on that side coming from the south property line to the corner of the condominium development. Mr. Shy replied that was correct. Mr. Loveless understood it just stopped. Mr. Shy replied it did and stated there would be a pedestrian crossing at that location. He pointed out 763 was on one side of the lot and Chippewa Drive was on the other side. They would have sidewalks on both sides of the developed area.

Mr. Janku stated the condominiums themselves had an interior street that went up to the north to the shopping area, so they did not have to access this street to go to the new commercial development. They could stay internal. The subdivision to the east could also

access the sidewalk within the condominium, so there was a lot of good connection. He noted there was a pretty steep grade and thought the sidewalk would have to be built below grade.

Mr. Ash asked if that would change when they graded it for the street. Mr. Shy explained when they constructed the temporary ATM, the approach slab that was put in was constructed per City specifications and the road would come off of that approach slab. The grade of the ATM was the grade of the finished road when it was complete. They designed the bank parking lot and access to this street along the same line, so it was very close to what the final grade would be.

Mr. Janku asked if the sidewalk would be in the part to the east. Mr. Shy replied it would be east of the road. Mr. Janku understood the lower level would have to be built up or put down. Mr. Shy stated it would be built up to the road level if they put it in there.

Mr. Hutton understood if the variance was not granted, the sidewalk would have to be built to City specifications, which was a rise above the curb. Mr. Shy replied that was correct. Mr. Ash asked if they would have to put some fill in. Mr. Shy noted it might require a retaining wall, but he could not say that for sure since they did not have the entire street designed yet.

In regards to the criteria on whether it was feasible, Mr. Ash stated it sounded like it was not simple, but he did not know that it was impossible. In regards to the cost relative to the overall project, he did not think it was too out of line. He doubted it was safe to walk in the street versus having a sidewalk. He was not sure if there were pedestrian generators close by. He noted he probably would not have been in favor of it had he not heard Mr. Janku's comments.

Mr. Janku stated he thought the residents would appreciate the buffer from the commercial area. He felt there was a benefit lost if the sidewalk went in. Mr. Ash agreed that it might not make sense now, but asked if he thought it would be useful in the future for that sidewalk to go all the way up. Mr. Janku noted there was a sidewalk on the other side, so it was not as if there was not a sidewalk.

Mr. Nauser stated she drove out there and felt there was plenty of sidewalk circulation. She thought sometimes there was an added benefit to have some green space. She indicated that she planned on supporting it.

Mr. Ash understood the people in Spencer's Crest had their own sidewalks and really did not need them. He was more concerned with the general public. Ms. Nauser thought the general public would have pedestrian access as these lots developed. She did not think the small strip would deter anyone from being able to walk from place to place.

The vote on R75-06 was recorded as follows: VOTING YES: LOVELESS, NAUSER, ASH, HINDMAN, CRAYTON, JANKU, HUTTON. 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.

B107-06 Voluntary annexation of property located approximately 500 feet northwest of the intersection of Waco Road and Brown Station Road; establishing permanent R-1 zoning.

B108-06 Approving the Woodland Springs Lot 103B C-P Development Plan located on the west side of Woodland Springs Court, south of Clark Lane.

- B109-06 Approving the 2325 Smiley Lane O-P Development Plan located on the northwest corner of Smiley Lane and Oakland Gravel Road; allowing less stringent yard and screening requirements; granting a variance to the utility easement width requirement.
- B110-06 Approving the Chateau on St. Charles PUD development plan located on the west side of Dorado Drive, north of the intersection of St. Charles Road and Dorado Drive; accepting a revised statement of intent.
- B111-06 Approving the Oakland Park Estates PUD Development Plan; accepting a revised statement of intent.
- B112-06 Approving the Final Plat of Stephens College Plat 1; authorizing a performance contract; granting variances to the Subdivision Regulations.
- B113-06 Vacating sanitary sewer and drainage easements located on Lot 6A within Northwoods Plat 1 Subdivision.
- B114-06 Authorizing Change Order No. 1 to contract with APAC-Missouri, Inc.; approving the Engineer's Final Report for the Oakland Gravel Road, Brown School Road and Roger I. Wilson Memorial Drive intersection project.
- B115-06 Allowing a building permit to be issued to First National Bank & Trust Co. for a structure in a utility easement located at 801 E. Broadway; approving a waiver of claim and indemnity agreement.
- B116-06 Authorizing a Right of Use Permit with Tina Y. Turner to allow the installation of a storm water drainage system within a portion of the Mary Street right-of-way.
- B117-06 Authorizing a lease with Central Missouri Aviation to allow construction of a new aircraft hangar.
- B118-06 Accepting the Water and Light Renewable Energy 2006 Report.
- B119-06 Authorizing construction of Wells #15 and #16 in the McBaine Bottoms; calling for bids through the Purchasing Division.
- B120-06 Accepting conveyances for utility purposes.
- B121-06 Authorizing construction of improvements to park property located between The ARC and West Junior High School, and to Cliff Drive Park and Bear Creek Neighborhood Park; calling for bids through the Purchasing Division.
- B122-06 Authorizing an agreement with local agencies for distribution of SEMA FY 2005 State Homeland Security Grant Program funds; appropriating funds.
- B123-06 Authorizing an agreement with the County of Boone for acceptance of the 2006 Edward Byrne Memorial Justice Assistance Grant; appropriating funds for the purchase of equipment for the police department.

REPORTS AND PETITIONS

(A) Intra-departmental transfer of funds.

Report accepted.

(B) County House Trail – Acquisition and construction estimates.

Mr. Watkins explained Council asked staff to look into the acquisition and construction of building the County House Branch Trail from Twin Lakes to Cowan Drive. This would essentially connect Twin Lakes Park, under Stadium, to the ARC. While the actual cost of acquisition was difficult without appraisals, they thought the cost of acquiring the entire

necessary right-of-way would be \$172,000-\$312,000. Construction costs were estimated at about \$1,060,000. The proposed trail routes were planned to be aligned with a combination of the proposed Southwest Outfall Relief Sewer, and wherever possible, existing streets and rights-of-way to minimize a need for additional easements. Staff suggested the Council consider including phase one of this trail in the Enhancement grant application because they felt this could score reasonably well.

Mr. Ash thought including it as part of the proposed projects for Enhancement grant funds was a good idea, although it could be a long shot. He did not believe they wanted pay for it totally out of the Park Sales Tax because they would use it all up. He thought that was better if used as leverage money.

Mr. Hutton stated he was concerned in regards to how this project would fit into the Trail Master Plan as far as priorities for funding. He felt the only reason this project was being discussed right now was because they were re-doing the sewer. He understood this would be an opportune time to do it, however, he was concerned they were moving this project ahead of higher priority projects.

Mayor Hindman agreed the opportunity was presented when the sewer came along, but thought they would be smart to consider acquiring the rights-of-way that were necessary at this point, while looking at it in connection with priorities. He stated he thought there was significant interest from people from Stadium on south and felt the City might end up with the right-of-way provided to them. If that happened, it could affect the priority of this project.

Mr. Hutton stated he would like to see a comparison of the projects.

Mayor Hindman felt they should be looking into acquiring the right-of-way by contribution, purchase or whatever while there were willing people. He also thought with the sewer going in, it might be a good time to do some of the work since they would be tearing things up anyway. Mr. Ash pointed out the green and red lines did not overlap that much. Mayor Hindman commented that in some cases they were following streets that had already been laid out, so they had the right-of-way there. He noted part of it followed sewer they already had, which was being moved. Mr. Glascock stated that was correct.

Mr. Janku understood there were three different options and asked if they decided to purchase the right-of-way with Park Sales Tax funds, if they could be reimbursed out of the Transportation grant. Mr. Glascock stated he believed they could as long as it was not federal funds they were using to secure the right-of-way.

Mr. Janku asked if they went ahead and acquired the right-of-way using the Park Sales Tax funds, if that could be used as the City's 40 percent match for the Enhancement grant later on, if they decided to go to the State. Mr. Hood understood any cost incurred prior to approval of the grant would not be eligible for reimbursement.

Mr. Janku understood 40 percent of the construction cost would be the match in addition to putting up the right-of-way. Mr. Watkins noted if they had the right-of-way under control, they would receive extra points in terms of priority. Mayor Hindman felt it was possible they would have some right-of-way under control. Mr. Janku thought it could be a while before they had the right-of-way and wondered if it would be better to acquire it and include it in next year's Enhancements grant. Mr. Watkins stated that could be a strategy. Council could direct them to go ahead and try to acquire a right-of-way and if they were successful, to use that and some additional money to leverage Enhancement money next year.

Mr. Ash noted the problem with that plan was that they had \$100,000 in that fund and staff indicated they would need \$172,000-\$312,000 to acquire the right-of-way. Mr. Hood explained the \$100,000 was currently available in the greenbelt account from the 1999 ballot issue and funds that were appropriated in the 2006 budget. There was an additional \$670,000 in undesignated greenbelt trails money that was approved in the November 2005 ballot issue for priority trail projects. If the Council chose, they could appropriate some of the \$670,000 towards the project as well.

Mr. Janku stated they needed to make sure the other priorities mentioned by Mr. Hutton were covered as well. Mayor Hindman agreed.

Mr. Hutton asked if they knew exactly where the right-of-way would be. He felt it was hard to pursue right-of-way without knowing the exact boundaries. Mr. Hood replied they had provided a preliminary routing. At some point, they would need to define an exact legal description of the right-of-way they were trying to acquire. Included in the cost estimates were funds for necessary surveys to establish the actual right-of-way. Mr. Hutton understood they needed to take the planning process to the next level before the location of the right-of-way would be known. Mr. Hood noted if some of the property owners were flexible or showed a willingness to work with them, that was a possibility, but to actually acquire dedicated right-of-way, they would need a legal description of what they were trying acquiring.

Mayor Hindman suggested they have staff contact the property owners to find out which ones would be willing to help.

Mayor Hindman made a motion directing staff to contact the property owners to find out the potential for acquiring right-of-way. The motion was seconded by Mr. Loveless and approved unanimously by voice vote.

(C) Supplemental information – Sixth Street improvement project.

Mr. Watkins explained, per Council request, they were providing a summary of the properties in which ownership changed between the initial public hearing and the recent public hearing to assess tax bills for the Sixth Street project.

Mr. Hutton asked if the tax bill amounts on the attached sheet were the actual tax bill amounts or the discounted version. Mr. Glascock replied they were the actual amounts.

Mayor Hindman asked if the property owner signed an affidavit of no known lien when purchasing title insurance for the buyer. Mr. Nauser replied they did. Mayor Hindman agreed the City made the mistake of being late in making the assessments, but felt they were also taking up the slack for those who signed an affidavit that was not true. He noted the people that signed the affidavits and presumably sold the properties at a higher price due to the new street were walking away.

Ms. Nauser asked if Mr. Martin indicated he had been reimbursed for his two properties. Mayor Hindman replied he did and added that he stated if they paid this, he would in turn reimburse the title insurance company. Ms. Nauser thought the title companies would be making some attempt to recoup some of their costs. She felt that would be the standard practice.

Mayor Hindman felt they should at least take an assignment. Ms. Nauser stated she did not know if they could do that. One would have to have a fee interest in the property at the time of acquiring title. Mayor Hindman asked if the person that had the interest could assign it. Ms.

Nauser stated she did not believe so because it had to affect the actual owner who had the fee interest in the property. The City just had a default interest.

Mr. Ash stated he agreed they should not pursue this because the main person they heard complaining did not have to pay for it. He thought it was a question of how far back they needed to go to right previous wrongs. He noted they had learned from their mistakes and were not doing it any more.

Ms. Nauser commented that she found it interesting that three were owner occupied parties and the rest were rental properties. Mr. Ash thought that was a relevant point because they could recoup it through their rent.

Mr. Ash suggested they accept the report.

Mr. Janku asked where they were in regards to getting the notices out for future projects. Mr. Watkins stated they were in the process of getting most of those taken care of. Mr. Glascock stated anything with a public hearing that was not bid at this point would be recorded. Mr. Watkins understood that included eight projects. Mr. Glascock replied yes. Ms. Amin noted the final format was e-mailed to the Records Office for one of the sewer district projects and if acceptable, it would be ready to record. The others would be formatted in a similar manner.

Mr. Ash made a motion to accept the report. The motion was seconded by Ms. Crayton and approved unanimously by voice vote.

(D) Cliff Drive parking prohibition – south side.

Mr. Watkins stated this report was prepared for Council to decide whether parking should be prohibited further on the south side of Cliff Drive between Ann Street and Rockhill Drive. As part of the staff report, a letter requesting feedback was sent to the six property owners on the south side of Cliff Drive. Staff received five responses. Two were in favor and three were opposed to the parking prohibition. He explained it had been reported that many people who parked in this area entered Boone Hospital Center. Staff was neutral as to whether parking should be prohibited.

Mr. Ash stated that parking on the other side of the street was from 8:00 a.m. to 4:00 p.m. The letter that was sent did not specify it would be from 8:00 a.m. to 4:00 p.m. like it was across the street. It just said no parking. He wondered if that would have changed people's responses. Mr. Ash explained the way this started was they originally asked if they could have the curbs painted in front of their driveways so they would not be blocked. Public Works did not want to do paint because of maintenance issues and suggested they request no parking instead. Since the no parking issue did not look favorable, he asked if they could paint the curbs. He noted that they painted the curbs on the same street, just down the block, so he did not feel it was cost prohibitive. Mr. Janku thought that would be a good solution because it was not as drastic as taking away parking.

Mr. Watkins pointed out they might want to consider whether they were creating a precedent by painting in front of individual houses. Mr. Ash noted it was not the entire length of the house. It was just an area on either side of the driveway to keep someone from crowding a couple of cars in there and blocking the driveway. Mr. Watkins stated if that was a precedent they were willing to set, that was fine. Mr. Hutton felt they would be setting a precedent only where there was a severe parking problem. Mr. Janku stated he could see it being somewhat prevalent in the East Campus area.

Terry Smith, 1712 Cliff Drive, stated there was a serious parking problem on the street primarily caused by the employees or construction workers of Boone Hospital. They parked on both sides of the street constricting traffic. He felt it was a safety issue in the sense of backing out into the street. He pointed out these were people that did not live there. If this was residential parking, it would be an entirely different matter. Mr. Smith noted the people that supported it were single family residents and the people who opposed it were the people with rental properties. He stated they would appreciate anything that could be done to help.

Mr. Ash asked if he would rather have the curbs painted, which he knew would happen, or send another letter with the 8:00 a.m. to 4:00 p.m. wording. Mr. Smith replied if they knew the painting was going to go through, he wondered why they would not go for the 8:00 a.m. to 4:00 p.m. prohibition and fall back on the painting, if that fell through. Mr. Ash clarified he did not believe the 8:00 a.m. to 4:00 p.m. would happen unless they had a majority in favor of it. Mr. Smith requested they send another letter and if they got the same response, he would want painting of the curbs instead.

Mr. Hutton stated it would be interesting to know the home ownership as well. He noted another option would be to have an ordinance prepared to be debated at that time. Mr. Loveless agreed and thought it could expedite the process.

Mr. Ash pointed out that staff noted a speeding concern, if there was no parking on either side.

Mr. Hutton thought this might be an issue that resolved itself when the construction was complete. Mr. Smith did not believe it would. He stated many were folks that worked on the east side of the Hospital and did not want to park in the employee lot.

Mr. Hutton made the motion to direct staff to prepare an ordinance prohibiting parking from 8:00 a.m. – 4:00 p.m. Mr. Ash seconded the motion. Mr. Loveless asked if they wanted to include another letter to the residents as part of the motion. Mr. Hutton and Mr. Ash agreed to include that as part of the motion. The motion, made by Mr. Hutton and seconded by Mr. Ash, directing staff to prepare an ordinance prohibiting parking from 8:00 a.m. – 4:00 p.m. and to send a second letter to impacted residents was approved unanimously by voice vote.

(E) Black & Veatch – Power supply options study.

(F) Peabody Energy – Prairie State project update.

Mr. Watkins explained staff had been looking at long term power supply options for many months and they engaged the services of Black & Veatch to help look at the issue. Their final report was currently being reviewed by the Water & Light Staff and the Water & Light Advisory Board. Staff and the Water & Light Advisory Board were proposing they take a small piece of the options studied in the report, which was the Prairie State 50 MW purchase. He noted it had a short time frame and they needed to make a decision one way or another by the end of April. He felt the power supply issues would be discussed and debated for some time. Since this one piece did have a short time frame, he wanted to make sure the Council and public were aware of their plans to move this piece ahead for consideration and Council review during April.

(G) Renovation of the March-Heibel Building adjacent to Field Neighborhood Park.

Mr. Watkins explained this was submitted by the Central Missouri Community Action Agency and was required as a six month progress report in their lease. He noted no action was required.

Mayor Hindman stated one of the reasons he was not in favor of pulling the chain on this was because Progressive Artists were involved. He thought they presented a terrific program. He asked when the Progressive Artists group backed out of the renovation. Mr. Ash stated he was unaware of it until he read the report. Mr. Janku noted it was mentioned at the PRIDE banquet. Mr. Hutton understood they changed their affiliation over to another group.

Mayor Hindman did not feel they were making any real progress and wanted staff to look into this a little more and supply a supplemental report. Mr. Loveless suggested they accept the report and wait six months. Mr. Ash agreed and felt it would resolve itself in six months. He did not think they wanted to ask staff to spend more time on a project that already had problems.

Mr. Watkins suggested they put the Community Action Agency on notice of this concern. Mayor Hindman agreed.

Mayor Hindman made the motion to put the Community Action Agency on notice that this issue was a concern. The motion was seconded by Mr. Janku and approved unanimously by voice vote.

APPOINTMENTS TO BOARDS AND COMMISSIONS

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

Planning & Zoning Commission

Curby, Vicki M., 1201 S. Rustic Road, Ward 6 - Term to expire May 31, 2009

COMMENTS BY PUBLIC, COUNCIL AND STAFF

Ms. Crayton stated she received a call from someone that worked downtown near Elm and Watson Place. The caller stated speeding at the corner near the University Garage was causing people to be unable to cross the street. When contacting the City, this person was told a crosswalk was not needed. She just needed to go over to Tenth Street and cross there. Ms. Crayton felt the point was that the speeding issue needed to be resolved. Mr. Ash thought this sounded familiar. Mr. Watkins stated a report with background was provided to the Council and a formal report with recommendations would be provided next time.

In regards to the public hearing on sirens at the next meeting, Mr. Janku suggested the City provide additional information and publicize ways to be contacted other than coming to the Council meeting.

Mr. Janku stated he talked to Mr. Watkins about the hail damage and hoped the City could be flexible in providing the needed services in those areas. He noted there could be some items out of the ordinary that would need to be disposed of.

Mr. Janku noted there was a new grocery store being built near Smiley and Rangeline. He thought it should be accessible by bus since there was public housing and mobile homes in that area. It would take a slight extension of current service to Blue Ridge.

Mr. Janku made a motion directing staff to report back on the issue. The motion was seconded by Mr. Ash and approved unanimously by voice vote.

Ms. Nauser understood they were working on stormwater plans and was hopeful progress was being made. She understood the new stormwater ordinance would deal with new developments rather than past problems already created. She noted Kansas City had initiated what they called the 10,000 Rain Gardens Initiative. She thought there were a lot of interesting ideas and concepts included. She wanted staff to look into initiating a program along these lines by incorporating some of the ideas in the upcoming stormwater ordinance and by looking at ways to encourage people to take stormwater management into their own hands by dealing with water problems on their own property. She felt this would eventually benefit the community as a whole. Ms. Nauser made the motion to direct staff to look into some of the ideas described in the 10,000 Rain Gardens Initiative. The motion was seconded by Mayor Hindman and approved unanimously by voice vote.

Mr. Ash commented the article in the Maneater made it sound like the Council passed the noise ordinance amendment for the purpose of allowing police to initiate this on their own without a citizen complaint. He stated that was not why the change was made. Prior to making the change, a neighbor had to be the witness and had to testify in court, which could be intimidating and uncomfortable. With the amendment, a police officer could hear it himself and be the one that testified. Ninety-nine percent of the time, it would still be initiated by a complaint to the police. Mr. Ash stated he would like this to be articulated to the Student Senate group. He offered to send an e-mail himself. Mayor Hindman suggested Mr. Ash contact Mr. Holt.

Mr. Janku understood a nuisance party property ordinance was coming forward and wanted to know if they had communication with the students regarding this. If not, he suggested obtaining their input. Mr. Boeckmann stated there were a number of groups invited to address the Task Force, which included some representatives of students, but he did not believe it was the Student Senate or Student Government. Mr. Janku suggested they ask the Task Force to contact Mr. Holt to obtain input.

Mr. Ash asked if they could get staff's reaction to the County comments regarding Howard Orchard Road and if those could be tweaked for the latest development agreement. He stated he wanted staff's input as well as the County's comments in regards to the development agreement.

The meeting adjourned at 10:38 p.m.

Respectfully submitted,

Sheela Amin
City Clerk