

MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING

City Hall
Council Chambers

June 18, 2007
7:00 p.m.

ROLL CALL

PRESENT: Mayor Kelly, Alderwoman Clements, Alderman Marshall, Alderman Leahy, Alderwoman Krewson, Alderman Kramer, Alderman Robertson, Alderman Wynn, Alderman Cross.

City Attorney Albrecht, City Clerk/Administrator Seemayer, Director of Planning and Development Dailey and Executive Secretary Williams.

ABSENT: City Treasurer Reynders.

CONSIDERATION AND APPROVAL OF THE AGENDA OF THE REGULAR BOARD OF ALDERMEN MEETING OF JUNE 18, 2007

Motion was made by Alderwoman Clements, second by Alderwoman Krewson to approve and adopt the Agenda of the Regular Board of Aldermen Meeting of June 18, 2007. All in favor none opposed.

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING OF MAY 7, 2007

Motion was made by Alderman Leahy, second by Alderman Marshall to approve and adopt the Minutes of the Regular Board of Aldermen Meeting of May 7, 2007 as submitted. All in favor none opposed.

PROCLAMATION – YOUTH ART MONTH

Motion was made by Alderwoman Clements, second by Alderman Leahy to approve the proclamation for Youth Art Month by acclamation. There were no objections.

Alderman Wynn read the proclamation into record.

Mayor Kelly stated that as part of Youth Art Month, the City presents students with a Certificate of Recognition for having art displayed at City Hall.

Mayor Kelly presented Certificates of Recognition to Maggie Callihan, Caroline Snare, Haruka Kokubo, Kasia White and Ilona Kiss.

Jeanne Buschart, Art Teacher at McGrath Elementary came before the Board and introduced herself.

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

David M. Reckelhoff – 8922 Harrison came before the Board regarding the Litzsinger subdivision that is currently being built. He stated that they are getting water in their yards when it rains and McBride and Son is not doing anything about it. He mentioned that the installed fence is not very stable and it has spikes on top of it. If children try to go over the fence, they will hurt themselves. The fence was not installed in the proper place. It should have been installed on the other side of the wall.

Alderman Cross stated that Director of Planning and Development Dailey, herself and the City Engineer Birchler have been out to the Litzsinger subdivision. Mr. Birchler has sent a letter to McBride and Son and there was a follow up meeting with Ms. Dailey, Skip Stone and Mr. Birchler. They are waiting to hear back from McBride & Son as to what they will do to rectify the problems.

Public Hearing – Amendment to Chapter 25

Mayor Kelly announced a public hearing for the amendment of Chapter 25 would now be heard at 7:15 p.m.

Director of Planning and Development Dailey came before the Board and stated that two projects came before the City for approval and review and one is in the Planned Development District, the other is before the Board to be rezoned from General Commercial to Planned Development. Their request included a reduction in required parking spaces. Greater flexibility is needed in the Planned Development District to make the projects approvable as they are proposed. Staff determined that rather than recommend denial for the projects they would ask Crawford, Bunte, Brummeier to review the request from Target. Look at the Brentwood Promenade, see what is there based on the current uses and the proposed expansion, and get a reality check on whether they have enough parking or whether it is a perception issue. Based on staff's review of those projects and their concern that greater flexibility would not necessarily hinder parking, but actually assist and make the parking requirement a little more realistic they are proposing the text amendment. The Planning and Zoning Commission reviewed and approved it and recommended Board approval.

Mayor Kelly stated that in order to use some of the reductions they would have to do a parking study.

Director of Planning and Development Dailey stated that it is similar to what is required in the Urban Development District. If a traffic engineer conducts a parking study that information can be used to help the Planning and Zoning Commission and the Board of Aldermen determine if the request and reduction is acceptable. It also includes wording that if, at some point, the use changes the City can determine that an additional study is

needed before any change of use, so they are not locked into this ratio. It is approved for this specific use.

Mayor Kelly asked if there were any comments from the audience. There were none.

Alderman Kramer stated that before he was asked to serve on the Board of Aldermen he was a very happy member of the Planning and Zoning Commission for a good number of years. He remembers a number of applications that came to them that would have greatly benefited from an opportunity to perhaps slightly vary from the rigidity of the current arrangement. This change addresses the rigidity well. As Brentwood has been the City of Warmth, they would like to be a City of Warmth to commercial applicants as well. There were some heartaches going backwards of some applications that they had to reject and/or change exponentially because of that rigidity. He extended his thanks to the staff and the Planning and Zoning Commission for working up the change and he is an advocate.

Mayor Kelly stated that in the past they have had to reduce green space in order to accommodate the parking and those kinds of things. This gives the Planning and Zoning Commission a lot more flexibility in working with projects to make sure they meet all the desires of the community. In the end a parking study has to be done to make sure the project will be able to have enough parking to sustain it.

With no further comment, Mayor Kelly announced the public hearing closed at 7:19 p.m.

INTRODUCTIONS, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS

1st and 2nd Readings of Bills

Motion was made by Alderman Cross, second by Alderman Wynn to give Bills No. 5383, 5384, 5385, 5386 and 5387 first and second readings. All in favor none opposed.

Bill No. 5383 – Automatic Enforcement of Traffic Control Signal Regulations

City Attorney Albrecht gave Bill No. 5383, AN ORDINANCE AMENDING CHAPTER 14 OF THE REVISED CODE OF ORDINANCES OF THE CITY OF BRENTWOOD, MISSOURI BY DELETING SECTION 14-417 IN ITS ENTIRETY AND ENACTING IN LIEU THEREOF A NEW SECTION 14-417; AS IT RELATES TO VIOLATION OF PUBLIC SAFETY AND THE AUTOMATIC ENFORCEMENT OF TRAFFIC CONTROL SIGNAL REGULATIONS; PROVIDING FOR THE CURRENT MAINTENANCE OF THIS CODE; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5383 as a Bill that changes the fine for violations of red light cameras from \$80.00 plus court costs (\$22.50) to \$100.00 with no

court costs. Since this violation is classified as a non-moving violation there will be no court costs assessed.

Alderman Marshall asked if there is a flat fee for the tickets or is it a percentage.

City Administrator Seemayer responded that it is a flat fee.

Motion was made by Alderwoman Clements, second by Alderman Marshall to approve and adopt Bill No. 5383. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Cross, yes.

The Mayor thereupon declared Bill No. 5383 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4073.

Bill No. 5384 – Amending Chapter 25

City Attorney Albrecht gave Bill No. 5384, AN ORDINANCE AMENDING CHAPTER 25 OF THE REVISED CODE OF THE CITY OF BRENTWOOD, MISSOURI BY AMENDING SECTION 25-288 TO ALLOW MODIFICATIONS IN REQUIRED PARKING IN THE “PD” PLANNED DEVELOPMENT DISTRICT; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5384 as a Bill that would amend Chapter 25 of the Zoning Code to allow for parking requirement modifications in the PD District based upon parking analysis studies. This text amendment was approved by the Planning & Zoning Commission and is the subject of a Public Hearing.

Alderman Marshall asked if Bill No. 5384 addresses specific developments or is it a change that affects everything.

Mayor Kelly stated that it affects everything within the Planned Development District.

Alderman Marshall stated that one of the concerns that he had which a resident brought up is the old Colonial Cleaners property that has very few parking spaces. He knows that several tenants have looked at that and the residents on White Avenue have been concerned about what is going to eventually move in there because they don't want overflow into the neighborhood. He was not sure if that property was in the Planned Development District.

City Administrator Seemayer responded that it is in the Planned Development District but if someone attempts to move in there and they fell below the number of required spaces which they more than likely would, because of the square footage of the building and the parking spaces, a parking analysis would have to be done and then brought to the

Planning and Zoning Commission and to the Board of Aldermen. It would have to be reviewed by staff, the Planning and Zoning Commission and the Board of Aldermen.

Motion was made by Alderman Robertson, second by Alderwoman Clements to approve and adopt Bill No. 5384. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Cross, yes.

The Mayor thereupon declared Bill No. 5384 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4074.

Public Hearing – Rezoning of 4.78 acres at 8750 Manchester Road

Mayor Kelly announced a public hearing for the rezoning of 4.78 acres at 8750 Manchester Road would now be heard at 7:30 p.m. from General Commercial to Planned Development District.

Mayor Kelly asked if there were any comments from the audience. There were none.

Mayor Kelly announced the public hearing closed at 7:31 p.m.

Bill No. 5385 – Rezoning of Property at 8750 Manchester Road

City Attorney Albrecht gave Bill No. 5385, AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF BRENTWOOD TO REZONE CERTAIN PROPERTY NUMBERED 8750 MANCHESTER ROAD TO “PLANNED DISTRICT” AND ESTABLISHING THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5385 as a Bill that would rezone 8750 Manchester Road from GC to PD. This is the former site of the Syms store. The rezoning request was reviewed and approved by the Planning & Zoning Commission. A Public Hearing is scheduled for this matter.

Motion was made by Alderman Cross, second by Alderman Leahy to approve and adopt Bill No. 5385. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Cross, yes.

The Mayor thereupon declared Bill No. 5385 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4076.

Public Hearing – Conditional Use Permit/8750 Manchester Road

Mayor Kelly announced a public hearing for a Conditional Use Permit for 8750 Manchester Road would now be heard at 7:45 p.m.

Director of Planning and Development Dailey came before the Board and stated that the request is for a conditional use permit for a drive-thru fast food restaurant. The tenant is not currently identified, but there is a specific square footage and site improvements that are identified as part of the larger nearly five-acre site plan that will also include the redevelopment of the former Syms property into an Office Depot and the other portion will be another retail tenant. The conditional use permit includes conditions that when the tenant is identified they will come back for signage and any additional traffic circulation of site plan review elements.

Mayor Kelly asked if there were any comments from the public. There were none.

Alderman Leahy stated that he would like to clarify what is happening with the northeast entrance off Manchester Road. Will it be full open access or right in right out only.

Jack Davis - 280 Parkland Avenue came before the Board and stated that the intention is that the northeast entrance will remain a right in right out only. MoDOT's preference is to keep the curb cuts as they are currently.

Alderwoman Clements stated that they were hoping to find out the restaurant tenant that is going in.

Mr. Davis stated that they have had some initial conversations with some possible tenants, however, they felt as though they were getting ahead of themselves given that there was a text amendment that needed to be passed in order to go forward with the other portion of the development, which is for the old existing Syms building. They felt the best plan for them was to get those things in place first, along with the tenants for the old Syms, then identify restaurant tenants.

Alderman Kramer asked about the transferability of the conditional use permit.

Mayor Kelly stated that in this instance the property owners are retaining the property. They are not subdividing the lot. It would only go with that business that they are able to acquire within the tenancy of that building.

Alderman Kramer stated that if in a couple of years the fast food restaurant doesn't work out and they come proposing another fast food restaurant, do they have to come back to the BOA for another permit for that.

Mayor Kelly stated that they would have to come back to the Planning and Zoning Commission with the changes.

Alderman Kramer stated that their eventual goal is to try to limit the ability of the owner to transfer the conditional use permit if they sell the property to another entity.

Mayor Kelly stated that it has not been fully decided yet, nor has it gone through the Planning and Zoning Commission.

Alderman Leahy stated that they are still talking with the Planning and Zoning Commission. They have not had enough finalized discussions to come to a consensus. The intent is eventually the conditional use permit would be unique to that one business. This Conditional Use Permit would establish that a fast food restaurant would be acceptable on site, no matter how many times the ownership of that facility would change as long as they held control of the property.

Mayor Kelly stated that the conditional use is for the drive up only. The restaurant is an approved use.

Mayor Kelly announced the public hearing closed at 7:50 p.m.

Bill No. 5386 – Conditional Use Permit/8750 Manchester Road

City Attorney Albrecht gave Bill No. 5386, AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT TO FOUNTAINS @ 270 LLC, WHICH PERMITS UNDER CERTAIN CONDITIONS THE USE OF CERTAIN DESCRIBED PROPERTY FOR OPERATION OF A FAST FOOD RESTAURANT WITH DRIVE-THRU; PROVIDING THE CONDITIONS OF SUCH USAGE; AND PROVIDING THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5386 as a Bill that would grant a Conditional Use Permit for 8750 Manchester Road to allow a fast food restaurant with a drive through facility. The Conditional Use Permit was reviewed and approved by the Planning & Zoning Commission. A Public Hearing is scheduled for this matter.

Mayor Kelly stated from the City's standpoint they are very excited about the project. He thanked the owners of the property for working to find a national tenant for half of the property and they are looking to bring in another tenant for the rest of the property. The discussions have been very positive to what that business may be and the possibility of a restaurant on the out lot.

Mr. Davis stated that they have had a very good experience working with City staff as well as the P&Z Commission, the Mayor and the Board. The site at 8750 Manchester consists of a 36,000 square feet building, which was formerly a Syms and before that a Schnucks. They plan to split the facility to propose a 20,000 square feet Office Depot on one side and another tenant for the 16,000 square feet on the other side. The entire lot is asphalt parking, so they plan to add quite a bit of additional green space, which is a new concept for a green building and clean water. There will be rain guards located throughout the property and certain vegetation will thrive in those areas that will provide for a cleansing of water by taking certain nutrients and things out of the water before it ends up in streams, etc. In addition to that, the other big change will be the landscaping along Manchester Road. They intend to do a very decorative paver sidewalk, decorative

lights, planter boxes, street trees, etc. The elevation of the new front will eliminate some of the aluminum panels. They are proposing to change the painted white bricks and add some accents that will improve the entire site.

Alderman Robertson asked about the existing tall light poles and if they are coming down.

Chairman Geppert stated that the light poles are coming down from 24 feet to 16 feet. All of the lighting along the southwest quadrant of the property which has some of those same size poles will be coming down to a point where they won't be visible from the new fencing that will surround the property in the residential area.

Alderman Marshall stated that page 2, Section 2 of the Bill states that each sign on the wall is not to exceed an area of 200 square feet. He asked if that was correct.

Mr. Davis responded yes.

Alderman Kramer asked if Syms is moving to another community or are they out of business.

Mr. Davis stated that Syms is leaving the St. Louis area. The St. Louis location was the western most store that they had in the entire chain and it did not fit in with their plans. They are concentrating on the east coast.

Alderman Cross thanked Jack, Dan and the Planning and Zoning Commission. The conditional use permit is good for Brentwood. They have a vacant property that is being improved and has the potential to attract quality tenants who are going to be revenue generators.

Motion was made by Alderman Leahy, second by Alderman Marshall to approve and adopt Bill No. 5386. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Cross, yes.

The Mayor thereupon declared Bill No. 5386 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4077.

Bill No. 5387 – Site Development Plan

City Attorney Albrecht gave Bill No. 5387, AN ORDINANCE GRANTING APPROVAL OF A SITE DEVELOPMENT PLAN FOR A 21,632 SQUARE FOOT ADDITION TO THE TARGET STORE LOCATED AT 25 BRENTWOOD PROMENADE COURT WHICH PERMITS UNDER THE PROVISIONS OF CHAPTER 25, DIVISION 9 OF THE BRENTWOOD CITY CODE OR ORDINANCES MODIFICATION OF THE DEVELOPMENT OF THAT SITE; PROVIDING THE

CONDITIONS TO SUCH DEVELOPMENT; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5387 as a Bill that would approve a site plan that allows a 21,632 sq. ft. expansion of the Brentwood Target Store. The expansion would extend from the southern portion of the existing building and tie Target's building to the Bed Bath & Beyond building. This site plan was reviewed and approved by the Planning & Zoning Commission.

Scott DeBell - Civil Engineer representing Target Store came before the Board and stated that the site plan that is mentioned in the synopsis has an expansion at the left hand side of the building in between Target and the adjacent Bed Bath and Beyond. In conjunction with the expansion, Target will be doing a full interior remodel of the store bringing the store more closely to the newer Target. Along with that they will be switching the store from two entrances to a single entrance which also matches their newest design along with the improvements to the front sidewalk area, the bump out at the entry, planters in the sidewalk and the red bollards as well. They will be eliminating the compact spaces in the parking lot within the Target tract. The compact spaces are 8 feet wide and they will be making them 9 feet wide to match the regular parking spaces. There will be an expansion of the access drive in the rear of the store, which is currently gated off. It will be expanded to a fire lane behind the building. There will be new landscaped curbed islands at the very front of the parking lot all along the front sidewalk area.

Alderman Marshall asked about the location of the one entrance.

Mr. DeBell stated that it would be located on the south side.

Alderman Marshall asked if the stop sign on the north entrance would be removed.

Mr. DeBell stated that typically they would eliminate that.

Alderman Kramer stated that he wanted to applaud the applicant with regards to the restriping of the parking spaces. He asked how many spaces were affected by the restriping.

Mr. DeBell stated that they lost three spaces per row and there were four rows, so 12 spaces. The two double rows that have the accessible spaces in them are the ones that will be restriped.

Alderman Kramer stated that he heard during the Planning and Zoning Commission review that Target had unofficially committed to employee parking on the north side of the building during daytime hours and in the nighttime they would commit to parking on the northern most front or eastern spaces.

Mr. Geppert came before the Board and stated that they are doing several improvements. Crawford, Brunte, Brummeier did a study which was a part of what they looked at. The

conclusion of their analysis was that the field in the big picture provides enough parking to take care of it. It was a very detailed analysis and it was part of the rationale that led them to the earlier amendment in Chapter 25 to give flexibility. There will be improvements to some landscaping areas that were deteriorated. The drop off containers in the back of Target that had been somewhat littering the back will not be allowed or necessary with the addition. Overall it is a good improvement.

Alderman Leahy stated that he has two documents in front of him from Target that contradict each other. On the blueprint they are asking for 532 parking spaces and on the Target letter they are asking for 553 parking spaces.

Mr. DeBell stated that the site plan is going to be the most current.

Alderman Leahy asked if Target is considering or would they please consider, during the Christmas season, possibly looking for an alternate parking location for employees since the parking would be reduced.

Mr. DeBell stated that he is sure they would consider it.

Motion was made by Alderwoman Clements, second by Alderman Marshall to approve and adopt Bill No. 5387. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Cross, yes.

The Mayor thereupon declared Bill No. 5387 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4075.

Resolution No. 943 – Extending Sunset Clause Deadline

City Administrator Seemayer stated that Resolution No. 943 extends the Sunset Clause for the items that are exempt from review by the ARB.

Alderman Kramer read a synopsis of Resolution No. 943, which extends the sunset clause for exempting certain items from review by the Architectural Review Board until June 30th, 2008. The original Resolution adopting the exemptions is Resolution #922. The exemptions include decks, fences, window replacements and roofing shingle replacements to existing homes and condominiums.

Alderman Marshall asked if it would be reviewed through the Public Works Committee.

Alderman Cross stated that when they passed the ARB legislation anything that generated a building permit had to go to the ARB, so they quickly found out that they did not need to look at those items exempted. They were going to have it under the sunset clause for a year just to see what else they run across during the year that might need to be exempted. Since they have had change in staff in the Planning and Zoning Department she has asked that they extend it for another year and have the members of the ARB review it, send it to

the Planning and Zoning Commission to have the verbiage changed and then bring it back to the Board.

Motion was made by Alderman Cross, second by Alderman Wynn to approve and adopt Resolution No. 943. All in favor none opposed.

ACCOUNTS AGAINST THE CITY

Motion was made by Alderman Marshall, second by Alderman Cross to approve the warrant list dated 6/18/07. All in favor none opposed.

Alderman Kramer asked if the City has ever leased the copier for the Parks Department or have they always bought it.

City Administrator Seemayer stated that they had at one time leased the equipment. When they did an analysis a few years it just seem to work out better if they purchased it.

Alderman Kramer stated that since this is one of the technologies that change so quickly and there are so many new things always on the horizon from a business standpoint that always seemed as a tax-deductible expense to be more efficient with a lease versus purchase.

City Administrator Seemayer stated that the tax deductibility is advantageous in private businesses, but it does not apply to the City so you lose that benefit, since the City does not pay the taxes to begin with. They did look into both leasing and buying.

REPORTS OF COMMITTEES AND DEPARTMENT HEADS:

Committee Appointments

Mayor Kelly stated that a Committee Appointment list is before the Board for approval. He has reduced the size of the major committees to three members each in the hopes of trying to make it easier for the committees to meet. One of the complaints they get is that it is hard to get everybody together at different times. Only one alderman serves on two committees. His hope is to let the committees do their work and bring their suggestions back to the Board. He asked the Board and the public for suggested members for the Architectural Review Board. There are no alternates at the moment for the ARB, just three standing architects. He suggested Alderman Cross talk to the ARB to see if they would be willing to have some members on the Board that were not architects.

Alderman Kramer stated that the committee appointment schedule that they have before them is different from last year's in one of the ways the Mayor enumerated. However, another way that it is different is that it seems to do exactly what he would think that they do not want to do, which is to take away from a thorough review of all the items that come before the City. He hopes to be recognized for his good and faithful contributions to the committees in the past. Last year he served on three committees. While that was

an exceptional level of workload, he was happy to take it on for the betterment of the community. In the Public Works Committee, for example, the proposal that the Mayor has presented to them, which he understands is a proposal, is the chairperson and two alderpersons. That example as one item kind of sets up what he thinks the chairman of the Ways and Means Committee didn't want to see happen, which is to have two parties potentially against one. It does create a very quick review, but he does not know if that is what they want for the community or from the committees. A thorough review and a good contribution from as many members as possible would be something more of an advocacy for the betterment of the city. With that in mind, he proposed himself as an addition to the Public Works Committee, noticing that there is no Ward 4 representative.

Mayor Kelly stated that he would like to try his proposal of the three members per major committees and see how it works.

Alderman Wynn stated that one of the mayor's responsibilities is to come before the Board with the committee appointment list and let them review it. He would like to give the Mayor an opportunity to try the three members per committee. This is not new. When he came on the Board they had three members on each committee. The problem they get into with the bigger numbers is that eventually you can have on a committee more than the majority, so when that committee meets and they come to an agreement that issue is settled. They research things as a committee to see what they can do and then it comes to the Board and everybody gets a chance to vote. The Board can also go to the City Administrator or other staff to find out answers to questions before the Board meets.

Alderman Marshall stated that he understands Alderman Kramer's concerns. One of the things he would like to point out is that they also have a chance for public input at the meeting. If the aldermen wanted to attend the meetings to express a concern about an agenda item they could do so. If that is a concern in reviewing some of the issues coming forward they can work around it.

Motion was made by Alderman Wynn, second by Alderman Cross to accept the Committee Appointment list as presented. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, no; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Cross, yes.

Alderman Leahy stated that the Manchester Road 353 Corporation has not met in over two years.

Mayor Kelly stated that the 353 Corporation has just been reincorporated and they are going to schedule a meeting.

Charity Golf Tournament

Mayor Kelly stated that the City of Brentwood's Charity Golf Tournament was last Friday. They are hoping that it was a great success for public works employee Orville

Denby. The City has already raised through donations from the citizens and other contributions above and beyond the golf tournament about \$5,000. Mayor Kelly thanked the public for their generosity. The City is still accepting donations for Mr. Denby and would like to get it to the family by mid July. Mayor Kelly also thanked the staff for putting together a great tournament.

Public Safety Committee – No further report

Public Works Committee – No report

Director of Planning and Development – No report

Ways and Means Committee

A Ways and Means Committee meeting has been scheduled for Wednesday, June 20th at 7:00 p.m.

City Attorney – No report

City Clerk/Administrator – No report

Excise Commissioner

Temporary Liquor License Request/American Legion Goff-Moll Post 101

Excise Commissioner Clements came before the Board and stated that American Legion Goff-Moll Post 101 submitted a temporary liquor license application to sell beer at Brentwood Days on September 14th and 15th in Brentwood Park. All is in order and he recommends approval.

Motion was made by Alderman Cross, second by Alderwoman Clements to grant the temporary liquor license to American Legion Goff-Moll Post 101. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Cross, yes.

Liquor License Renewals

Excise Commissioner Clements stated that the annual liquor license renewals are before the Board for approval. The renewals covers the second half of 2007 and the first half of 2008. There are nineteen applicants.

Alderman Kramer stated that an item came up at the Public Safety Committee meeting about one of the potential applicants for renewal of their license and there was some action that was going to be taken with regard to that applicant.

Alderwoman Clements stated that it was regarding Double D Lounge on Brentwood Boulevard and the parking problem. The police chief has spoken with the owner and she has assured him that the parking would be taken care of. That they would make sure that the people were parking in the lot that is available to them. The police are staying on top of it. It was not the kind of problem that they could address their liquor license on. It is more of a traffic issue.

Alderman Kramer asked if the applicant is getting two different licenses.

Excise Commissioner Clements stated that it is a full liquor license with package and regular.

Motion was made by Alderman Cross, second by Alderwoman Clements to approve the liquor license renewals. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Cross, yes.

Library

Mayor Kelly asked for the appointment of Sheila Lenkman to the Library Board.

Motion was made by Alderman Wynn, second by Alderman Leahy to approve the appointment of Sheila Lenkman to the Library Board. All in favor none opposed.

Municipal League

Alderman Robertson asked for the status of the situation with the minimum wage and the overtime issue.

City Administrator Seemayer stated that MML uses the services of some very notable statewide attorneys and they received an opinion letter that states that the interpretation by the Missouri Department of Labor does not apply to any county, state or municipal employees. He is not sure what is going to happen, but the MML has been advised by their legal counsel that it does not apply. He will forward the opinion letter to the Board.

Communication

Alderman Marshall stated that they have received a request to post the actual meeting bills on the website. The synopsis, agendas and the minutes are uploaded currently. Some of the bills could be uploaded and some could not because they do not have electronic copies of plans, etc. They have decided that if people want a specific copy of a bill they can come up to City Hall and request a copy.

Insurance Committee – No report

Historical Society – No report

UNFINISHED BUSINESS

Alderman Leahy stated that in researching the Board of Aldermen meeting minutes of May 1962 the Board granted to the Swim Club permission to pave the 1,000-foot roadway. In the minutes of the Board of Aldermen meeting from March 3rd 2003, the Board was requested to change the name of the street from Central Avenue to Swim Club Road. According to the St. Louis County Recorder of Deeds the change has never been filed. During the discussion of that name change it was requested by him as to the authority of the Board granting a name change on a roadway that the City does not own. It was acknowledged at that time that the road was not owned by the City of Brentwood but it was just the naming rights that they were asking to get permission to give to work through. It has been brought to his attention through the Ways and Means meetings from Mrs. Ferguson and in her letters to them as to possible conflicts of interest. He would like to know how they go about declaring whether those things apply and how they proceed with it. As to Mr. Biemdiek being a founder member and his daughter being, from what Mrs. Ferguson has declared, a current member and if that creates a conflict of interest. If members of the Board of Aldermen and the Mayor are members of past or current to the Swim Club membership does that create a conflict of interest. This issue is a little touchy in the fact that it has been brought to his attention that the Swim Club entertained a loan on the property to do repairs and that loan was tied up in legal issues because of this road issue causing the bank to determine that they did not want to get involved. If this issue is for the intent of declaring that this road is a public right of way for the intent of the Swim Club to look for a possible sale of its property through a development, then it is conceivable that those having shares to the Swim Club would have a financial interest in the outcome of the determination of who owns the road versus a Swim Club that owns property that might be landlocked and have no actual access to work with. There is an issue on the trail system and the bridge right of way on the north side of the Swim Club. It has been brought to his attention that this roadway and bridge way may not meet City codes and safety standards and may need major repairs. That again they are looking at a financial commitment by the City or by the owner of the roadway. These things may again influence the outcome of the decision as to whether they want to move forward and how this is determined as to who should or should not have a conflict of interest. It has also been questioned that this same right of way currently houses part of the City of Brentwood's parks department facility, which is the roller rink. The question being is how was that established as to allowing that facility to be established there versus why the ownership is now in question. He asked if the Board has guidelines about conflict of interest.

City Attorney Albrecht stated that he has forwarded a letter to Mr. Beimdiek that was sent to him by Mrs. Ferguson.

Mayor Kelly stated that as far as the conflict of interest, Mr. Beimdiek was hired to determine legally who has a right to the road today. Whether it belongs to the City or does it in fact belong to other people or the adjoining property owners. The facts are the facts, which have nothing to do with conflict of interest. Mayor Kelly stated that once the

determination is made, the question is what does the Board want the outcome to be. With respect to the park they have determined in the past through research that they have a legal right to the road, which is why they put in the public works storage facility, the path and the roller rink. There may be some future liability in repairs of the bridge. It was determined that it could not handle vehicles any longer, so the walking path was put over it. The conflict of interest would only come if any of the members of the Board were voting on something to which they had a financial gain. He pointed out at the last meeting that if the outcome is that the road actually belongs to someone else they, as a municipality, would have an obligation to claim that road because they can't cut off access to an existing property no matter what has been done in the past. The conflict of interest would come about at some point if they have to vote.

Alderman Leahy stated that he was asked to bring the questions forwards because he did not have answers to them.

Alderman Kramer stated that they originally wanted to hire, per the Ways and Means Committee meeting minutes, someone from the company that the current city attorney works for. That was sidestepped and instead they hired a different attorney. No matter that, the attorney was hired and they had him before them. The Mayor wants to have the facts brought forward, but instead if you go back to the minutes and the tape the Mayor was in a position where he was telling the attorney what direction he wanted him to go and what end result he wanted to have for the city. That is not an independent review. That is getting Mr. Biemdiek to say what the Mayor wants him to say, not what they need to have happen.

Mayor Kelly stated that when he says "we" he is talking about the Board and what they want the outcome to be. If in fact it came back that this road might belong to some long ago property owners, then at that point are they going to say they will take over that road? His contention was before they started this process was to say it is the City's road unless somebody wants to challenge them. That is what he suggested they should say instead of spending money on legal fees, but the Board wanted to have this analyzed again. He is not giving Mr. Biemdiek direction. Mr. Biemdiek will look at the legal facts and determine what transitions the property has gone through over the years and who it belongs to legally.

City Administrator Seemayer stated that he does not recall sidestepping anything. He does not recall being told to use someone from Mr. Albrecht's firm.

Alderman Leahy stated that in the discussion it was brought up in the Ways and Means Committee meeting that Mr. Albrecht would most likely refuse himself because of current membership. It was suggested that if he refuses himself, would some from his firm be a possible candidate to come in and fulfill the legal advice for the City. It was left as that being the option to proceed with. At the May meeting, this Board chose to authorize a contract with Mr. Biemdiek. They could have voted not to do it, and this Board chose to do that, so Mr. Biemdiek is their legal representative.

Alderman Marshall stated that one of the things that he originally did not want to do was get into a legal battle. He felt that they have proven that the City owned the road. Numerous attorneys have ruled on it and the City Engineer said that the documents show that they own the road. They chose to take a legal approach. Now that they have done that it is a good thing. Alderman Leahy brings up a lot of good points and he cannot help but think why wouldn't they get a legal opinion to protect the investments they have on that right of way. He does not think it should be listed as pool road because it is the right of way. The right of way actually goes all the way from Manchester to Strassner. The City maintains more than 90% of that right of way currently. They have had four attorneys look at it and have never received a final rendering as to a legal opinion. He would like to get a final legal opinion, so they have something on record revealing the documents that are registered with St. Louis County.

Alderman Leahy requested that the City consider sending a letter to the Swim Club asking for some information. He would like the Swim Club to confirm in their own records that in May of 1962 they actually paid to put the roadway in. He would like to know if the allegation that the Swim Club looked to use the property as collateral is true. If the allegation is true the bank refused to proceed on the credit because of this specific issue mudding the waters. If that be the case he would also like to know if the Swim Club is or in the past couple of years entertained selling their property for the purpose of liquidating the Swim Club or changing hands to the point that this road issue becomes a financial criteria for them.

Alderman Marshall stated that this came up a couple of years ago where somebody in the City of Brentwood wanted to buy a bunch of memberships and take control of the Swim Club so they could buy everybody out. It was determined then that the way the by-laws are written you cannot do that. The individual members cannot pool all their memberships together and sell the property. The Swim Club has looked at investing a lot of money in updating the swimming pool and clubhouse, etc. He does not think that people want to sell the property. Alderman Marshall suggested they wait until they get a legal opinion to move forward.

Alderman Kramer stated that on the topic of conflict of interest in terms of voting they took a vote on the council. He went on record as saying that he has no knowledge of the person who has approached Alderman Leahy or them with the email about the family connection with Mr. Beimdiek is true or not, in terms of if his daughter is a member of the pool club. However, it would be fair of them to inquire with him about that question. He also went on record as saying that if he knew the answer to that question before they had taken their vote to hire Mr. Beimdiek as counsel he might have voted differently.

City Administrator Seemayer stated that Mr. Beimdiek sent a letter to the City in which he addressed that issue. He will get a copy to the Board. He concludes that he has no conflict of interest.

NEW BUSINESS

Alderman Leahy announced a Ward 3 meeting would be held on Tuesday, June 19th at 7:00 p.m. in City Hall.

Alderman Robertson stated that the Ward 3 meeting that Alderman Leahy refers to is Alderman Leahy's Ward 3 meeting. He is not a part of that meeting and has not been for a couple of years.

ADJOURNMENT

Motion was made by Alderwoman Clements, second by Alderman Marshall to adjourn the meeting at 8:50 p.m. All in favor none opposed.

Pat Kelly, Mayor

Attest:

Chris Seemayer, City Clerk