

MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING

City Hall
Council Chambers

July 16, 2007
7:00 p.m.

PRESENT: Mayor Kelly, Alderwoman Clements, 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, City Treasurer Reynders and Executive Secretary Williams.

ABSENT: Alderman Marshall.

CONSIDERATION AND APPROVAL OF THE AGENDA OF THE REGULAR BOARD OF ALDERMEN MEETING OF JULY 16, 2007

Mayor Kelly requested that the agenda be amended by adding an Item C, (1), Presentation.

Motion was made by Alderwoman Clements, second by Alderman Cross to approve and adopt the Agenda of the Regular Board of Aldermen Meeting of July 16, 2007 as amended. All in favor none opposed.

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

Motion was made by Alderman Leahy, second by Alderwoman Krewson to approve and adopt the Minutes of the Regular Board of Aldermen Meeting of June 18, 2007 as submitted. All in favor none opposed.

BIDS

2007 ½ Ton Pickup Truck and 2008 Two (2) Ton Dump & Plow Truck

City Administrator Seemayer stated that bids were opened on Wednesday, June 20th for a 2008 two (2) ton dump truck as follows:

F&C Truck Sales	\$37,429.00
Truck Center of Ill	\$48,794.00
Broadway Truck Center	\$54,479.75

2007 ½ Ton Pickup Truck

Bids were also opened on June 20th for a ½ ton pickup truck as follows:

Pundman Ford	\$24,427.00
Dave St. Clair	\$26,273.00
Reuther Ford	\$26,505.00
Auto Plaza	\$26,043.50
Broadway Ford	\$27,959.36

Presentation of Proclamation

Mayor Kelly presented a proclamation to James and Nancy Jones, longtime Brentwood residents who celebrated their 50th Wedding Anniversary about a month ago. He congratulated them on their 50th Wedding Anniversary.

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

Roy Bowen - 2 Whitehall Court came before the Board and read a letter he presented to Alderman Cross regarding the discussion at the ARB meeting on July 5th, which addressed the plans for two new homes to be built on Whitehall Court. His objections are to a two-story home with a three car garage facing the main street across from his house at the entrance to Whitehall Court versus the side or a backyard location, construction of any new two story home that is not all over brick or stone and overall décor landscaping and the destruction of magnificent trees which are currently the most outstanding view in Whitehall Court. He also has concerns about other possibilities to include a one-driveway exit onto McKnight or a joint driveway onto Whitehall Court next to the entrance, as well as a redesigned fence property line between the new proposed homes. He suggested that all residents of Whitehall Court be advised of the next ARB meeting.

Bonnie Rasmussen – 8828 Pendleton came before the Board distributed photos to Alderman Leahy of the trucks and the parking situation on Pendleton.

Jim Enghauser - 82 Whitehall Court came before the Board and stated that he would like clarification of the process for the subdivision and the building of the houses at #1 Whitehall Court.

Mayor Kelly stated that typically once it has ARB approval it goes to the housing department for permits.

Mr. Enghauser asked what happens if their by-laws or their covenant states that they cannot have two story homes.

Mayor Kelly responded that if there were an active subdivision that can enforce those indentures, the developer could be taken to court in order to enforce the indentures.

Alderman Cross stated that currently the property is under contract with the developer. She had asked the developer to attend the meeting on July 5th as a hot seat item. It was not an agenda item because he has not submitted an application. She apologized that the entire street was not notified of the meeting and in the future she will make sure that everyone is notified. The developer has some contingencies in the contract on the properties. They do not have a time frame because they do not know if he will go ahead with the process or if he will choose to back out. Once he submits the application, he can come to the ARB within two weeks of the submittal. Typically the applicant will get an approval that evening or possibly not and then they would apply for the building permit. When the developer attended the ARB meeting on July 5th he talked to the architects about what they were proposing to do. The architects told him what their concerns were. There is possibly going to be a boundary adjustment. They have to get the boundary adjustment and then decide if they want to come back to the ARB.

Susan Kerth – 3 York Hills came before the Board and stated that her house is directly behind #1 Whitehall Court. She voiced her opposition to the proposed two story houses. She has a nice park like yard and would like to protect her view. Part of her view includes #1 Whitehall Court and she does not want two story houses right on top of her property line. It is not in keeping with the nature of either Whitehall or York Hills.

Carol Dowd - 38 Whitehall Court came before the Board and stated that she has been studying the indentures. She read a section of the indentures that addresses dwellings and lots.

Mayor Kelly suggested that if those are the subdivision indentures and there is an active subdivision, and you want to enforce the indentures it is up to the association to enforce those. The City cannot enforce those indentures. It is a civil matter. In order for the City to get involved it has to pertain to a City ordinance.

Alderman Kramer stated that the City has to be very careful not to give legal advice. They are not allowed to do that. His understanding is that while they are not their attorneys, even if you do not have an active subdivision and is just a person living there, you should seek the advice of an attorney or of someone with some legal knowledge. A judge would be the one to determine, based on your covenants, if that would be durable or not. The City is doing everything it can to abide by the laws that it has. One of the things that the City cannot do, even if there is a non-active subdivision, is to enforce the encumbrances on someone's property. What you have is a set of encumbrances on each and every lot in that subdivision. He recommended the residents seek counsel.

Mrs. Dowd stated that at this time they do not have any trustees. She asked how soon do they have to have trustees to be able to vote on what is happening.

Alderman Kramer stated that his understanding is that they do not need to have trustees for an action in this case. The residents need to seek the counsel of a lawyer who may allow an individual lot owner or property owner within that subdivision to bring an action towards another lot owner.

Mrs. Dowd stated that it is a wonderful place to live and if a three-car garage is put right at the entrance, when people drive in, it will change the ambiance and the whole feeling of that wonderful secret place. She feels that with two driveways into their subdivision and a three-car garage when you come in it would be like using their subdivision as an alley. She hates the bottom line to be money, which will change their lives.

George Stericker – 27 Whitehall Court came before the Board and stated that it is a lovely little community with many trees. He understands that if this development proceeds trees will be cut down and that will ruin the general appearance of where they live. He is very much against it and wishes there were more people in support of his point of view, but he is sure that he is not alone.

Liz Turner – 15 Whitehall Court came before the Board and stated that she attended the ARB meeting on July 5th and saw the plans that were presented. She was disappointed because it would be damaging for the neighborhood and for Brentwood as a community. If you look at that property there are six or seven old trees that are around 50 years old. The plans show moving the driveway closer to the entrance to Whitehall Court and that could be one driveway or two driveways closer to the entrance. From the safety standpoint the City has to look at that. She believes that they will have a minimum of 25 to 28 signatures with 30 homes that are opposed to multiple issues with the property.

Mr. Stericker stated that it is very important to them that they preserve the area where they live. He does not want to see the resident at #1 Whitehall Court do what she plans to do.

Mayor Kelly stated that as Alderman Kramer suggested either as a group or as individuals to seek legal advice

Everett Roeder - 72 Whitehall Court stated that all of their dealings with the City of Brentwood have been good. As a trustee he has been over the indentures very carefully. They are very specific about what you can and cannot do. If the trustees decide that this project does not fall within the guidelines of the indentures and they say no, what will the City do?

Mayor Kelly stated that it is up to the association to enforce their own indentures. The City cannot legally enforce the indentures. If you want to tell the property owner that she cannot do that and she wishes to proceed, then he would seek legal counsel. It is a civil matter.

City Attorney Albrecht stated that the City's responsibility lies with applying and enforcing the ordinances of the City. The indentures are a private contract in effect between the various property owners. What you have is a civil dispute between property owners. The residents of that subdivision should consult an attorney because as property owners and as residents of that subdivision governed by the indentures you may have private rights that the City cannot enforce.

Alderman Kramer stated that he and Alderman Cross have taken great efforts to reactivate the City's ARB. One of its main purposes is to try to protect the architectural or character of a community that one would reside in that is proposed to be changed or torn down and rebuilt. The ARB tries to take great care in listening to the residents of the surrounding area to that target site. He can only estimate that in this particular case it would be much different for them to take every comment to heart and as well the ARB tries to, as much as it legally can, be knowledgeable of secondary or primary characteristics of the neighborhood such as covenants. While they cannot enforce them they can certainly be aware of them and potentially engage in a dialogue with the developer in that instance to create a happy medium for all parties involved.

Public Hearing – 7:15 p.m. – Conditional Use Permit/Walter's Foreign Car Service

Mayor Kelly announced a public hearing for a Conditional Use Permit for Walter's Foreign Car Service would now be heard at 7:15 p.m.

Director of Planning and Development Dailey came before the Board and stated that the petition is for a Conditional Use Permit and site plan approval for an auto service and sales business at 2820 and 2828 S. Brentwood Boulevard. It includes a 407 square foot addition to the northwest corner of the property. The applicant received a variance from the Board of Adjustment. They would not have to install a fence along the rear property line.

Ray Munch – owner and operator of Walter's Foreign Car Service at 2820 S. Brentwood came before the Board and stated that they had a building removed at 2828 S. Brentwood about three months ago. They are proposing a parking lot within that area, along with trees, irrigation and an addition on the south side of their building.

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

Mayor Kelly stated that the reason a conditional use permit is required is because it is an auto type business and those require conditional use permits according to Code. They will have the ability to sell cars as well, although not by advertisement.

With no further comment, Mayor Kelly announced the public hearing closed at 7:20 p.m.

Public Hearing – Creation of a CID/8750 Manchester Road

Mayor Kelly announced a public hearing to create a Community Improvement District at 8750 Manchester Road would now be heard at 7:30 p.m.

Director of Planning and Development Dailey came before the Board and stated that the property at 8750 Manchester Road recently came before the Board of Aldermen for site plan approval and a conditional use permit. It is the former Syms property. They are

subdividing the building and creating two retail spaces in the building and propose to bring in a fast food restaurant with a drive thru. The Community Improvement District is being requested in order to assist the developer with some public and private improvement costs.

Mayor Kelly stated that revisions were made to the original application and the Board received those revisions. The revisions were more from a technical nature requested by the City's attorneys.

Robert Klahr – Armstrong Teasdale/One Metropolitan Square/St. Louis, MO 63102 came before the Board and stated that he is representing the property owners for the consideration of the formation of a Community Improvement District at 8750 Manchester Road. There are two bills on the agenda for consideration. The first one is to declare the property at 8750 Manchester Road as a blighted area within the meaning of the Community Improvement District Act. The second is to approve the petition forming the Community Improvement District.

The CID is a separate political subdivision of the State of Missouri. It is authorized to impose taxes much like a transportation development district. A CID can impose those taxes for a twenty year period for the purpose of paying for certain eligible project costs. In this instance the petition proposes to impose a 1-cent sales tax and no other property taxes or assessments are contemplated. The CID is a revenue neutral district with respect to the City and the other taxing districts. It's creating its own taxing source and not utilizing any incremental taxes of the City or of any taxing districts. It does not have the authority of eminent domain and no eminent domain is being considered or requested. The developer will advance all the costs of the redevelopment of the site and essentially bear all the risks. The developer can only be reimbursed from the CID if they are able to successfully develop the site as retail and that retail generate sales tax that will be collected by the Community Improvement District.

Jack Davis – owner of the property at 8750 Manchester Road came before the Board and stated that they will be splitting the old Syms building into two spaces for two separate tenants and is also creating an out lot that will have a drive thru facility. In addition to the improvements to the building, they are also making improvements to the area along Manchester Road which will entail new street lighting, new sidewalks, flower boxes, planters and the entire area will be landscaped along the front. They intend to use brick pavers that will be beyond City requirements. The total estimated project cost is \$225,000 in fees, which are for attorneys, engineering, architectural and fees related to the issuance of the bonds. \$800,000 is estimated for improvements, which will include the new landscaping, street lighting, sidewalks, new parking lot lighting, improvements to the parking lot itself, etc. \$3,300,000 consists of improvements to the building like a new roof, new mechanicals, new façade on the front, in addition to costs associated with splitting the space up and taking an existing building that was formally a grocery store and Syms and creating retail space. There would be other uses for the building as it sits right now but to maintain the building as a retail building it is very important to make those types of improvements. \$1,125,000 represents improvements to the site and

anticipation of using typical square foot costs to price out the 3,000 square foot building, which was approved with the drive thru. Nowhere in the cost are development fees included. The total cost for the project is \$5,445,000. This is the amount of money that will be invested in the site to make sure they maintain a retail site. A letter of intent was signed with Ace Hardware for the remainder of the space. It is Office Depot's intent to open the store this year, so they would need to start the work almost immediately.

Pat Massey – Development Dynamics came before the Board and stated that they were contracted to perform the eligibility report to address qualification criteria for the establishment of the CID. In the preparation of the report they looked at eligibility factors that were evident on the property and researched existing studies that the City had as well as aerial maps and property files created from field observations and record searches as part of the review. Development Dynamics analysis of the conditions identified in the site study area from the qualification criteria are present as outlined in the Act. These predominant conditions have acted as a constraint and economic impediment to the redevelopment of the site. The clearance, preplanning rehabilitation, reconstruction and redevelopment to the study area and the structure on a substantial scale are necessary to remediate the conditions that are present. The property in its current condition constitutes an economic and social liability and or menace to the public health, safety and welfare. Taken as a whole the study area, meaning the property location, suffers from deterioration and site improvements both physical and economic, meaning that the property is not generating the taxes and so forth to help the City provide the services that it has the potential to do. Other supporting factors have contributed to its vacancy and the lack of growth and investment in the area. In order to cure these deficiencies and to leverage private mitigation of the conditions significant costs must be incurred. It is unlikely that the type and level of redevelopment as desired by the City would occur absent the benefit and resources provided through the implementation of a CID. Therefore it was their opinion based upon the entirety of the information collected, reviewed and analyzed in the course of the preparation of the report that the study area satisfies the qualification criteria defined in the Act and the conditions within the study, when taken as a whole, represents a section of the City of Brentwood that's a predominance of deterioration of site improvements and sanitary and unsafe conditions, improper subdivision in platting and the existence of conditions which endanger life and property by fire and other causes.

Mr. Klahr stated that there were certain amendments to the petition that were made after the time that it was initially filed. Most of those were technical changes that were proposed by the City's special counsel Gilmore & Bell. With respect to the amended petition, there were changes to clarify the exact acreage of the property. With respect to the five-year plan that was provided as part of the petition there were changes to correct the reference to the name of the CID, the names of the property owners and to clarify that there was a twenty-year prepayment period for any CID costs. With respect to the eligibility report that Mr. Massey just presented, there were several and certain changes to clarify that the sole use of the property is commercial, clarify the application of the sales tax within the district, to provide additional findings with respect to physical and economic deterioration of the property, to clarify the property is currently vacant and to

alter the conclusion so they more closely track the statutory language. With those changes Gilmore & Bell had reviewed it and indicated that the CID petition as amended is legally sufficient for presentation to the City. With respect to the CID there are some important things to keep in mind. It is revenue neutral for the City. It is a separate tax that will not affect the City's taxes or any other taxing district taxes whatsoever. There is no eminent domain being contemplated in this project. The developer bears all the risks to the extent that if the retail sales are insufficient to recoup the \$1.3 million that they are planning to submit to the CID, they will not be reimbursed for those costs.

Mayor Kelly stated that the developer is not using property taxes, so it will be a benefit to the City. The property value will greatly increase with the investment of the CID and of the property owners, which is going to benefit the school district and other taxing districts right away. Their analysis is that the sales tax generated for that site will increase about 25%, meaning in excess of about \$50,000.

Mayor Kelly asked if there were any comments from the audience with respect to the CID.

There were none.

Alderman Kramer stated that Mr. Massey mentioned that he was contracted by the property owners for the study. He asked Mr. Massey approximately what date was he contracted.

Mr. Massey stated that it was around the first or second week in May.

Alderman Kramer asked if the version that they have before them of the study is the most recent version.

Mr. Massey responded yes.

Alderman Kramer stated that Mr. Massey stated that if it were not for the CID there probably would not be a suitable or desirable development on that property. Going back to the June 18th Board of Aldermen meeting they had a petition before them that didn't ask for any assistance to develop on that property. If that were the case, wouldn't they have gotten that request at that time?

Mr. Massey stated that it was more of a timing issue. Some things have to fall into place in order for certain events to occur. Had the rezoning not been allowed or denied for some reason there would not have been reason to move forward with the other aspect. The blighting analysis and eligibility report was going on at that time. If that came back and they could not identify adequate eligibility factors on the property, which was occurring during that process that also would have been a determining factor.

Alderman Kramer asked Mr. Massey if it was his opinion based upon those discussions that if they had not been able to find what they found with the study that the development request would not have come forward.

Mr. Davis stated that there was a parking ordinance change that had to take place before they could do it. They have a use for the property that is not retail. They could proceed with the project without the CID if it is not a retail use. However, the CID is necessary to do a retail use. Money will be invested in the building that would not be necessary but for a retail use. They had some initial discussions with City staff to find out about the possibility of using a TDD or CID and some different things that may be available. The CID is something that is new to them. They had never gone through this process before. They did not want to hold up the other approvals waiting for the eligibility study to come in because of the time frames that were being given to them by Office Depot. Office Depot said that if they could not open the store this year they did not want to do it. It forced them into a position where they knew that they would be going forward one step and then taking a step back and coming back again.

Mr. Stegmann stated that when you negotiate your leases the retailer has to agree to add the sales tax onto the deal as well. It is a financing mechanism to actually bring quality tenants in. They take all the risks. If the sales taxes are not generating for the City they get zero. They attract a good tenant by having a good lease. They are working through it as well to understand the whole process.

Alderman Kramer stated that he hopes he joins the rest of his constituents in being very excited about the development and the plan for the renovation and landscaping of the development. His only difficulty is the timing of the request for the CID. It sounds now as though staff may have been knowledgeable about that topic before the last Board of Aldermen meeting. He asked if that was correct.

Mr. Stegmann stated that was not correct. They had talked to staff about it and staff indicated that they could not do anything until they got the study done. They were out there on their own trying to figure it out. If there was any lack of communication it was on their part.

Alderman Kramer stated that he wishes they had known about it before the last aldermanic meeting, at least the topic.

Mr. Stegmann stated that there was no intent to hide behind anything.

Mr. Klahr stated that it is not unusual for these two items to be done close in time but not necessarily exactly in the same meeting or concurrently, depending on timing. Both of these approvals are necessary for the retail project to move forward. They needed to have the issues with parking and the subdivision out lot resolved. Timing-wise one got a little ahead of the other. Perhaps it should have been disclosed at P&Z Commission meeting, but until the blight study was even completed he does not know that they were even sure that they could file a petition for a CID. Without the eligibility criteria being there and

being verified by a third party consultant there would be no ability to submit a petition to cover some of the costs that are being looked at. At a certain point, perhaps mentioning it would have been a wise thing but at the same time would have created confusion in the P&Z process had it subsequently been determined that the criteria were not out there and they would not have any petition for a CID.

Alderman Cross asked Mr. Massey if the property needs to display multiple aspects of blight to be blightable or just certain aspects.

Mr. Massey stated that it needs to show preponderance of a variety of different aspects. There are several different criteria and there were adequate amount of eligibility factors present on the property that in their opinion qualified with the criteria.

Alderman Leahy stated that his understanding is for this program to go forward and the encouragement is to help generate more revenue for the City. To do that, they have some expectations from businesses that they be able to get into these buildings, to be able to come in and generate some sales. Thus they have to go through some paper steps to get everybody on the same page. From where he stands if this Board determines that the 4.7-acre lot is blighted, how does that affect his neighborhood around the area.

Mr. Massey stated that he does not know that it does affect it at all in the sense that the plan is to cure the situation on the existing piece of property. He does not know that it has any affect, except when the improvements are made that it will help improve the entire area. Alderman Leahy stated that by blighting this area within the lot he does not want to have a problem with somebody coming back later and saying that you blighted this area and because of that these people are within a half a block of this area so they must be in a bad area of town also.

Mr. Massey stated he believes it is just the opposite. That this is the plan to address the conditions that are present.

Alderman Leahy stated that on the amendment there is a maximum rate of real property tax that may be submitted to the qualified voters for approval and that is zero. As he understands it within this political subdivision of the CID it is establishing that they do not have the ability to establish a taxing on the real estate property.

Mr. Klahr stated that was correct. When they say that the maximum rate for property tax and special assessment is zero that means that if the Board of Aldermen adopts the ordinance tonight, they would have no authority to impose any real property tax or any special assessment.

Alderman Leahy stated that St. Louis County has its own property tax. That property tax will stay at whatever St. Louis County continues to set.

Mr. Klahr stated that all of the other taxing districts' real property taxes would stay in effect just as they are today and the hope is as the assessed valuation rises all of the other taxing districts will see increased property taxes.

Alderman Leahy stated that the CID is asking for approximately \$1.3 million for basically covering the cost to improve the property and to bring these businesses into the lot but they are looking to spend \$5.4 million in the total renovation of the lot or is that what the projected cost would be over the full 20 years to maintain it.

Mr. Klahr stated that based on the conditions as they are today, they would anticipate that the total investment in the property, both private and the CID investment, would be approximately \$5,445,000. Of that \$5,445,000 approximately \$1,330,000 would be from the CID.

Alderman Leahy asked if it is in the fiscal year planning 1, 2, 3, 4 and 5 and getting them out to 2011, that this \$5.4 million is upfront money being spent during this time. He assumes that the major part of the \$5 million is coming out in the next seven months.

Mr. Klahr stated that the vast majority would be upfront costs. The only cost that may not be spent is the out lot construction because it depends on finding a user. It is the property owners' intentions to do all of the improvements to that area to make it ready, so if they find an out lot user they can put a site there and build a building. Obviously the private cost of actually building that out lot will not be incurred upfront because at this point there is no user identified.

Alderman Leahy stated that the CID is asking for a one percent sales tax on its sales. That one percent stays in the district to help repay the bonds that they have used. There is approximately 7.35% in the City of Brentwood for the sales area that comes back that the City distributes out through the county and state municipalities. As the Mayor alluded earlier, they are looking to pull in about 25% more sales revenue than what was generated from the Syms business. They are not spending City money in trying to improve the lot as much as they are helping the developers encourage better businesses to come into their lots.

Mr. Klahr stated that was correct.

Alderman Leahy stated that the letters of intent that they are working towards and they have a five-year budgeted plan for the expenditures and is shooting for a 20-year payback, he would have to guess that the leases have to be more towards a long term effort.

Mr. Massey stated that they are talking to people about ten year leases. That is their primary term but they have options beyond that. It has to be a long-term solution for them to benefit from it.

With no further comment, Mayor Kelly announced the public hearing closed at 8:10 p.m.

INTRODUCTIONS, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS

First and Second Reading of Bills

Motion was made by Alderwoman Clements, second by Alderman Robertson to give Bills No. 5388, 5389, 5390 and 5391, first and second readings. All in favor none opposed.

Bill No. 5388 – Bikeable/Walkable Community Plan

City Attorney Albrecht gave Bill No. 5388, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT ON BEHALF OF THE CITY OF BRENTWOOD, MISSOURI WITH THE CITIES OF CLAYTON, MAPLEWOOD AND RICHMOND HEIGHTS, MISSOURI, AND PLANNER, TRAILNET, INC. FOR A PROJECT KNOWN AS THE BIKEABLE/WALKABLE COMMUNITY PLAN; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5388 as a Bill that authorizes the Mayor to enter into an agreement with Trailnet to provide consulting services for the Shady Creek/Deer Creek Trail system, known as the Bikeable/Walkable Community Plan. The scope of services for this contract will include the design and map for the proposed trail system that runs along Deer Creek. The services will be provided to the cities of Brentwood, Clayton, Maplewood and Richmond Heights as a group. The cost for each city will not exceed \$1,650.00.

Alderman Leahy stated that he is curious as to what the planner is going to be working on that the City has to hold them harmless for their actions as stated on page 5, subsection (f). Is there a need for this in the way of holding them harmless and taking on liability for legal fees?

City Administrator Seemayer stated that he does not know of anything but it certainly does not mean that there could not be something that could occur that the City would hold them harmless.

City Attorney Albrecht stated that they added the language to the extent allowable by law. The only foreseeable claims to be made would be through acts or negligence by City employees which the City generally has coverage on the various insurance policies. Mr. Albrecht stated that he does not have any significant issues with the wording.

Motion was made by Alderman Robertson, second by Alderman Wynn to approve and adopt Bill No. 5388. Roll call: Alderwoman Clements, 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. 5388 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4078.

Bill No. 5389 – Conditional Use Permit – Walter’s Foreign Car Service

City Attorney Albrecht gave Bill No. 5389, AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT TO WALTER’S FOREIGN CAR SERVICE, WHICH PERMITS UNDER CERTAIN CONDITIONS THE USE OF CERTAIN DESCRIBED PROPERTY FOR OPERATION OF AN AUTO SERVICE AND SALES BUSINESS; PROVIDING THE CONDITIONS OF SUCH USAGE; AND PROVIDING THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Cross asked what type of variance did the owner apply for.

Mayor Kelly stated that it was a fence along the rear property line, which would have been the alley.

Chairman Geppert came before the Board and stated that technically a fence is required on the rear property line. There is an alley and there was some confusion as to who owns the alley. The issue was so they did not have to provide the fence.

Alderman Kramer read a synopsis of Bill No. 5389 as a Bill that would authorize a site plan and Conditional Use Permit to Walters Foreign Car Service at 2820 & 2828 S. Brentwood Blvd. for an auto repair shop. This is an existing business that wishes to expand the building by 407 sq. ft. and expand the parking lot. Non-promotional auto sales are will be allowed as part of the CUP. The Planning & Zoning commission has reviewed and approved the site plan and CUP.

Mayor Kelly stated that he has a concern about Section 2, (d), the parking lot. For example, the auto repair shop at the corner of Louis and Manchester Road has designated parking spaces but they double-park all the cars throughout the parking lot. Mayor Kelly requested that Section 2 (d) be amended to include verbiage that requires them to only park cars, both customers and service cars, in designated parking spaces and that no double parking would be allowed.

Alderman Leahy stated that Mr. Munch pointed out that when cars are towed in and dropped off after hours or when they are not open they could not control how the cars are parked. What they were trying to avoid was to make sure that there is no overflow into the alley.

Mayor Kelly stated that he is talking about the double-parking at all times. They should abide by the parking spaces allowed by the ordinance and leave the other traffic lanes open.

Alderman Leahy asked if the business lost four parking spaces because of another requirement in the lot itself.

Chairman Geppert stated that when they reconfigured from their original plan it contained four less spots than their original plan but there was a building on the northwest portion of the property that has been demolished, so there is an expansion of the capacity to park on the site.

Alderman Leahy stated that the south side of the property currently has three garage door bays. He asked Mayor Kelly if he would be establishing that those garage door bays are not parking areas.

Mayor Kelly stated those are service areas. Police and Code Enforcement can use their discretion. If someone parked their car there overnight and it is moved in the morning that is one thing. What he is trying to stop is when they have twenty extra cars in the parking lot on a regular basis, they are double-parked, and the lot is overfilled.

Motion was made by Alderman Leahy, second by Alderman Cross to amend Bill No. 5389 in Section 2, (d), to include that no double parking in the lot or in marked parking areas are to be allowed. All in favor none opposed.

Motion was made by Alderman Leahy, second by Alderwoman Krewson to approve and adopt Bill No. 5389 as amended. Roll call: Alderwoman Clements, 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. 5389 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4079.

Bill No. 5390 – Blighted Area

City Attorney Albrecht gave Bill No. 5390, AN ORDINANCE DESIGNATING A PORTION OF THE CITY OF BRENTWOOD, MISSOURI, AS A BLIGHTED AREA, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5390 as a Bill that would authorize the blighting, as defined by State Statute, of 8750 Manchester Road for creating a Community Improvement District.

Alderman Leahy stated that if the Board is finding that this area is blighting, it is blighting only for the benefit of establishing the CID and not a reflection of the area as a whole as part of the City of Brentwood.

Motion was made by Alderwoman Clements, second by Alderman Robertson to approve and adopt Bill No. 5390. Roll call: Alderwoman Clements, 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. 5390 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4080.

Bill No. 5391 – Formation of CID

City Attorney Albrecht gave Bill No. 5391, AN ORDINANCE APPROVING A PETITION REQUESTING THE FORMATION OF THE 8750 MANCHESTER ROAD COMMUNITY IMPROVEMENT DISTRICT; ESTABLISHING THE DISTRICT AS A POLITICAL SUBDIVISION OF THE STATE OF MISSOURI; AND DIRECTING THE CITY CLERK TO NOTIFY THE MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT OF THE CREATION OF THE DISTRICT, its first and second readings.

Alderman Kramer read a synopsis of a Bill that would approve a petition requesting the formation of a Community Improvement District for 8750 Manchester Road. The District would impose a temporary 1% sales tax to finance certain eligible improvements within the boundaries. The amount being requested is \$1,332,500. It is anticipated that the temporary sales tax would be in place for twenty years to retire the bonds.

Alderman Leahy asked if the bond issue could be amended throughout the twenty years to increase as other or unforeseen costs incur or potentially to constantly maintain maintenance.

Mr. Klahr stated that it is possible. It can only be done with an amended petition that would have to come back to the Board of Aldermen through public hearing and a new ordinance adopted.

Alderman Leahy asked if each amendment would start the twenty-year time frame all over again or would it start from the beginning of this change.

Mr. Klahr stated that the twenty-year time frame would refer only to the specific debt that was being issued. Arguably you could go out beyond that with the tax but not with debt if there were additional costs or projects that the City determines that it wanted to undertake with an expanded district.

Alderman Kramer stated that if there is consideration or in fact ongoing contractual work for the potential of assistance that this body would approve, if that's known earlier than the votes are taken, that at all times ideally they would be made aware of that.

Motion was made by Alderman Cross, second by Alderman Wynn to approve and adopt Bill No. 5391. Roll call: Alderwoman Clements, 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. 5391 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4081.

ACCOUNTS AGAINST THE CITY

Motion was made by Alderwoman Krewson, second by Alderwoman Clements to approve the warrant list dated 7/16/07. All in favor none opposed.

Alderman Leahy asked about the expenditure of \$45,000 to Richmond Heights that the City is paying to allow Brentwood residents to join Richmond Heights Rec Center at a residential rate. This figure was originally \$25,000. Is there any formal agreement as to how high this figure will or can go and is there a way of getting a handle on it?

Mayor Kelly stated that they have debated that issue and there may be some room for negotiation. The original agreement was that the City would pay the difference between the residential rate and the non-residential rate. According to their statistics a number of Brentwood residents are using that facility and the City is still not paying that full amount. They have only been increasing it by a certain amount every year so that the City is not hit with such a large bill at one time.

City Administrator Seemayer stated that they are trying to work it out so that the figure does not exceed 50% of the non-resident portion. In 2006 the non-resident portion of that fee was \$90,000. Of that \$90,000 they are trying not to pay more than half of that.

REPORTS OF COMMITTEES AND DEPARTMENT HEADS:

Mayor's Report

Executive Session/Personnel and Legal Matters

Mayor Kelly announced an Executive Session/personnel and legal matters would be held following the meeting.

Mayor Kelly thanked Ellen Dailey and Chris Seemayer for working on a grant application through MoDOT. There was a \$1 million available to be used to try to get information out about businesses and drivers during the Highway 64/40 construction process. The City got together with Richmond Heights, Clayton and Maplewood, put in a joint application, and was able to attain over \$400,000 of that \$1 million grant. They will be able to use the money to promote the businesses, inform them of the construction and encourage people to continue to shop in the area. Mayor Kelly stated that he was at one of the restaurants on Eager Road last Saturday evening and they said that their sales in the last eight months are half of what they were a year ago. This was their best store in the St. Louis region. They had their worse Friday ever last Friday night. The manager felt that it was due to a lot of misinformation in telling people that the traffic is so bad in this area when in reality there has not been a significant change. A lot of their patrons

come from the Illinois, City of St. Louis area, etc. Their patrons have told them that they are not coming as often because they are worried about the highway conditions.

Public Safety Committee – No report

Public Works Committee – No report

Director of Planning and Development – No report

Ways and Means Committee – No report

City Attorney – No report

City Clerk/Administrator – No report

Excise Commissioner – No report

Library – No report

Municipal League – No report

Communication

Director of Communications McCarthy came before the Board and stated that they have the resurrection of the Brentwood Business Beat, which will start soon. The new host will be Jonathan Morgan.

During the last year and a half the support of our troops in the military was cut short through no fault of theirs but more of budgetary constraints by the Air Force, Navy, Army and Marines when their video programs stopped. The Army has since come back, but they have been approached within the last weeks by a new organization, which is a joint military branch, which distributes information about all branches. It is done by portable satellite transceivers from all over the world. They have assured them that they can actually go out in the fields, if they are presented with the units and the addresses of Brentwood troops that are in the military, and do live interviews with them for the holiday season and so on which is at no cost to the City.

Alderman Wynn stated that it has been ten years since the City started the cable show. He thanked Mr. McCarthy who has been a big part in the development of the channel. It has become a big part of Brentwood.

Insurance Committee – No report

Historical Society – No report

UNFINISHED BUSINESS

Alderman Leahy stated that he would like to go back to the minutes from last month's meeting. He requested again that the Board contact, as a City, the Swim Club and ask for some information concerning their intended future usage of the property that is in question. He is being asked to do this by members of the Swim Club that feel that not all the information is coming to the table. It is their understanding that there is a conglomerate of members that would like to see the Swim Club sold and the property liquidated. This group would not like to see that happen and they would like to have the City approach the trustees and ask them if they are headed down this roadway.

Mayor Kelly stated that he believes it is in the indentures of the Swim Club that they cannot sell their share because it is a non-profit organization.

City Attorney Albrecht stated that he is a member of the Swim Club. Several years ago when the board was looking at options as far as capital expenditures and upgrading there was periodic discussions by people saying what about selling. He believes they obtained an opinion from an attorney who told them that there would be very significant tax consequences because it has been operating as a not-for-profit organization since the 1960s. During that period they have been collecting annual dues and fees without having any tax consequence. He does not know anything about that aspect of the tax law but to his knowledge he does not think there is anything going on right now in terms of any proposed distribution of the property. Any member is certainly welcome to attend any board meeting and ask those questions of the board members. The board is very actively trying to increase membership at this time.

Mayor Kelly stated that he does not know if that has any bearing on the decisions that they are going to be making and what business is it of the City's. They do not go around asking residents, businesses, property owners what their future intents are for their properties.

Alderman Leahy stated that the best he could do is make the motion as he did last month with no action taken because there was no second. His comment to the Swim Club members was that he would be happy to raise the issue again.

There was no second to Alderman Leahy's motion.

NEW BUSINESS

Ward 3 meeting will be held on Tuesday, July 31st at 7:00 p.m. Council Chambers.

The Brentwood Police Department in conjunction with the National Night Out Against Crime is Tuesday, August 7th at the Brentwood Swim Club facility from 6:00 p.m. to 9:00 p.m. It is an entire citywide event. He encouraged families to come out. There will be a flashlight parade around the neighborhoods between 8:30 and 9:00 p.m.

Recess

Motion was made by Alderwoman Clements, second by Alderman Robertson to recess the meeting at 8:45 p.m. All in favor none opposed.

Motion was made by Alderman Robertson, second by Alderwoman Krewson to reconvene the meeting at 8:49 p.m. All in favor none opposed.

Executive Session/Personnel and Legal Matters

Motion was made by Alderwoman Clements, second by Alderman Leahy to enter into an Executive Session on personnel and legal matters at 8:50 p.m. All in favor none opposed.

After discussion, with no action taken, motion was made by Alderman Wynn, second by Alderman Leahy to return to open session at 9:17 p.m. All in favor none opposed.

ADJOURNMENT

Motion was made by Alderman Wynn, second by Alderman Leahy to adjourn the meeting at 9:18 p.m. All in favor none opposed.

Pat Kelly, Mayor

Attest:

Chris Seemayer, City Clerk