

## **MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING**

City Hall  
Council Chambers

June 16, 2008  
7:00 p.m.

The Mayor led with the Pledge of Allegiance.

Roll Call

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

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

**ABSENT:** None.

### **CONSIDERATION AND APPROVAL OF THE AGENDA OF THE REGULAR BOARD OF ALDERMEN MEETING OF JUNE 16, 2008**

Motion was made by Alderwoman Clements, second by Alderman Leahy to approve and adopt the Agenda of the Regular Board of Aldermen meeting of June 16, 2008. All in favor none opposed.

### **CONSIDERATION AND APPROVAL OF THE MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING OF MAY 5, 2008**

Corrections:

Page 3, third paragraph, second line, replace "someone" with "no one".

Page 13, paragraph 3, replace "emissions" with "omissions".

Motion was made by Alderman Leahy, second by Alderman Wynn to accept the Minutes of the Regular Board of Aldermen meeting of May 5, 2008 as amended. All in favor none opposed.

### **CONSIDERATION AND APPROVAL OF THE MINUTES OF THE SPECIAL BOARD OF ALDERMEN MEETING OF MAY 15, 2008**

Motion was made by Alderwoman Clements, second by Alderman Leahy to accept the minutes as submitted.

Alderman Kramer stated that the minutes refer to a counter offer. He asked City Attorney Albrecht if it should be more specific or just referred to as a counter offer.

City Attorney Albrecht responded that it could be referred to as a counter offer, but it really was not a counter offer. It was a request for a price adjustment.

Alderman Kramer asked if the property has closed yet.

City Administrator Seemayer responded no.

Alderman Kramer asked if they could be more specific in the minutes and stated that it was a request for concessions versus a counter offer.

Mayor Kelly requested that the motion and second be withdrawn.

Alderman Leahy withdrew his second and Alderwoman Clements her motion.

Motion was made by Alderman Kramer, second by Alderman Leahy to amend the minutes to read "reject Manning's request for concessions for the purchase of 808 Hanley Industrial Court". All in favor none opposed.

Motion was made by Alderwoman Clements, second by Alderman Leahy to approve the Minutes of the Special Board of Aldermen meeting of May 15, 2008 as amended. All in favor none opposed.

### **PRESENTATION OF CERTIFICATE OF FINANCIAL ACHIEVEMENT AWARD**

Mayor Kelly announced that he had a presentation to make to Karen Mosby, Finance Officer who has just completed her first year as Finance Officer for the City of Brentwood. He read and presented a plaque to Ms. Mosby for a Certificate of Achievement for Excellence in Financial Reporting, which was presented to the City of Brentwood, Missouri for its comprehensive annual financial reporting for the fiscal year ending December 31, 2006. This is the eighth year in a row that the City has received the award. The City has an outstanding staff in the accounting department. It is one of the things they pride themselves on making sure that they oversee and expend the funds of the public in the proper ways. He congratulated Karen Mosby and staff on receiving the award.

### **PROCLAMATION – YOUTH ART MONTH**

Alderman Wynn stated that he is very happy that the Mayor asked him to read the Proclamation for Youth Art Month. Having taught in the Brentwood Schools for 33 years and seeing all the artwork, talent, and what it has done for the children, he is more than happy to read it. The Proclamation for Youth Art Month is attached to the minutes.

Mayor Kelly stated that as part of the annual celebration for Youth Art Month certificates are presented to the students that have artwork displayed in City Hall throughout the year.

Mayor Kelly presented certificates to the students that attended the meeting.

**BIDS – NONE**

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

Public Hearing – Amendment to O.B. Clark’s Conditional Use Permit

Mayor Kelly announced a Public Hearing for an amendment to the Conditional Use Permit for O.B. Clark’s would now be heard at 7:15 p.m.

Director of Planning and Development Dailey came before the Board and stated that the request is for a deck addition and parking expansion for O.B. Clark’s restaurant. The business is currently operating under and in conformance with the conditional use permit approved by the Board of Aldermen on January 4<sup>th</sup>, 1999. The home at 8807 Lawn Avenue will be demolished as part of the project to facilitate the parking lot expansion as required by the January 1999 conditional use permit. The request is for site plan and conditional use permit amendment approval and the Planning and Zoning Commission recommended approval of this request at its May meeting.

Mayor Kelly asked if there were any comments from the audience.

Chuck Sanders – 1923 Parkridge Avenue came before the Board and asked that they positively consider the request from O.B. Clark’s. He is proud to have previously served on the Board of Aldermen. At that time, it was necessary that O.B. Clark’s move their location because of the development of Brentwood Square. They moved and after obtaining the necessary permits and licenses, the conditional use permit came before the Board. Substantial research went into this question and a glaring majority was in favor of their relocation. He was very proud to cast the first vote to approve the relocation that was followed by a majority of the Board. They had done extensive research to find out that everybody was in favor of moving the restaurant that had been located in Brentwood Square for 25 years and had been nothing but a positive to the city of Brentwood; absolutely no problems whatsoever. O.B. Clark’s has gone on at their new location to continue to contribute to the positives of the community and to portray nothing but a fine restaurant with excellent service where friends and family can meet and enjoy the atmosphere and the ambiance of the proud city of Brentwood. He encouraged the Board to favorably support their continued success and contribution to the city of Brentwood.

Jim Howe – 8773 Brentwood Place came before the Board and stated that he is also Chairman of the Board of Adjustment and a member of the Planning and Zoning Commission. He is here as an individual to encourage the members of the Board to approve the change to the conditional use permit for O.B. Clark’s. The proposed addition

of a deck is a fine new amenity to the city of Brentwood. He knows Mr. O'Brien and his sons Joe and Jim and they are wonderful people. He cannot imagine that there is any good reason not to vote for it.

Catherine Genetti – 8819 Lawn Avenue came before the Board and stated that her property is the closest to O.B. Clark's. Everybody realizes that the O'Briens' are a lovely family and run a nice business. They have been better neighbors than she anticipated they would be when they moved in. She cannot believe that there is anybody here who would want an outside bar venue in their back yard, 150 feet from their property. She debated coming tonight because she knows what the outcome will be. O.B. Clark's will be allowed to have a deck added to their business. Rather than becoming another apathetic citizen of Brentwood she thought it was important that she come and speak her voice again, even though she did that at two previous P&Z meetings, and even if it falls on deaf ears. The O'Briens' have become good friends of her family. Her son, Joe and Edward have become very close. She also like outside venues but does not want the noise of an outside bar in her back yard. The noise will most definitely infringe on her privacy, property and will damage the value of her home. Previously she shared information at the Zoning Commission meeting from Dr. Bill Clark of Central Institute of the Deaf who specializes in noise related issues. The information she received from him said that the noise levels would exceed the zoning ordinance but that seemed to fall on deaf ears at the Zoning Commission meeting. Elizabeth McDonald, her neighbor, had a report completed, which indicated that her home would be decrease in value by 3 to 5% due to the deck. The zoning ordinances indicate that a decrease in property value should not be considered or allowed, but again it will be allowed. It is hard to believe that any one of you would be happy with this kind of venue right outside your bedroom window. 3 to 5% is a big loss and that is what she will be incurring. Her home is her biggest asset and it is all she has. It is very frustrating to feel that the zoning ordinances might only apply for groups of five or more but as one or two citizens those ordinances do not apply. If any of you believe in the golden rule of do unto others as you would have them do unto you, she does not think that you would vote to have this in your back yard. She asked the Board of Aldermen to vote "no" on the amendment.

Barbara Dorries – 2610 Helen Avenue came before the Board and stated that they have lived there for 33 years. She is a very proud resident and is glad to be in Brentwood. She would be honored to have her house next door to O.B. Clark's. She cannot understand anybody not welcoming them into the neighborhood with open arms. She hopes the Board and everybody agrees with O.B. Clark's being a good part of Brentwood and a welcome addition in any setting.

Elizabeth McDonald – 8823 Lawn Avenue came before the Board and stated that her home is one of the homes that will be impacted severely by this outdoor dining venue. Her home is 140 feet from the property line. She attended the Planning and Zoning Commission meetings and stated her objections and concerns that the deck would damage the value of her home. It was described to them by the O'Briens' that they expected the capacity of this deck could be 50 or so people at a time. The voices will carry. The noise ordinances states that you cannot make noises that go beyond the lines

of your property. This will not be an occasional noise. This will be a business running seven days a week. It will most definitely infringe on the peaceful enjoyment of her property. She has a right as a property owner to have a peaceful enjoyment of her property. She thinks that Catherine Geneti was expressing that the citizens who live in the smaller homes, two-bedroom houses near Brentwood Boulevard, feel that they are just fly over country to many of you and their rights are not considered. They have rights under the zoning code ordinances. Number 8 on the standards for issuing a conditional use permit states that you cannot issue a conditional use permit if the use will damage the value of neighboring properties. She explained that to the P&Z Commission and submitted a letter from Mueller & Neff at the May 14<sup>th</sup> meeting, which stated that she was having an appraisal and report done on her property. She distributed copies of the documents to the Board. On the top page is a petition with the signatures of all homeowners who live in the first block of Lawn Avenue from Brentwood Boulevard who oppose the noise and other concerns. The second page is a letter dated May 14<sup>th</sup> from Robert Mueller, Mueller & Neff Real Estate Appraisers and Consultants who had determined that the proposed expansion of O.B. Clark's would impact the value of her property. She distributed his complete report. Page 2 explains the purpose of the report, which was to estimate the market value of her property and to research and report on how the subject property might be affected by proposed improvements to O.B. Clark's property. Page 5 concludes that the conditional use permit indicates hours of operation would be until 1:30 a.m. Monday through Saturday, and until Midnight on Sunday. This is expected to result in increased noise that will have a negative impact on the subject property. Their research indicates that this will adversely affect the subject property an additional 3 to 5%. Currently, Mr. Mueller values her property at \$175,000. Based on the information, she does not think there is any reason the Board can consider this proposal because they cannot damage her to this extent. There is no reason for her to lose any money for commercial interests. When it is being done to a special friend of the city and when it affects their property to this extent she believes the Board cannot consider it. The O'Briens' are in this situation because they chose to put their business in an inappropriate location. The building itself sits up against Brentwood Boulevard, so they do not have the option of doing what many people do. They had mentioned Hacienda Restaurant at the last meeting and that they would like to be able to compete with these outdoor venues. If you look at where these restaurants are built such as Hacienda you will see that they are sitting back from the road and facing the commercial property on Manchester Road. They are not facing residential property, which is the situation here. This deck would be located on the second level, which is directly facing their homes. She asked the Board to postpone a vote on the amendment to the conditional use permit and take some time to review the material. She spent money to have the report put together and resents that she had to do that to try to defend her home but it seems to be necessary. It should have been obvious from the beginning that O.B. Clark's has limitations on the property, which are just inherent to where they chose to place themselves. They should not be made to suffer and to cause loss in their homes and the use of their property.

Mr. Howe stated that he could appreciate the fact that Mrs. Geneti did not expect that they would want to put a deck there. With all due respect to Ms. McDonald, he is not

sure if she had an appraisal done or whether it was just an opinion of the appraiser. He has been a real estate broker for 23 years. He owns and has owned several pieces of properties in the city of Brentwood, residential and commercial. For someone, an appraiser or otherwise, to say that you might lose 3 to 5%, as most appraisers will tell you that their appraisal is nothing but an opinion of value on a certain date, at a certain time and beyond that that's all it is. In his opinion, if he owned a two-bedroom home, one bath, next door to O.B. Clark's or next door to their parking lot, it would raise the value of his property. If he had an opportunity to buy a piece of property next to O.B. Clark's he would buy it. He is not sure that the decrease in value of property is a valid argument.

Rita Boshans – 8929 Lawn Avenue came before the Board and stated that she has served on the P&Z Commission and the Board of Adjustment. She was at one of the P&Z Commission's meeting and Mark Kurtz made a very important point when he said that you could not control the noise. She stated that you could control the noise by denying the conditional use permit. In the Zoning Code, which was constructed when she was on the P&Z Commission deals with the issue of the expansion of a nonconforming use. This is the expansion of a nonconforming use as far as she is concerned. She understands that the city attorney or someone had said they are not going to expand on the Brentwood Boulevard side. It was explained to them when this ordinance was written that in order to redevelop property you could not expand a nonconforming use so that the property could be redeveloped in such a way as to make it conforming.

Joe O'Brien – O.B. Clark's came before the Board and thanked the Board as well as City officials. He stated that it is eight years since he was before the Board. This July will not only be eight years at 1921 South Brentwood but it will be their 30<sup>th</sup> year in operation in the city of Brentwood. That is important to him and his brother. The City of Brentwood and the people in Brentwood have been good to them. They have met some wonderful people. He understands the concerns. In the P&Z meeting they made some concessions as far as hours of operation. They have a gentleman that monitors the parking lot and if it seems that somebody is being loud he can inform them and they will address that issue right away. They will make sure they are on top of it at all times. Are they perfect neighbors? Probably not, but he thinks they are good neighbors. He and his brother are very approachable to anybody on Lawn Avenue or in Brentwood if they have concerns. Whether it would be doing something with the elementary school or giving something to some type of project, they have been there for the community. Mr. O'Brien stated that the entire burden is on them. If things are not going well they will be before the Board explaining themselves on why they failed to do certain things. He feels confident that they can get things done. Given the fact that they are approachable and have been in Brentwood for 30 years, he would like to believe that they are going to do a wonderful job at handling this situation.

With no further comments, Mayor Kelly announced the public hearing closed at 7:41 p.m.

Mayor Kelly stated that under the conditional use permit people will only be allowed to be on the deck until 11:00 p.m. weekends and 10:00 p.m. on the weekdays, not 1:00 a.m.

in the morning as was commented. The conditional use permit also states that there will no televisions or audio equipment on the outside, meaning no radio broadcast, etc. The other thing that is important is that it is not transferable. If the O'Brien family decides to sell this establishment and move to a new location a new user couldn't come in and reopen the bar without coming before the Board for a completely separate conditional use permit. Those are key components the P&Z Commission put in the conditional use permit to try to protect the integrity of the neighborhood and work with the O'Brien family for the success of their business at the same time.

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

Shirley Ferguson who lives at the corner of Rosalie and Swim Club Lane along the abandoned streetcar right of way came before the Board and stated that more than three years ago she appealed to Alderman Wynn after she saw her neighbor to the north had built a garage on a section of easement formally known as Central Avenue. They had first tried to acquire their easement in 1967, so she decided it was time to try again. In 2005 she spoke to Alderman Wynn who encouraged her to have the property that she wanted surveyed which she did in 2005. In the spring of last year she asked him what was happening with her appeal. Mysteriously, somehow Alderman Wynn morphed into Alderman Marshall, so she had to deal with Alderman Marshall from then on. In dealing with him from the very start he has insisted that the City will never give up any easement, although they had already done so in the case of her neighbor. Incidentally, Alderman Marshall has raised an objection to her in the Pulse using the name of her neighbor on the sign that she put up on her corner, so she will heretofore refer to her by her real estate locator #. She officially appealed to Alderman Marshall's Ways and Means Committee in April of 2007 and has yet to get any resolution, although Alderman Marshall has pressed for a resolution for Mrs. 21k5412900. Now according to public real estate records in Clayton the description of 21k5412900 property is resubdivision block 3, lot 1, plus Central Avenue vacated part, so it looks like there has already been a resolution in her case. Why is there no resolution for her? All of the easements along the right of way have either been taken by the City or maintained by the City, owned by adjoining property owners. This leaves her 150-foot stretch as the only unassigned section. Why must she be left in limbo? Does the City have big plans for this 25-foot right of way? She does not think that the City should be so eager to serve the interest of a private business ahead of a taxpayer/homeowner in a residential area. Attorney Beimdiek has suggested vacating from Rosalie Avenue to White Avenue as an easy solution. After she paid \$650.00 for her survey, encouraged to do so by Alderman Wynn, he says, "well, we really don't have to do anything". She appealed to the Board to arrive at a fair settlement of this matter before it becomes more of a public spectacle than it already has.

Christine Sandford – 13 Stratford Lane came before the Board and stated that she has been at this address for 11 years. She is before the Board to share her experience in dealing with the storm water drainage problems at McGrath School. On May 26<sup>th</sup>, at 6:20 a.m. the Brentwood Fire Department responded to her call because of the flood in her home. Damage included the loss of her Subaru forester, major repairs to her furnace

and hot water heater, lost appliances and other property. She has also incurred the expense of a replacement car, sales tax, insurance deductibles, etc. She was unable to stay in her home for a couple of days. Other neighbors' homes were flooded in the same way but hers received most of the water this time. What adds to the extreme stress of this situation is that this is not the first time that such a flood has happened. In July of 2004, she had 18 inches of water in her basement. She informed the Brentwood School District of the problem at that time. In the spring of 2005, the City of Brentwood took the initiative to replace one of the two inlet grates with a platform drain. A week ago Friday the Public Works Department came again to clean the debris from the clogged inlet grate or another flood would have ensued. Over the years she or her son-in-law have cleaned debris from these inlets. The City has copies of her correspondence with the Brentwood School District. She very much appreciates the City's efforts in response to the storm inlet problem at McGrath School. It is very stressful each time the storms are predicted. She requested that City administration do all that is possible to urge the Brentwood School District to make this inadequate storm water inlet problem a priority for immediate repair, and also that the City work with the Brentwood School District to ensure that the district recognizes its responsibility to the community extends beyond teaching and learning.

Helen Miller – 15 Stratford Lane came before the Board and stated that she has lived at this address since 1987. She has had three catastrophic floods in her basement. The City has had special pickups from her house about three or four times of things that had been destroyed. She did not know anything could be done about it. She reinforced what Christine Sandford said because she appreciates her doing something about it.

Mayor Kelly stated that in response to Christine Sandford's comments the City has done some things to try to rectify the situation at McGrath School. It is his understanding that the school district is having an engineer look at the situation to try to resolve the issue. It is also his understanding through Ms. Sandford's efforts that MSD is looking at the issue as well. He assured her that the City would follow up to see what the status of that is. Alderman Marshall stated that Ms. Ferguson asked for a resolution. He believes a resolution was reached and the City sent her a letter stating that.

City Administrator Seemayer stated that an email was sent to Ms. Ferguson after the Public Works Committee met about a month ago which dealt with the other property. They did not take any action on the request at that time.

Alderman Marshall stated that he was under the impression that they had decided not to grant the easement.

City Administrator Seemayer stated that they took no action on it. They talked more about the other property at that meeting.

Alderman Marshall stated that the neighbor did not say that she did not want her name used on the sign. He did not think it was appropriate. He is an elected official and if Ms. Ferguson wants to put his name in big letters on the corner he does not have a problem

with it but private citizens who have done nothing wrong he does not think it is appropriate.

Alderman Leahy asked for clarification from the Public Works Committee on whether they have received a response from Mrs. Barnes on the specifics of whether the property was vacated and filed.

Mayor Kelly responded that is a different issue than Ms. Ferguson's issue.

Alderman Leahy stated that he does not recall if they have taken a formal vote on anything. He believes City Administrator Seemayer might be right that they left it at taking no action at the time.

Alderman Robertson stated that they did not take a vote.

Alderman Marshall asked where they stood on the issue for Ms. Ferguson. Are they not going to grant her that easement?

Alderman Robertson responded that was what they talked about at the meeting.

Mayor Kelly stated that the Public Works Committee has not forwarded anything to the Board. In that case, they were not going to vote at all.

City Administrator Seemayer stated that they are waiting until they receive some information on the other situation, which was not related to that one.

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

Motion was made by Alderwoman Clements, second by Alderman Marshall to give Bills No. 5442, 5443, 5444, 5445 and 5446 first and second readings. All in favor none opposed.

City Attorney Albrecht gave Bill No. 5442, AN ORDINANCE PROVIDING FOR THE INSTALLATION OF ONE (1) ADDITIONAL FIRE HYDRANT IN THE CITY OF BRENTWOOD, MISSOURI, its first and second readings.

City Administrator Seemayer stated that the fire hydrant would be installed at 2315 Hill Drive. Missouri American Water was installing a new water main in that area and that was the appropriate time to have another hydrant installed because there is no cost to the City at that point. It was at the recommendation of Fire Marshal Kurtz.

Alderman Leahy asked if the City has an ordinance that prevents or makes it a violation for someone to tamper with a fire hydrant and open it on their own free will versus the fire department working it directly.

City Administrator Seemayer stated that it is a violation either through St. Louis County ordinance or the City of Brentwood's for anyone to tamper with a fire hydrant other than authorized personnel or others with a permit.

Alderman Kramer read a synopsis of Bill No. 5442 as a Bill that would authorize the installation of a fire hydrant at 2315 Hill Drive as requested by the Fire Marshal Kurtz.

Motion was made by Alderman Robertson, second by Alderwoman Clements to approve and adopt Bill No. 5442. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5442 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4129.

Bill No. 5443 – Through or Major Streets

City Attorney Albrecht gave Bill No. 5443, AN ORDINANCE AMENDING CHAPTER 14 OF THE REVISED CODE OF ORDINANCES OF THE CITY OF BRENTWOOD, MISSOURI BY ADDING TWO (2) NEW PARAGRAPHS TO SECTION 14-1030, SCHEDULE DD, AS IT RELATES TO THROUGH OR MAJOR STREETS; 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. 5443 as a Bill that amends our traffic code by adding a stop sign on westbound Strassner Drive at 1241 Strassner and eastbound Strassner Drive at 1270 Strassner. This location is in the Hanley Station development and the stop sign is to allow a crosswalk between the pool complex and the south side of the development and to allow cars safe access to Strassner from the south parking garage.

Alderwoman Clements stated that the Mayor had pointed out to her that these stop signs were originally planned in the Hanley Station master plan and now that Hanley Station is almost complete the stop signs are being installed. The Public Safety Committee spoke on the phone about the stop signs. They did not have a meeting. Alderman Robertson is all for the crosswalk but not for any more stop signs in the city of Brentwood.

Alderman Marshall asked if the streets for the development have been dedicated to the City.

Mayor Kelly responded yes.

Motion was made by Alderwoman Clements, second by Alderwoman Krewson to approve and adopt Bill No. 5443. Roll call: Alderwoman Clements, yes; Alderman Marshall, no; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, no; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5443 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4130.

Bill No. 5444 – Vacating a Portion Strassner Road Right of Way

City Attorney Albrecht gave Bill No. 5444, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE ALL NECESSARY DOCUMENTS ALLOWING THE CITY OF BRENTWOOD TO VACATE A SPECIFIC PORTION OF STRASSNER ROAD RIGHT OF WAY ADJACENT TO 808 HANLEY INDUSTRIAL COURT; AND, PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second reading.

Alderman Kramer read a synopsis of Bill No. 5444 as a Bill that vacates a portion of city right of way in front of the former public works building at 808 Hanley Ind. Ct. The right of way area has been used as part of the public works facility since the building was constructed and is being done to accommodate the sale of the property.

Motion was made by Alderwoman Clements, second by Alderman Marshall to approve and adopt Bill No. 5444. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5444 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4131.

Alderman Kramer asked about the closing date and the owner being allowed to put signage up.

City Administrator Seemayer stated that the owner requested the signage knowing that the outcome is still pending and it was approved for him to put signage up. They have to have the vacation recorded which will be done tomorrow and then he will close within 14 days of the recording.

Alderman Kramer asked if the City has any responsibility for the moving of the fence.

City Administrator Seemayer stated that the City would remove the fence at the time that road improvements are made as part of that project. There are some designs being made to improve that intersection which includes going inside the current fence line, which the owner is aware of. That would be at the expense of the project through the Strassner Road TDD.

Bill No. 5445 – Amending O.B. Clark's Conditional Use Permit

City Attorney Albrecht gave Bill No. 5445, AN ORDINANCE GRANTING AN AMENDMENT TO A CONDITIONAL USE PERMIT TO ED O'BRIEN, d/b/a OB

CLARKS, WHICH PERMITS UNDER CERTAIN CONDITIONS THE USE OF CERTAIN DESCRIBED PROPERTY FOR A DECK ADDITION, IN CONJUNCTION WITH THE OPERATION OF A SIT-DOWN RESTAURANT; 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. 5445 as a Bill that would amend the Conditional Use Permit issued for O.B. Clarks by allowing a deck addition. This matter was reviewed and approved by the Planning & Zoning Commission. The amendment to the Conditional Use Permit requires a public hearing prior to consideration.

Alderman Wynn stated that he was on the Board when this came up and he voted against it. O.B. Clark's has been a very good tenant. They have not had any problems. He congratulated them on that. It is not a matter of right or wrong. Living on Eulalie Avenue he would not want a restaurant close to his house with outside dining until 9:00 or 10:00 p.m. every night. A lot of issues are controlled when you are inside. When you are outside the noise expands to wherever it wants to go. He would not want to live next door to those conditions seven days a week. He has nothing personal against the O'Briens'. They run a good business and he would vote for anything for the business. He would oppose the amendment on these grounds.

Alderman Kramer stated that he was not yet on the Board when this was approved. He has been on the Brentwood Forest Board and they have enjoyed a very positive experience with the O'Briens'. They have been outstanding neighbors to Brentwood Forest and certainly many of their residents had the opportunity to visit O.B. Clark's. They have an active visible policing of their parking lot by Mr. J.T. The arrangement that they had with Brentwood Forest, have had, and will have for some time, is the easement, which has been quite satisfactory to both parties. At the egress and ingress across from the Kinko's store there was originally a right in and a right out, an island which has since been removed. Was there an original agreement?

Mr. O'Brien responded that it was an original agreement. People were driving over it mostly to go to Brentwood Forest and it was removed.

Alderman Kramer stated that the question has been raised regarding the capacity of the patrons. Someone spoke about it being about 50, is that correct?

Mr. O'Brien responded that according to the square footage they are thinking it will be about 35 – 40 45.

Ken Burns - Architect for O.B. Clark's came before the Board and stated that the area of the deck is 810 square feet. Specifically they are not doing any drink rails or any standup kind of beverage consumption. This is a sit down type situation. In that venue normally you can assume 12 to 15 square feet per person. Based on that it would be anywhere from 45 to 50 people.

Alderman Kramer stated that theoretically the capacity numbers are derived from the amount of patrons that would be seated around tables on the deck.

Mr. Burns responded yes. If you compared it to Hacienda where they have the bar and the standup area you would be looking at a density of, conservatively speaking, seven square feet per person. They are not looking to go anywhere in that category.

Alderman Kramer asked if any patrons would be allowed to use the deck if they are not seated at a table.

Mr. Burns stated that the furniture design and everything else is not encouraging it.

Alderman Kramer stated that some of the neighbors are asking if it got to a situation where there was a pronounced use of the deck by standup patrons would the O'Briens' do their best to control or stop it.

Mr. O'Brien responded yes.

Alderman Kramer asked if cars would be allowed to park underneath the deck.

Mr. Burns responded no. The columns supporting the deck are going to be protected by concrete posts and wheel stops.

Alderman Kramer stated that Ruby's Brentwood Inn, now Sports Attic has or had a deck in their rear area that they have used successfully for a period of time. It is not adjacent to residential. However they had some latticework installed around the railing, the perimeter of the decking. He asked if it is something that the O'Briens' would consider.

Mr. Burns stated that the issue came up in the P&Z review. In an outdoor dining venue many things have to be considered. The most successful periods of outdoor dining are spring and fall or into early summer and late summer. Doing any kind of latticework was not going to have any beneficial impact on any sound transmission issues. The lighting that they are proposing is designed to be in a down fashion with controlled type beams. If it did prove that there were any kind of concerns being voiced about the impact of this operation as expressed by the neighbors he thinks that the Board knows enough about the ownership and the management and the methodology by which the restaurant is managed that they would certainly be willing to deal with those issues and abate them in any way they could. There is a substantial amount of distance from the deck to where the property line is of about 120 feet. Looking at the decibel of things at play, just by virtue of dead space and distance there is a notable fall off in the volume level before it gets to the property line.

Mr. O'Brien stated that it is a seasonal deck. If it is 70 degrees in December they are not going to raise the tables on the deck.

Alderman Kramer stated that he and Alderwoman Krewson approached the Brentwood Forest Board about this topic. Noting the hours that are stated as proposed, not speaking for Alderwoman Krewson, he believes they are willing to see how this would work out based upon their past relationship and look forward to a great trial.

Alderman Leahy stated that he is willing to give them the benefit of the doubt as a trial effort. He does not know what their building costs are and he knows that it is not cheap. He is very grateful for the arrangements they have worked out with everybody in their years in Brentwood, but he would perceive that if this becomes a problem how amenable are the O'Briens' to reevaluating this opportunity.

Mr. O'Brien stated that it is a very large investment on his family's behalf, so they would do everything humanly possible to make sure that they maintain it in an orderly fashion.

Alderman Harper stated that he walked around the area this afternoon, although he is already familiar with that stretch of the street. He is assuming that the addition of the deck is to make O.B. Clark's competitive with some of the other restaurants in the area.

Mr. O'Brien stated that it is to remain viable. They do not want to leave Brentwood. In the summertime their business tapers off dramatically. They are more of a winter venue. There are neighboring restaurants that attract many of their customers and they are just trying to keep the customers that they have with the idea of the deck.

Alderman Harper stated that he could understand the residents concerns about noise and traffic. His property backs up to the high school football field, so he is familiar with the PA system, hundreds of people on the track and field, bright lights shining in his backyard and it has not affected his property value. Not that it is the same as having a bar on your street but there are some similarities and even some louder noises coming from the football field during football season and girls and boys soccer season. The field is in continual use and he has not seen it affect their property values. He was glad to see the O'Briens' make some concessions with the time frames that the deck will be open and the fact that there is no music or p.a. system in that area. That really shows a good faith effort to be amenable to the residents and to that area.

Alderwoman Clements stated that the information states the landscaping missing or dead will be replaced. Is there any plan for landscaping on the west end that could possibly contribute to being noise abatement?

Mr. O'Brien responded yes. There will be some soldier type trees planted side by side.

Motion was made by Alderman Leahy, second by Alderman Marshall to approve and adopt Bill No. 5445. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, no; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5445 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4132.

Bill No. 5446 – Sunday Liquor Sales and Consumption

City Attorney Albrecht gave Bill No. 5446, AN ORDINANCE AMENDING CHAPTER 3 OF THE REVISED CODE OF ORDINANCES OF THE CITY OF BRENTWOOD, MISSOURI BY DELETING SECTION 3-8.1(a) IN ITS ENTIRETY AND ENACTING IN LIEU THEREOF A NEW SECTION 3-8.1(a), AS IT RELATES TO SUNDAY LIQUOR SALES AND CONSUMPTION; 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. 5446 as a Bill that amends our municipal liquor code by adding a new section to Sunday sales. The new section would allow the sale and consumption on the premise for hotels with 40 or more rooms without the requirement of having a restaurant with food sales. The language for the amendment was taken from the State liquor code. Public Safety Committee reviewed and approved this amendment to the liquor code.

Motion was made by Alderwoman Clements, second by Alderman Marshall to approve and adopt Bill No. 5446. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5446 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4133.

Resolution No. 947 – Extending the Sunset Clause Deadline

Alderman Kramer read synopsis of Resolution No. 947 as a Resolution that extends Resolution No. 943 which set certain guidelines for exempting ARB review of decks, fences, window replacements and roof shingle replacements on existing residential dwellings. If approved, this Resolution would be effective through June 30<sup>th</sup>, 2009.

Alderman Marshall stated that he has spoken to Director of Planning and Development Dailey and they had a situation with a house that has sold twice and has been allowed to keep the railing on the deck, which is a safety hazard. They need to look at, as far as when they are approving an occupancy permit, having the future owner and seller negotiate something to have it replaced. One of the comments that were made to him was that it was grandfathered. Working with St. Louis County with the swimming pool issues they were told that in matters of public safety the grandfather clause does not apply. He would like to see the City of Brentwood look at this and see about changing the way the inspections are done.

Mayor Kelly requested the Public Works Committee review it at their next meeting.

Alderman Leahy asked why would this resolution be preferred over making an ordinance exempting these items from ARB versus going to sunset clause. Is there a reason they have not come to a full conclusion.

Alderman Kramer stated that his understanding is that the topic of a more comprehensive rewrite of the ARB guideline itself would include these items. He believes that they were going to undertake an ongoing set of recommendations from the ARB's set of historical practices which in the beginning they didn't have and some recommendations from the City's building department as far as other municipalities and perhaps what problems they may or may not have with these particular items. Initially they had to have special review of some items that residents came forward with the City and said the review was taking too long, so they undertook an exception at that time and have been extending it since then. His guess is that perhaps when the ARB has time and the building department has an opportunity for exploration they will have a rewrite that will encompass these items and not have to do an extension.

Alderman Leahy asked if there is a timeframe for this to be accomplished. Would going to an ordinance form covering these issues clear up some of this right now?

Alderman Kramer stated that he believes it would, but he does not know that everyone is in agreement with every one of these items and that therein lies the delay.

Alderman Marshall stated that one of the other concerns was, and it was brought up by a resident who wanted to build a deck on the back of his house, it had to go through ARB and he was concerned that it was going to cost him more than he wanted to spend as far as getting architectural plans drawn up for a deck.

Alderman Leahy stated that he is not aware that in our ARB requirements plans are called for but those plans are not required to be certified architectural plans, they just have to be sufficient enough to express what is going on in the limitations of the construction.

Alderman Marshall stated that does not apply to these items and that was the concern. Depending on how this Board put together the legislation it could impact that resident as far as having to get architectural plans.

Alderman Robertson stated that these items should be permanently exempted from the ARB review. They have agreed since they have the exemption now that there is no place for that. An updating of the issues is good but they should make it permanent.

Motion was made by Alderman Leahy, second by Alderman Wynn to approve and adopt Resolution No. 947. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

**ACCOUNTS AGAINST THE CITY**

Alderman Kramer asked about the description of legal services and the concrete/rock on the warrant list.

City Administrator Seemayer stated that the legal services are for two months of service from City Prosecutor Shelton. The charge for Breckenridge Material Company is for concrete work/slab replacement in Hanley Industrial Court.

Motion was made by Alderman Marshall, second by Alderwoman Clements to approve the warrant list dated 6/16/08. All in favor none opposed.

**REPORTS OF COMMITTEES AND DEPARTMENT HEADS:**

Mayor's Report

Mayor Kelly announced that an appointment was requested for the Manchester Road CID. One of the board members for the CID moved out of the St. Louis area and will no longer be able to participate. The district requested the appointment of Lindsay Borage to serve as the interim director for the expired term of Benjamin Stegmann.

Motion was made by Alderwoman Clements, second by Alderman Leahy to approve the appointment of Lindsay Borage to the Manchester Road CID. All in favor none opposed.

Mayor Kelly stated that he had spoken to the Chairman of the Public Works Committee about the McGrath PTO asking for a contribution of \$2,000 to help facilitate a new playground that they are building at McGrath School. They are hoping to get the playground built this summer. When they built the large playground that is there now the City contributed about \$15,000 to that playground plus the public works crew helped with the construction. The PTO has raised all the funds needed except for the \$2,000. One of the reasons that the City has participated in the past is that the City does not have any public parks on that side of Brentwood Blvd. This is a facility that is opened to the neighborhood and is something that is used by the residents and community on that side of Brentwood. It will be a great addition to the community and will be opened to the public. Director of Parks and Recreation Frankowski said they have money in the Parks budget for that. Unfortunately the bids for the overlay of the parking lot by the tennis courts came in considerably higher than was budgeted because of the price of oil, so they are postponing that project until next year. The expenditure will come out of the Parks budget.

Motion was made by Alderwoman Clements, second by Alderman Marshall to approve the \$2,000 expenditure to the McGrath School PTO. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

Mayor Kelly stated that MoDOT is hoping to have a press conference next week along St. Louis County to show the public the final design for the Hanley/Eager jug handle improvements. That phase of the project is scheduled to start as soon as possible, hopefully as soon as next fall. It all depends on the completion of the western leg of the highway. Hanley Road over Highway 64/40 will be shut down for approximately eight months, which was not an original anticipation of the project.

Mayor Kelly stated that MLP would be having an open house tomorrow from 11:00 a.m. to 1:00 p.m. They will be giving tours of the condominiums. They have invited the entire Board to stop by. He believes they are completely finished with the condominiums. Sales have slowed a little but they have sold 104 condominiums and are very excited about that in this market. They have had a lot of inquiries about the additional condominiums.

Mayor Kelly thanked Craig Eisenbeis and Ron Cottrell of the fire and police departments for their efforts with the BBQ. All the proceeds went to the Backstoppers. Craig came up with the idea and started working on it six to eight weeks ago. They ran out of food twice on Saturday. They had revenues of over \$10,000 and made about \$8,000 for Backstoppers.

Public Safety Committee – No further report

Public Works Committee – No report

Director of Planning and Development

Brentwood Target

Director of Planning and Development Dailey stated that a year ago the Board of Aldermen approved a site plan for Target Corporation. They requested an expansion of their current property of about 22,000 square feet. Because they have not been able to finalize their internal approvals with the owner and the adjacent property owner, although she understands that is just about complete, they were not able to commence construction this year. Because of that they are requesting a 12-month extension from the Board to their approval of the site plan. They anticipate commencing construction early 2009.

Alderman Leahy stated that if he is not mistaken the Code authorizes only a six-month extension.

Director of Planning and Development Dailey responded that it is up to 12 months.

Mayor Kelly stated that they are not going to start construction until after the holiday season and they need to start it so that it could be completed before the next holiday season.

Alderman Leahy stated that this is the same reasoning they gave last year to say that they would get it started in the beginning of this year.

Mayor Kelly stated that it is very difficult dealing with DDR, the property owner for Target. They do not own the property that they want to do the extension on, so they have to get approval from Organized Living and DDR, etc. It has been a task to bring all that together.

Motion was made by Alderwoman Clements, second by Alderwoman Krewson to approve the 12-month extension for Target's site plan. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

Ways and Means Committee – No report

City Attorney – No report

City Clerk/Administrator

City Administrator Seemayer reminded everyone that this Friday is the 15<sup>th</sup> Annual Charity Golf Tournament at Paradise Valley. Prizes and donations are being accepted.

Excise Commissioner

Special Use Permit/Brentwood Summer Concert Series

Excise Commissioner Clements stated that Brentwood Parks and Recreation is asking for a Special Use Permit for residents to bring beer or wine to the Summer Concert Series in Brentwood Park to be held on May 2<sup>nd</sup>, July 11<sup>th</sup>, August 8<sup>th</sup>, 22<sup>nd</sup>, September 19<sup>th</sup>, and 20<sup>th</sup>.

Motion was made by Alderman Leahy, second by Alderman Marshall to approve the Special Use Permit for Brentwood Parks and Recreation Summer Concert Series in Brentwood Park. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, no; Alderman Harper, yes.

Special Use Permit

Excise Commissioner Clements stated that a Special Use Permit request was made by Andrew Leahy to allow the serving of wine at a wedding rehearsal dinner party for Laura Scherry and Chris Hargraves.

Motion was made by Alderman Kramer, second by Alderwoman Clements to approve the Special Use Permit to allow the serving of wine at Laura Scherry and Chris Hargraves

wedding rehearsal dinner party at the Brentwood Recreation Center. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, abstain; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

#### Liquor License Renewals

Excise Commissioner Clements asked for the approval of the liquor license renewals for the establishments in Brentwood for the year 2008 and 2009.

Alderman Leahy asked if they have had any license violations with any of the facilities in Brentwood.

Excise Commissioner Clements responded not to his knowledge in this calendar year.

Motion was made by Alderwoman Clements, second by Alderman Leahy 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 Harper, yes.

#### Sunday Liquor License Request

Excise Commissioner Clements requested the approval for a Sunday liquor license for Springhill Suites located at 1231 Strassner Road.

Motion was made by Alderman Robertson, second by Alderman Marshall to approve the Sunday liquor license for Springhill Suites. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

Library – No report

#### Municipal League

Mayor Kelly stated that the MML had the swearing in of the new officers a few weeks ago and it is an honor for him to serve on the executive board for the St. Louis County Municipal League. There is an all day planning session tomorrow where they will be meeting to discuss goals and objectives for the upcoming year.

Alderman Leahy asked if the MML has issued the final report on whether the sales tax holiday issue is resolved.

City Administrator Seemayer responded that he has not seen their final report, but he will go on the Department of Revenue's website and check.

Communication – No report

Historical Society – No report

Recreation Center Committee

Alderman Marshall reported that they received the results from the Recreation Center surveys. They are reviewing the surveys and will move forward as soon as they can.

**UNFINISHED BUSINESS**

Alderman Kramer asked about the deadline for the Human Resources position and the amount of responses received.

City Administrator Seemayer stated that they received over 200 responses and the deadline has expired.

Alderman Kramer stated that a couple of questions came up from the minutes of the May 5<sup>th</sup> meeting on page 8 under the Mayor's report about the mail carriers and the Maplewood site, the Deer Creek branch of the Brentwood Post Office. He has spoken to the postmaster at McKenzie Point who told him that the information should be corrected that they have not been operating out of the Maplewood site for two months. June 7<sup>th</sup> was the transition day to McKenzie Point and any measurement of whether mail is going to be early or late should be measured from that point. He thinks that they are very encouraged so far in terms of the amount of time that maybe people would be worried about their mail being delayed. The postmaster also mentioned that all jobs have been retained. On page 9 of the minutes there is a question about the Insurance Committee. He did some research on the website regarding our Code which states that the Insurance Committee should consist of three members and one of them should be a member of the Ways and Means Committee. The Code also states that a Loss Control Committee shall be established consisting of all department heads, insurance committee, worker's comp insurance carrier, insurance carriers and so forth. Has the City ever had a Loss Control Committee?

City Administrator Seemayer stated that the City participates in a Safety Committee through the self-insured group SLAIT. The Committee works with representatives of SLAIT to look at the City's losses and ways to prevent them, trends in the area of municipal employees, and how to avoid injuries and claims.

Alderman Kramer stated that the requirement for meetings and the types of meetings is extraordinary. With that being said, he requested that they either look into renaming the Loss Control Committee or change the Code because they are not in compliance.

Alderman Marshall requested that the Board review Mrs. Barnes situation. One of the issues that came up was if she does not have that right of way her house will not comply with our Code, she would not have any off street parking and her lot would not conform to the Code as far as the width.

Alderman Leahy stated that those were preexisting conditions prior to the City quit claiming that section of the right of way.

Mayor Kelly stated that when she bought the property she thought the issue had been resolved because the City passed the quitclaim as opposed to the vacation.

Alderman Marshall stated that the property was tied up in Mrs. Carthy's estate. It could not be sold until the right of way was deeded to the estate. In doing so the estate was able to sell it. Mrs. Barnes had free and clear title to the property when she bought the property. Since the City did not do the appropriate vacation they have actually made her property noncompliant again. It is his opinion that the City has to fix the mistake that was created.

### **NEW BUSINESS**

Alderman Leahy announced a Ward 3 meeting would be held on June 24<sup>th</sup> at 7:00 p.m. in the Council Chambers.

Alderman Kramer distributed information and stated that he has a letter addressed to the Board of Aldermen that he read into the record dated June 16<sup>th</sup> 2008. "Dear fellow Board members, On Thursday, April 10, 2008, I filed a civil suit in St. Louis County Circuit Court against the "Brentwood/Strassner Road Transportation Development District", and its members, for multiple violations of the Missouri Sunshine Law. Attached you'll find correspondence to and from the Missouri Attorney General's office, and the suit itself, all public documents. I wanted each of you to receive this information unedited and unfiltered. The only items not included here are the compilation of exhibits provided to the Attorney General. Any residents watching, hearing or reading this message are encouraged to contact their respective ward alderpersons if they'd like to see the information which has now been provided. I believe in the transparency of government, especially when business is conducted behind closed and locked doors. I am asking that this message and all attached documents be included in the minutes for the June 16<sup>th</sup>, 2008 Brentwood Aldermanic meeting. Thanks for listening and have a great day!"

Mayor Kelly responded to Alderman Kramer's comments by stating that he appreciates his clarification of the mail carriers but that was the information they were told at City Hall that the mail carriers had actually left in February. It is another example of the miscommunication within the operation of the post office.

City Administrator Seemayer stated that on the permanent location for the post office on Rosalie Avenue, they are still waiting to consider the lease until the post office turn in their site plan for the improvements to make to the building. For the temporary location at the former Masonic temple, they have marked up a version of what they submitted and the City is waiting for their response.

Mayor Kelly responded to Alderman Kramer's comments with respect to the lawsuit filed against Strassner Road TDD, which he is the chairman of. He stated that there has been no denial of the fact of the committee that during a conference call meeting last April, because of the some noise out in the hallway, they mistakenly closed the door to the conference room and did not think about the fact that somebody would be attending that meeting. During that conference call meeting Alderman Kramer knocked on the door and he was allowed to come in, they did not keep anybody out. They have been very forthwith with all that information when the complaint was filed last May by Alderman Kramer to the Attorney General's office. They investigated it, and admittedly so from day one that they had closed the door, and did not pursue the matter. Said that they did make a mistake and they should not let it happen again. They have been very upfront about that issue and how they are going to go about resolving it as they move forward. It was not anything that was done intentionally. It was done because there were people out in the hallway making noise while they were on a conference call with the committee. The vote that was taking place that day was for the approval of the expenditure of the funds for the public works garage, which has been obvious since day one that Alderman Kramer was against. He admitted they made a mistake. City Administrator Seemayer and two other people were there and nobody thought about it at the time but there was no intent to keep anybody out. It was just a matter of being able to speak and carry on the conference call meeting.

#### Recess

Motion was made by Alderwoman Clements, second by Alderman Leahy to recess the meeting at 8:56 p.m. All in favor none opposed.

Motion was made by Alderman Robertson, second by Alderwoman Clements to reconvene the meeting at 9:02 p.m. All in favor none opposed.

#### Executive Session

Motion was made by Alderwoman Clements, second by Alderman Leahy to enter into executive session legal matter at 9:04 p.m. All in favor none opposed.

Discussion was held about indemnifying a Planning and Zoning Commission member in a lawsuit.

After discussion motion was made by Alderman Kramer, second by Alderman Marshall to provide indemnification to Mark Kurtz as a member of the Planning and Zoning Commission and to allow the City Attorney to enter his appearance. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

Motion was made by Alderwoman Clements, second by Alderman Leahy to return to open session at 9:12 p.m. All in favor none opposed.

**ADJOURNMENT**

Motion was made by Alderwoman Clements, second by Alderman Leahy to adjourn the meeting at 9:13 p.m. All in favor none opposed.

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Pat Kelly, Mayor

Attest:

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Chris Seemayer, City Clerk