

**CITY OF BRENTWOOD, MISSOURI  
BOARD OF ALDERMAN REGULAR MEETING  
DECEMBER 17, 2012**

**MEETING CALLED TO ORDER**

Mayor Pat Kelly called the regular meeting to order at 7:00pm, in the Council Room at Brentwood City Hall located at 2348 S. Brentwood Blvd., Brentwood, MO 63144, and immediately led the Pledge of Allegiance.

**Roll Call**

Deputy Clerk Pittman performed roll:

Alderwoman Saunders	Present	Alderman Robertson	Present
Alderwoman Manestar	Present	Alderman Wynn	Present
Alderman Leahy	Present	Alderman Harper	Present
Alderman Toohey	Present	Mayor Kelly	Present
Alderman Kramer	Present		

Members present constituted a quorum. Also present were City Clerk/Administrator Bola Akande, City Attorney Frank Albrecht, Assistant City Administrator/Planning Director Ellen Rottjakob, and Deputy City Clerk Octavia Pittman.

Mayor Kelly asked for a moment of silence in remembrance of the tragic events in the state of Connecticut.

**APPROVAL OF AGENDA**

**Board of Aldermen Regular Meeting Agenda December 17, 2012.**

Alderwoman Saunders asked if the noise amendment bill should be delayed until the next meeting to allow the Public Works Committee an opportunity to discuss the changes. Mayor Kelly stated that the public hearing will go on as scheduled, the bill can be delayed. Alderman Leahy made a motion to approve the agenda as submitted. Motion seconded by Alderman Wynn. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – yes; Alderman Toohey – yes; Alderman Kramer – yes; Alderman Robertson – yes; Alderman Wynn – yes; Alderman Harper – yes; **MOTION PASSED.**

**CONSIDERATION AND APPROVAL OF THE MINUTES**

**Board of Alderman Regular Meeting Minutes December 3, 2012**

Alderman Robertson made a motion to adopt the minutes as submitted. Motion seconded by Alderman Leahy. Unanimous vote in favor taken; **MOTION PASSED.**

**PUBLIC HEARING**

**A Petition To Amend Chapter 25, Article VI, Division 6 Of The Brentwood Zoning Ordinance Pertaining To Environmental Performance Standards For Noise (7:05pm)**

Director Rottjakob stated, at its August 8<sup>th</sup> meeting, the Public Works Committee unanimously approved forwarding a text amendment; amending the city’s noise regulations to the Planning and Zoning Commission. P&Z completed its deliberation on the text amendment and is unanimously recommending approval. The purpose of the amendment is to amend the city’s regulation to ensure they apply to all properties; residential, commercial and industrial. And, have the same limits for all properties and update the sound criteria so they conform to current industry standards for measuring sound levels.

**Denise Soebbing (Porter)** stated that the amendment sounds as if it is an improvement to the current code and wanted to confirm, and also if there was a differential between night and day. She stated her concern that the stipulation of the resident needing to put up an escrow if the complaint is not deemed an issue by others; this can be an issue if the complainant is unable to afford this deposit. Director Rottjakob explained that the amendment does differentiate between night and day time noise levels. And also that the escrow requirement is in the existing code; the amount was changed from \$200 to state “an amount that is sufficient”; it is refunded if it is determined to be valid.

After Alderwoman Saunders’ questions of the ambient and stationary noise level and repetitive noises, Emile Demotte, Acoustic Specialist w/McClure Engineers, clarified that this code is similar to other municipalities, including St. Louis County; it talks about how the noise level is computed. He explained the difference of noises - transient sources and stationary sources; ambient noise negates stationary noises. Discussions continued for clarity and Mr. Demotte replied that church bells in general, are not a violation and if sounds are emitted from other municipalities, we are unable to enforce; however, staff can approach that municipality.

**BIDS**

**None**

**HEARING OF ANY MATTER OF PUBLIC INTEREST UPON REQUEST OF ANY PERSON PRESENT**

**None**

**INTRODUCTIONS, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS**

Motion was made by Alderman Leahy and seconded by Alderman Robertson for the 1<sup>st</sup> and 2<sup>nd</sup> readings of Bills #5719, #5720 and #5721. Unanimous vote in favor taken; **MOTION PASSED.**

**Bill #5719 – An Ordinance Of The City Of Brentwood, Missouri, Authorizing The City Administrator To Enter Into And Execute A Consultant Services Agreement With Lisa Koerkenmeier Of LK Real Estate Consulting Services, Inc. And Providing For The Effective Date Of This Ordinance – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5719 by title only. Alderman Kramer provided the synopsis “this Bill is for an ordinance authorizing the City Administrator to enter into and execute a Professional Services Consultant Agreement, with Lisa Koerkenmeier of LK Real Estate Consulting Services, Inc. and the City of Brentwood. The Consultant Planner will assist the City with professional City planning services in connection with the City development projects during the absence of Ellen Rottjakob, Director of Planning and Development. Her start date is December 18, 2012”. After questions of the selection process, Administrator Akande replied that suggestions of consultants were received; resumes, references and costs were reviewed in making the decision. Miss Koerkenmeier was given the opportunity to introduce herself Attorney Albrecht read Bill #5719 by title only. Alderman Wynn made a motion to perfect Bill #5719 into ordinance form. Motion seconded by Alderman Kramer. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – yes; Alderman Toohey – yes; Alderman Kramer – yes; Alderman Robertson – yes; Alderman Wynn – yes; Alderman Harper – yes; **MOTION PASSED.**

**BILL #5719 IS HEREBY PASSED AND ORDINANCE \$4394 IS ASSIGNED TO SAID BILL.**

**Bill #5720 – An Ordinance Of The City Of Brentwood, Missouri, Authorizing The Mayor To Enter Into And Execute An Agreement Between The City Of Brentwood, Missouri And George Butler Associates, Inc. For Construction Engineering/Inspection Services; And Providing For The Effective Date Of This Ordinance – 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5720 by title only. Alderman Kramer provided the synopsis, “this Bill is for an ordinance authorizing the Mayor to enter into an executive agreement between the City of Brentwood and George Butler Associations, In. for the final phase of the construction engineering/inspection services for the Rose Avenue Improvement Project. The City was awarded the Surface Transportation Program (STP) Grant Funds to reimburse a portion of the project costs of construct new American with Disabilities Act (ADA) sidewalks, curb ramps and pedestrian lighting on Rose Avenue from Brentwood Boulevard into Brentwood Promenade. This is a time sensitive item that requires Board of Aldermen action before the end of this year to ensure we do not run into trouble with funding with East West Gateway Council of Government”. Attorney Albrecht read Bill #5720 by title only. Alderman Robertson made a motion to perfect Bill #5720 into ordinance form. Motion seconded by Alderman Leahy. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – yes; Alderman Toohey – yes; Alderman Kramer – yes; Alderman Robertson – yes; Alderman Wynn – yes; Alderman Harper – yes; **MOTION PASSED.**  
**BILL #5720 IS HEREBY PASSED AND ORDINANCE \$4395 IS ASSIGNED TO SAID BILL.**

**Bill #5721 – An Ordinance Amending Chapter 25 Of The Revised Code Of The City Of Brentwood, Missouri By Amending The Noise Regulations Found In Division 6 Environmental Performance Standards; Providing For The Effective Date Of This Ordinance; Providing For The Current Maintenance Of This Code; And Providing For The Repeal Of All Conflicting Ordinances - 1<sup>st</sup> & 2<sup>nd</sup> Reading**

Attorney Albrecht read Bill #5721 by title only. Alderman Kramer provided the synopsis, “this Bill is for an ordinance amending Chapter 25 of the Revised Code by amending the Brentwood Noise Regulations found in Division 6 Environmental Performance Standards. The purpose of amending the City’s current regulations is to ensure they apply to all properties (residential, commercial, industrial), have the same limits for all properties and update the sound criteria so they conform to current industry standards for measuring sound levels. The Planning & Zoning Commission worked on the draft text amendment forwarded by the Public Works Committee at its October 10<sup>th</sup>, October 30<sup>th</sup> and November 14<sup>th</sup> meetings”. After questions from Alderwoman Saunders of the Countian being the best source of advertising for public hearings, it was clarified that they may have the largest number of legal advertisings, it is more cost effective and the most common use. It was also clarified that notices are mailed to property owners within 300 feet, it is posted in city hall and published on the website. After additional questions, Director Rottjakob explained that there are specific standards that must be met for the comp plan and they are included in the ordinance; the zoning administrator is defined as the Director of Planning & Development or designee; the escrow language was amended to allow the zoning administrator the discretion to determine the appropriate amount; residents are welcomed to independently conduct studies but the city will not offer reimbursement. After Alderman Leahy’s questions, it was confirmed that Porter is currently the only issue. Attorney Albrecht read Bill #5721 by title only. Alderman Leahy made a motion to perfect Bill #5721 into ordinance form. Motion seconded by Alderman Wynn. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – yes; Alderman Toohey – yes; Alderman Kramer – yes; Alderman Robertson – yes; Alderman Wynn – yes; Alderman Harper – yes; **MOTION PASSED.**  
**BILL #5721 IS HEREBY PASSED AND ORDINANCE \$4396 IS ASSIGNED TO SAID BILL.**

**Resolution #987 – FY 2012 Budget Amendment**

The resolution was corrected as Resolution #987. Alderman Kramer provided the synopsis, “this resolution amends the FY 12 annual budget for the City’s fiscal year which runs from January 1<sup>st</sup> through December 31<sup>st</sup>. The Ways and Means Committee has reviewed the budget amendment presented by Staff which identifies exceptions (decrease/increase) in the revenue and expenditure line-items that require amending. Exhibit A provides reasons for why there is an increase or decrease in the various line-items. The committee recommends it be forwarded to the Board of Aldermen”. Alderwoman Saunders asked for clarification of the insurance amendment. Director Jarvis replied that the budget document for 2012 list health insurance

as being one of the items that makes up the total, but it is actually workmen's compensation and monthly liability; not employee benefits and this continues to be the case for 2013. The 2<sup>nd</sup> half of worker's compensation, property and liability coverage is due in December. As for the police department, that amount was just missed; it was reduced in municipal operating and not moved to the police department. And lastly, the insurance settlements. Director Jarvis replied that we are responsible for repairs for the full amount of repairs but we only received a certain amount from insurance. Alderman Leahy made a motion to approve Resolution #987. Motion seconded by Alderwoman Saunders. Unanimous vote in favor taken; **MOTION PASSED.**

#### **ACCOUNTS AGAINST THE CITY**

Alderman Kramer recommended that approve of the warrant list in the amount of \$155,184.02. Alderman Leahy called attention to Joe Machens Ford in the amount of \$23,760; this includes the car for the city administrator, but was under the impression that other options were being explored. He stated that he made a motion to have it review. Alderwoman Saunders added that the item was supposed to be discussed at Ways and Means but we got delayed with the budget. Alderman Leahy made a motion to pull the item from the warrant list and send it to Ways and Means for a full discussion. Motion seconded by Alderman Harper. After questions of the impact, Administrator Akande clarified that the item was in the 2012 budget and not included in 2013, the order has already been placed. Alderwoman Saunders stated her confusion of the process and Mayor Kelly explained that there was never \$45,000 budgeted for a car in capital improvement; that amount included a copier and office furniture. The original estimate for the vehicle was \$30,000 and the process was to go through the state bid. Originally the plan was for a hybrid Escape, and we learned that they no longer made this vehicle which delayed the process along with other things that were going on. Alderman Robertson added that this was a pretty affordable car and Mayor Kelly agreed; this is one of the reasons they wanted to test it. Alderman Kramer stated that we are significantly under the budget and it was a part of the contract for the city administrator to have a vehicle to drive; it is not a personal car but she will be able to take it home. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – yes; Alderman Toohey – no; Alderman Kramer – no; Alderman Robertson – no; Alderman Wynn – no; Alderman Harper – yes; Mayor Kelly – no; **MOTION FAILED.** Alderman Kramer made a motion to accept the warrant list in the amount of \$155,184.02. Motion seconded by Alderman Robertson. Comments continued of Alderman Robertson wanted to make good on the agreement previously made; Alderman Harper agrees but wanted to make sure staff was acting as directed if told to go back to committee; Alderwoman Saunders agreed with Alderman Harper but commented that Bola took time to immediately responded to a resident's home on Saturday and also that Aldermen's directives should be followed. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – no; Alderman Toohey – yes; Alderman Kramer – yes; Alderman Robertson – yes; Alderman Wynn – yes; Alderman Harper – no; **MOTION PASSED.**

#### **REPORTS OF COMMITTEES AND DEPARTMENT HEADS;**

**Mayor Kelly** asked the Board to consider closing city hall on Christmas Eve, 12/24, also affording staff that is required to work a comp day that they can take at a future date. Motion was made by Alderman Kramer and seconded by Alderman Wynn to approve. A brief discussion was held regarding the lack of business that will be conducted on this day and that some cities may have already made the decision to close, although a survey has not been done to confirm. Alderman Harper questioned cost impact (no overtime will be give just one day of overtime); Alderman Wynn offered comments of sometimes being able to do nice things for employees. **ROLL CALL:** Alderwoman Saunders – no; Alderwoman Manestar – yes; Alderman Leahy – yes; Alderman Toohey – no; Alderman Kramer – yes; Alderman Robertson – yes; Alderman Wynn – yes; Alderman Harper – no; **MOTION PASSED.**

Mayor Kelly also noted the demolition of the old gas station at White and Brentwood Blvd; Drury has started demolition for their location; and lastly that we were notified by State Auditors that they will present their report to the board; a closed session is scheduled for 7pm, Tuesday, January 29<sup>th</sup>. After review, it will be presented to the public in February/March. After questions by Alderwoman Saunders, Administrator Akande replied that management is scheduled to meet with the state auditors in January.

**Public Safety Committee**, Alderman Wynn announced that the next meeting will be held Thursday at 4:30pm.

**Public Works Committee**, Alderman Robertson had no new report.

**Director of Planning & Development**, Director Rottjakob will submit information of how county records municipal comp plans in the weekly report.

**Ways and Means Committee**, Alderman Kramer announced that the next meeting will be held January 16<sup>th</sup> at 6:30pm.

**City Attorney**, Attorney Albrecht had no new report.

**City Clerk/Administrator**, Administrator Akande had no new report.

**Excise Commissioner**, Commissioner Clements had no new report.

**Library**, Alderman Wynn announced that beginning in January 2013, the Library will change their meeting dates to the first Tuesday of the Month; due to the holiday, the January meeting will be on the 8<sup>th</sup>. After questions from Alderwoman Saunders in regards to the Attorney General's response of the library tax, Attorney Albrecht replied that he has been playing phone tag but the discussion is scheduled to go back to Ways & Means.

**Municipal League**, Mayor Kelly had no new report.

**Communication**, Alderman Kramer had no new report.

**Historical Society**, Alderman Wynn had no new report.

### **UNFINISHED BUSINESS**

Alderwoman Saunders stated that she is reviewing the Strassner TDD documents; she is awaiting the 2008 audit report that was missing from the files. She also wanted to clarify the process of voting on the warrant list; she voted yes because she assumed that we are saying that this is valid, documented and we are approving it. She stated, had the car already been purchased? I'm confused, does the warrant list say that we've already had the bills or had they not been paid. Administrator Akande clarified that we already have the bills but they haven't been approved for payment; that's why they are brought forward. Mayor Kelly added that technically it's informational, they are all budgeted items. If it was something that had not been budgeted, then we would be able to say no or send it back to committee. The normal process is when the expenses are in the budget, the final notice comes through the warrant list; but yes, it's in the budget, has been approved and now is being paid.

### **NEW BUSINESS**

Alderman Kramer stated that he has supplied a copy of the email sent today to Bola and Ellen. It's is being brought to the boards attention because I will not be able to attend the 1/7/13 meeting; there will be a petition regarding the Promenade and some items they would like to

see included in the agreement going forward. The email discusses the topic of parking and the potential amendment of their site plan approval and conditional use permit for the purposes of their tenant/employee parking policy. He asked that it is entered into the minutes for tonight's meeting so that it can stand on the record for the next meeting.

Alderwoman Saunders asked that a brief synopsis of what will be brought forward. Alderman Kramer explained that DDR, the main owner of Promenade, is coming forward with a petition to expand this development. A study had been done regarding parking, as it would impact the existing spaces that are utilized. As a product of the discussion at Ways and Means, there was a subject of employee parking in the development, whether or not it was being utilized. There are approximately 150 spaces that surround the periphery of that development that on a regular basis are not used. We recently had an agreement with Target Stores, for example, and their written agreement that their employees use the designated spaces and they have not done so. The question remains of whether or not we can enforce the utilization of an employee parking policy with the owner and tenants under lease. After discussions, it would appear as though the site plan approval and conditional use permit agreements may be attachable for working with DDR and their tenants to put together an agreement that would at least allow us to have some enforceability over a program. Now you have a lot of employees that park in the main field; all day every day. And, when you go to use the Promenade right now, it's difficult to find a parking space; there are 150 spaces that are sitting empty, especially on the weekends. This would kind of put it back on the developer and the owner to work with the employees so that they use those spaces for parking.

Mayor Kelly clarified that for Target they have an area on the North side of the building designated as employee parking. They are also probably one of the larger employers on this site. For the rest of the tenants there really aren't any designated areas for parking; there's very limited parking behind the buildings.

John Gephardt, P&Z Chairman, stated the issue of parking was addressed as a major factor of the determination of deciding their application. Tomorrow, there is a meeting set between myself, Ellen and the Samsone Group which is the property manager. Here we will talk about employee parking and how we can move towards an opportunity to improve the circumstance. Whereas P&Z did come to a positive recommendation, which you all will get at your January meeting, it was a split decision, but we are meeting tomorrow on how to better manage the circumstance; particularly employee parking. We will be able to report back to you before you have to decide on the expansion as to the outcome of those meetings and whether there is a way to better manage. After questions from Alderman Robertson, he replied that there is an addition of 10,000 sq. ft. It's important to understand that the city of Brentwood hired the traffic engineer to study, not the developer even though they paid for it. After questions by Alderwoman Saunders he responded that the conclusion of the traffic engineer was it was workable and within their guidelines of acceptance. Alderman Leahy asked that his comments are relayed that he does not shop at the Promenade; parking is extremely too tight, their lanes are way too thin and it is very disconcerting.

The discussion continued, and opinions were offered of the age and economics of such property. Alderman Kramer stated that there was a problem even before Christmas and there are some simple things that can possibly be done; this is the opportunity to have that conversation. Chairman Gephardt stated, for the record, they requested this meeting with Samsung in hopes for a solution. Comments were also offered of the revenue these type projects bring and also the adversity.

**PUBLIC COMMENTS – Hearing Of Any Matter Of Public Interest Upon Request Of Any Person Present**

**Denise Soebbing (Porter)**, stated her appreciation for the effort to simplify the process, but she is concerned that the noise may not be hitting decimal levels but the noise is still being heard. In these cases we may need to consider common sense.

**ADJOURNMENT**

Alderman Wynn made a motion to adjourn the meeting at 8:35pm. Motion seconded by Alderman Leahy. Unanimous vote in favor taken; **MOTION PASSED.**

**Approved with corrections, the 7<sup>th</sup> day of January , 2013.**

Attest:

\_\_\_\_\_  
Mayor Pat Kelly

\_\_\_\_\_  
Bola Akande,  
City Clerk/Administrator

**From:** Thomas E. Kramer  
**Sent:** Monday, December 17, 2012 1:15 PM  
**To:** Bola Akande  
**Cc:** Ellen Rottjakob  
**Subject:** RE: RE:12/14 City Administrator Weekly Report

Thanks very much Bola...

Since I will not be able to attend the 1/7/13 BOA, (regarding the Promenade petition), I am hoping that you can relay my thoughts in absentia :).

Simply, here is what I am hoping for: My understanding from P & Z was that while seeming equally concerned about the parking shortages at peak, and lack of employee use of the 150+ empty perimeter spaces, how can the city enforce a better practice? It is true, many **Promenade** shoppers have put up, to date, with the hardship of less than ideal parking spacing. Existing turning radius and curb clearances are far from roomy, especially on peak. It is also true that market forces prevail, and many shoppers may be going elsewhere due to overcapacity. As well, many shoppers may or may not return after repeatedly dealing with the hardship. But, we can do better. Brentwood and the **Promenade** ownership have a responsibility to do this as a team. The new petition creates this opportunity.

In exchange for approval of the added items requested by the center ownership, the city would require, and the ownership would agree to amend the site plan approval/CUP agreements as follows: Each new and each existing tenant lease, as may be renewed, going forward in perpetuity, shall include language compelling tenant to prepare, institute and enforce a printed "employee parking policy", a copy of which shall be on file with the city, owner and property manager. The parking policy shall include, but not be limited to, a requirement compelling use of the designated "employee parking areas" by store employees during regular business hours every (Thursday), Friday, Saturday and Sunday, January through October, and every open shopping day, November and December. Standard code compliance inspections and enforcement by the city would be incorporated within.

\*(Additionally, going forward in perpetuity, any time the **Promenade** ownership contracts to repave, reseal or restripe the parking bays within the center, the minimum space between the lane markers shall be \_\_\_\_\_.) \*Although this last section may be construed as a challenge, the parking study seems to support a minimum two space reduction per row, east to west. On a restripe, this would create a greater clearance per each newly striped space going forward.

Thomas E. Kramer  
Alderman, Ward IV  
City of Brentwood, MO  
314-968-2378 Voice/Fax  
[tkramer@brentwoodmo.org](mailto:tkramer@brentwoodmo.org)  
[tekprod@charter.net](mailto:tekprod@charter.net)