

## MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING

City Hall  
Council Chambers

November 2, 2009  
7:00 p.m.

Mayor Kelly led with the Pledge of Allegiance.

Roll call

Present: Mayor Kelly, 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, City Treasurer Reynders, Executive Secretary Williams.

Absent: Alderwoman Clements.

### **CONSIDERATION AND APPROVAL OF THE AGENDA OF THE REGULAR BOARD OF ALDERMEN MEETING OF NOVEMBER 2, 2009**

Motion was made by Alderman Wynn, second by Alderman Leahy to approve and adopt the Agenda of the Regular Board of Aldermen meeting of November 2, 2009. All in favor none opposed.

### **CONSIDERATION AND APPROVAL OF THE MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING OF OCTOBER 19, 2009**

Motion was made by Alderwoman Krewson, second by Alderman Leahy to approve and adopt the Minutes of the Regular Board of Aldermen meeting of October 19, 2009. All in favor none opposed.

Alderman Leahy requested that the minutes of the October 5 and September 21 meetings be corrected in the section that refers to the passing and signing of Bills No. 5520 and 5523. Those bills were vetoed, so the minutes should reflect that.

Motion was made by Alderman Leahy, second by Alderman Marshall to amend the minutes of the Regular Board of Aldermen meetings of October 5 and September 21 in the section that refers to the passing and signing of Bills No. 5520 and 5523. Roll call: Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

**BIDS** – Unified Communications System

City Administrator Seemayer stated that the City staff opened bids on Friday, October 3<sup>rd</sup> for a new phone system for City buildings. The following bids were received:

Communications Technologies, Inc.	\$116,922.97
RSM McGladrey, Inc.	\$ 98,250.00
Ideacom Midwest	\$ 90,173.00
Sigma Networks	\$155,731.48
TSI	\$107,874.14
CT Innovations	\$115,018.78
AT&T	\$178,120.53

City Administrator Seemayer stated that currently IT Manager Schilling is reviewing the bids and a recommendation will be made to put it into the 2010 budget.

**HEARING OF ANY MATTER OF PUBLIC INTEREST UPON REQUEST OF ANY PERSONS PRESENT** -  
None

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

**1<sup>st</sup> and 2<sup>nd</sup> Readings of Bill**

Motion was made by Alderman Leahy, second by Alderman Marshall to give Bill No. 5526 its first and second readings. All in favor none opposed.

City Attorney Albrecht gave Bill No. 5526, AN ORDINANCE AUTHORIZING THE CITY OF BRENTWOOD, MISSOURI, TO ENTER INTO A LEASE PURCHASE TRANSACTION, THE PROCEEDS OF WHICH WILL BE USED TO PAY THE COSTS OF CAPITAL IMPROVEMENTS AND REFUNDING THE CITY'S OUTSTANDING CERTIFICATES OF PARTICIPATION, SERIES 2002 AND COSTS RELATED THERETO; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH, its first and second readings.

Alderman Leahy stated that the attachments to Bill No. 5526 were a lot to digest over a weekend. For future meetings, if the information could be distributed early or have a working session it would be helpful.

Alderman Leahy asked what is UMB Bank holding as collateral over the transaction.

Jim Lahay with Stifel Nicolaus responded that there is a lease on the property.

Alderman Leahy asked if it would just be for the new fire house.

Mayor Kelly stated that it would be for the new fire house and the police station because they are redoing the bonds.

Alderman Leahy stated that it is not clear in the documents. The documents list it as just the lease payment for the fire house but in a later document there is a listing of things that are being refinanced. He asked if the police building becomes free and clear, since it is now a part of this document.

Mr. Lahay responded yes.

Alderman Leahy stated that the synopsis attached to the preliminary official statement was very helpful.

Mr. Lahay stated that Gilmore & Bell prepared that document.

Alderman Leahy stated that City Administrator Seemayer was kind enough to spend two hours with him this afternoon to go through some of his questions. He asked what are the fees tied into. He understands where the major dollars are going but there is about a \$1.2 million difference from the total numbers.

Mr. Lahay stated that the par amount of the certificates that are being issued is \$7.5 million. What you're looking at are preliminary numbers. They didn't know what the precise amount would be at that point in time. In the last week or so they have been in the marketplace taking orders, so now they have final numbers. The debt service reserve fund is \$660,325.69. You can't make up a number and put it in there. There are three tests. You're allowed to size a reserve fund for the lesser of those three tests. It is 10% of the par amount of the bonds, its average annual debt or maximum annual debt service. It is a legal test. They run numbers on all three of those tests. Gilmore & Bell then verifies that they can size the debt service reserve fund by that amount of money. They are also capitalizing interest which means that through this issuance they are setting aside money to make upcoming interest payments. That exact amount is \$292,682.50. The old bonds are being refunded. They refunded the 2002 certificates and the amount that they need to set aside from this issue to do that is \$2,468,513.83. Stifel Nicolaus is paid underwriting fees of 1.25% of the par amount of the certificates. The par amount is \$7.5 million, so they will get \$93,750. The cost of issuance is \$91,400. The breakout of that for the bond counsel and disclosure counsel is \$75,000. There is an upfront fee to the trustee of \$1,900. There is a fee to the rating agency of \$12,000. The last number is for the printing of the preliminary official statement which is \$2,500. When they sell the bonds it is customary to sell them at a discount. Their objective is to get the lowest interest rate for the City, so sometimes bonds are sold at less than par. Somebody might buy the bonds for \$.99 on a dollar which means that they are only paying \$.99 on a dollar, but it means their yield is a little bit greater. The discount in this case was \$11,475.60. You sell certificates in \$5,000 increments and some of these costs could be slightly off and they don't want to be down to the exact penny, so there is one extra bond. The miscellaneous amount is \$4,615.52. It is not really miscellaneous lost money. It will eventually be used, if there is no other cost that they didn't account for, for debt service. He mentioned that the rating agency fee probably sounds high. They went through a rating process to get a rating on the certificates. There are three primary rating agencies which are Moodys, Standard & Poor's and Fitch. They went to Standard &

Poor's. Standard & Poor's assigned AA rating to the City and that is quite significant. Because the certificates involve a lease, it is customary that they give you a rating a notch less than the rating on the City. These certificates are AA- which is quite good. The highest rating is AAA. There are very few AAA rated entities. Keep in mind also that rating agencies have been under tremendous scrutiny the past couple of years because of things that have happened in the economy. To get AA rating in this environment is a tribute to all of you. Part of the process is that they give the rating agency all the documents and answer questions. They ask for a lot of things. One of the things that they did was to put in a call to the City, in this case, to Mr. Seemayer. City Administrator Seemayer not only did a phenomenal job on that call, which made a big difference in the rating, but he was able to answer all the questions at the time of the phone call which is important. It gives the rating agency comfort that they have access to the information and that the answers were good. That rating was very important in getting the execution that they were able to obtain on the certificates. The interests that the City is receiving on these certificates ranges from 2% to 4.60%. Some of the certificates were sold at a premium and some were sold at a discount. For example, in 2012, there will be \$380,000, the interest rate was 2% but they've sold those certificates at a premium so people paid 101.684% for those certificates. They paid more than the face value of the certificates, so the yield is \$140,000. Your yield on the new certificates ranges in year 2012 at \$140,000 and it goes out in year 2030 to \$469,000 so that gives you a sense at what you're borrowing. The certificates that they are refunding go from 2010 to 2022 which is what remains. The interest rates on those go from 3.90% to 4.95%. The interest rates that they just got today for those years, go from 2% to 4%. The benefit is the City is going to save in net present value, in today's dollars, about \$215,425.46. In terms of percentage, it is about 8.9%. Normally their rule of thumb when they work with cities is when does it make sense to do a refunding and usually it is about 2.5% to 3%. In this case it is almost 9%. From their standpoint and from the City's standpoint, it was a very good thing to do the refunding.

Alderman Leahy stated that a number of the documents in the packet used the date of November 1<sup>st</sup> which was yesterday. Was that a misprint? It seems odd that you could start something before the Board of Aldermen has even authorized it.

Mr. Lahay stated that it is not real until it is approved by the Board. Closing will not occur until November 16<sup>th</sup> anyway. It is not a typing error.

Alderman Leahy stated that the bonds that are being refinanced will take the City out to October of 2030, if the City holds to its standard arrangement and they pay off by 2030, the lease from UMB Bank to the City goes out to December of 2050. He asked what's the benefit of keeping the lease running for another 20 years.

Mr. Lahay responded that there is no benefit. Once the certificates are gone the lease goes away. The certificates are also callable in nine years from today at par. When they did the pricing, if something were to happen and the City would want to refund these certificates, it would have the opportunity to do so.

Alderman Leahy asked who would make the call at par.

Mr. Lahay stated that the City would have to decide that there is some economic reason they want to do it.

Alderman Leahy asked if the City would have to come up with the money to pay back all the bond holders.

Mr. Lahay stated that either the City would have a lot of cash to do that and might decide to do it or borrow more money to do something else. He is sure in 2002 they didn't know that they were going to need to borrow more money in 2009, but the circumstances were such that the City could do a refunding, save money and then borrow new money to do the new project. The same circumstances could occur again.

Alderman Leahy stated that they took bids for the fire station but those bids have not been finalized or reviewed to the point that the Board has not seen a finalized number. He understands that they are trying to get the financing in place to make things work. At what point do they marry the two together.

Mayor Kelly responded that they know from the bids that came in that they are within budget. They are still going through some of the bids and know who the majority of the contractors are going to be but there still may be some adjustments or things that they may subtract from the actual project to try to reduce the cost. The bids came in about 20% less than the budgeted number.

Mayor Kelly stated that going through the rating process correlates to the best interest rates.

Mr. Lahay stated that getting that rating is what certificate holders are really putting a lot of faith in. An independent agency has reviewed this credit and they have determined that the credit worthiness is AA-.

Mayor Kelly stated that in this case that \$12,000 investment to the rating agency saved them hundreds of thousands of dollars.

Alderman Kramer read a synopsis of Bill No. 5526 that would authorize the issuance of Certificates of Participation (COP's) for the construction of the new fire station and the refinancing of the Series 2002 COP's which were used for the construction of the police station. The amount being provided for the construction of the new fire station is \$4.2 million. The refinancing of the Series 2002 COP's will provide approximately \$125,000 in interest savings. The Series 2002 COP will still expire in 2023 and the portion to provide funding for the fire station construction will expire in 2029. Funding for the fire station construction and Series 2002 COP's refinancing will occur on November 17<sup>th</sup> if Bill #5526 is approved.

Alderman Kramer stated for the benefit of the residents, when a City looks into getting a loan, in this case, for construction of a fire station, they use a COP versus a home owner wanting to build a new home ideally would get a mortgage from a bank. He asked Mr. Lahay to explain for the residents what the COP is and how that works differently or the same.

Mr. Lahay stated that governments can go to banks and borrow money but most governments go through a process similar to this one where they get a rating and create competition. Their job is to get the lowest interest rate for the City. The City is their client and they are working on the City's behalf. If they could only sell the certificates to two people they would probably drive a hard bargain because there are only two. They would know they are the two, but if they could sell them to anybody, that's more competition. They are in the market taking orders from institutions, funds, banks, so they are not just going to one bank, like a homeowner. A homeowner might shop around too. They might go to five or six banks to shop around. That's sort of what they are doing out there trying to get competition and trying to lower the interest rate. They circulated numbers today and they had to circulate revised numbers because they were able to lower the interest rates on a couple of the certificates because they got more feedback. They printed the preliminary official statement a couple of weeks ago. A process is followed to understand, ask questions and then they go into the marketplace and sell the certificates. Keep in mind that the final buyers are individuals like us. Relatively speaking, \$7.5 million is not that large of an issue, so you're not going to have a lot of institutions wanting to buy because they like to buy in the larger blocks. The rating is a big deal.

Alderman Kramer stated that he echoes Alderman Leahy's concerns that maybe they could have reviewed some of the information in committee ahead of time. This is a fairly large amount and he doesn't think it is a big surprise that they are getting to the decision of this process. He thinks it would be helpful in terms of understanding. He was able to spend some quality time with Mr. Seemayer when the agenda items came out and that was very helpful, but he had to take up his time and then Alderman Leahy took up some more time today. If they have one chance to hear everything that would be helpful as well.

Alderman Kramer stated that they are at \$4.2 million for the fire station. Some time ago they were in the \$3.5, \$3.6, \$3.8, and \$3.9 is the most he has heard. Now they are up to \$4.2 million.

City Administrator Seemayer responded that all those numbers are somewhat right. The initial architects estimated that it would be around \$4.1 or \$4.2 million. They made some changes. The numbers came in about \$3.7 million. The actual construction came in just over \$3.5 million and there is a construction management fee which is \$224,000. The City has also put in a contingency fee of \$300,000 or roughly 10%. They have talked about possibly acquiring property to the east of the project and the exact number is unknown, and to reimburse the City for the \$224,000 that they have already spent. The actual project was about \$3,570,000 but it will fluctuate depending on which contractors are selected for each area. They are asking each of the contractors they select to review their portion of the project for some value engineering.

It also includes furniture and equipment which was not part of this bid but it is still part of the cost of the project.

Alderman Kramer stated that he knows that the City is trying to get the best rate. When you go out for the COP and in this particular case because the City has a significant collateral and credit rating, do you have to be as precise with the actual numbers?

Mr. Lahay stated that there has to be a reasonable expectation. When they size the issue of \$4.2 million there has to be a reasonable expectation that number is in the ballpark. Everybody understands there are moving parts from time to time and there are contingencies and things that can change. It doesn't have to be down to the penny. For example, they couldn't do a bond issue for \$8 million. The federal government does not allow you to do that. It looks like you're borrowing money that you really don't need.

Alderman Kramer stated that if the contingency was not used, what would they do with the extra money?

Mayor Kelly stated that if there is money left over it could be used to pay off the bonds earlier.

City Administrator Seemayer stated that they have included City Hall as part of the project which would ultimately be the Board's decision, but they would be allowed to use the money for the area that is left vacant by the fire department. They would not be required to but would be allowed to.

Alderman Leahy stated that he is looking at the lease purchase agreement on page 13, Section 5.03 and he thinks that section is miswritten. It states, "that, except for Project costs described in clause (d)", and there is no clause (d). It goes from (c) to (e).

Motion was made by Alderman Leahy, second by Alderman Marshall to approve and adopt Bill No. 5526. Roll call: 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. 5526 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4210.

Alderman Leahy stated that the document also states to equip the fire house with equipment that it needs to perform its duties. Would a new ambulance or something like that be covered under these costs?

City Administrator Seemayer stated that it would qualify for it but they are not anticipating doing that.

Resolution No. 962 – Grant Application for Federal Funds

Mayor Kelly stated that as part of the process for applying for funds for Executive Walk Apartments they need to pass Resolution No. 962.

Alderman Kramer read a synopsis of Resolution No. 962 as a Resolution that states the City's intention to apply for federal funding through FEMA for the buyout of 8703 Brentshire Walk. The total cost of the buyout is estimated at two million dollars. FEMA will provide 75% of the funding and MSD has committed to provide the 25% local match. A decision on the grant application should be provided by FEMA in the spring of 2010.

Alderman Marshall asked if it goes through will FEMA give the property back to the City for park land.

Mayor Kelly responded yes. The key thing to remember is getting MSD involved and having them come up with the 25% local match.

Alderman Leahy stated that he was under the impression that the Board of Aldermen agreed to subdivide this property and that there are two addresses that they are looking to sell and one address that the owner is looking to hang on to. This Resolution attaches only one address to it.

City Administrator Seemayer responded that it was done like that for funding reasons. To try to do both of them at the same time would not have happened.

Mayor Kelly stated that they will do one this round and one the next round.

Motion was made by Alderman Kramer, second by Alderman Leahy to approve Resolution No. 962. Roll call: Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

#### Resolution No. 963 – Consumption of Beer and Wine

City Administrator Seemayer stated that the Holiday Open House is not mentioned on the synopsis, but it is a part of the Resolution.

Alderman Kramer read a synopsis of Resolution No. 963 as a Resolution that would allow the City to serve beer and wine during the Veterans Day ceremony scheduled for Wednesday, November 11<sup>th</sup> at City Hall and at the annual Holiday Open House on Monday, December 14<sup>th</sup> at Brentwood Recreation Center.

Motion was made by Alderman Robertson, second by Alderman Marshall to approve Resolution No. 963. Roll call: Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, no; Alderman Harper, yes.

#### Resolution No. 964 – Authorization to borrow \$460,000

Mayor Kelly stated that before they discuss Resolution No. 964, he is going to step down while the Board discusses the actual consideration of the allocation of the funds.

Mayor Kelly stated that about the beginning of May of 2009 they noticed that the Meridian project hadn't met its base. The base for the Meridian project was \$10 million and until they met that amount the City got to keep all of those sales taxes because that was the base before the project had started. Typically, the Meridian had met that base in February and at the latest March. They looked into why the Meridian project hadn't met its base and through the efforts of staff in working with the Department of Revenue, they discovered that one of the retailers of that project was not using the proper code when they were sending their sales taxes in to the State dating back to the start of the project which was in 2005. When the State was allocating those funds, they were going into Brentwood's general account instead of being allocated into the TIF fund account so that they could be sent over to the trustees of UMB Bank for that project. In essence, the City was keeping all of those sales taxes that should have been going to the TIF. The City doesn't get a breakdown of what businesses are paying taxes or the amounts. They just get a lump sum every month of all the taxes that the State collects. Once they realized that and started looking a bit further, because the numbers still weren't balancing out, they found out that one of the other businesses in the development periodically would not put their address on the returns but they would put Brentwood. Whenever that happened, the same thing happened with those funds. They were going into Brentwood's regular account instead of going into the TIF account because the address wasn't listed and the funds weren't being allocated to the TIF. In working with the State and going back and getting two years of records, they have determined that \$460,000 of taxes that were due to the TIF had been allocated to the City coffers since 2005. In working through this process the City's legal counsel said it would be best to make a lump sum payment, clear the books and give the money that is owed to the TIF. The decision now is how they are going to fund that. Mayor Kelly stated that he will step down now because he doesn't want there to be any conflict. He asked for a motion to allow Alderman Marshall to preside over the meeting as mayor pro tem for the portion regarding Resolution No. 964.

Motion was made by Alderman Wynn, second by Alderwoman Krewson to allow Alderman Marshall to preside over the meeting as mayor pro tem for the discussion and consideration of Resolution No. 964. Roll call: Alderman Marshall, abstain; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

Mayor Pro Tem Marshall took Mayor Kelly's seat.

Alderman Kramer suggested to Mayor Pro Tem Marshall that it might be helpful to mention that normally the mayor would ask the mayor pro tem who is not present this evening.

Alderman Kramer read a synopsis of Resolution No. 964 as a Resolution that authorizes the City to borrow \$460,000 for twelve months to repay sales tax to the Meridian TIF fund that was

mistakenly credited to the City's general sales tax accounts by the Missouri Department of Revenue for various periods between September 2005 through August 2009. The \$460,000 (plus interest) expense has been factored into the 2010 budget.

Alderman Leahy asked if the \$460,000 is available to them in the reserves without having to get a loan.

City Administrator Seemayer stated that it is and he discussed it with Mayor Kelly that the City has \$1 million in the reserve account. To use 50% of that amount would put the City in jeopardy should anything occur in 2010 that's unexpected. It would leave the reserves very low. The borrowing of the money gives them a much better safety net should anything occur.

Alderman Leahy asked if they borrow the money is there a way that the City could recoup the interest that it has to pay because this error was not on the City's part. Do they get to go back to the Meridian project and ask for reimbursement of the money?

Mayor Pro Tem Marshall responded that it is not the TIF; it's the State of Missouri.

City Administrator Seemayer responded that he is certain that the answer is no, but if there is any avenue in which to be reimbursed they will. He will talk to the City's bond counsel about that but he doesn't foresee that happening, but it is something that they will pursue vigorously.

Mayor Pro Tem Marshall asked how much interest are they talking about over a year's time.

City Administrator Seemayer stated that the City has CDs currently for its investments at two separate institutions, so they use those as collateral because like any loan if you collateralize it you get a much lower rate. One of the institutions is Eagle Bank and Trust and that is why Mayor Kelly stepped down from his seat because of a conflict. The other institution is West Community Credit Union. The lowest rate was with Eagle Bank and Trust. There are two rates and they are still working with the bond counsel. There is the standard rate for it being collateralized which is 5.35% or if they qualify as tax exempt and the City is tax exempt, but the loan would have to meet certain criteria, the rate would be 3.6%. It would either be 3.6% or 5.35%. The rate from West Community Credit Union was 6% and they are already a tax exempt organization.

Alderman Leahy stated that he doesn't like passing legislation with blanks.

City Administrator Seemayer stated that it was left blank until this evening.

Alderman Kramer asked if they got a quote from UMB Bank.

City Administrator Seemayer responded yes, but they are collateralizing the loan with the CDs and the CDs are currently at those two institutions mentioned. If they were to move the CDs they would have to pay penalties to redeem them early.

Alderman Kramer asked if staff checked with any other institutions.

City Administrator Seemayer stated that he checked with UMB Bank and the Private Bank and both of them said the same thing which was that they would have to have collateralization in order to get a good rate. In order to do that they would have to break one of their existing CDs because they are at two different locations. They also talked to Stifel Nicolaus about it and they said the same thing. After that they narrowed in on the two that are currently holding the CDs for the City.

Alderman Kramer stated that this amount of money is too low to do a bond. It's not possible and would be a long payback. He asked if it is possible to go to the State of Missouri that actually made the mistake and see if they would agree to take the money in payments from the City, so the City wouldn't owe any interest.

City Administrator Seemayer asked Alderman Kramer where the City would get the sum of money.

Alderman Kramer stated that he would imagine in the 2010 budget if they had a chance to pay that money back they would make the payments in twelve installments. Just as if they borrowed it and gave it all to someone now, the City would just make payments to them until they reach \$460,000.

City Administrator Seemayer stated that his original intent was to just pay it directly to the Meridian project in twelve equal installments. The City's bond counsel strongly recommended that they make a lump sum payment this year.

Alderman Kramer stated that his question revolves around whether a lump sum is required versus preferred.

City Administrator Seemayer stated that it was strongly recommended by Gilmore & Bell, bond counsel. The other factor in that is the error is in two parts. The one retailer continuously or for the most part used the incorrect site code, so the Department of Revenue may argue that part of it. The other retailer did use the correct site code, but didn't put an address in. The State may take exception with the City and say the retailer gave them a site code, how are they to know.

Alderman Kramer asked if there would be a penalty if they didn't pay it in one lump sum.

City Administrator Seemayer stated that he doesn't believe there would be a penalty but the bond counsel strongly recommended it for litigation purposes, to avoid that.

Motion was made by Alderman Leahy, second by Alderwoman Krewson to amend Resolution No. 964 by adding Eagle Bank and Trust in the first blank in Section 1, and the two options of

the interest rate 5.35% for the standard rate or 3.6% for the tax exempt rate. Roll call: 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 Alderman Leahy, second by Alderman Robertson to approve Resolution No. 964 as amended. Roll call: Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

After discussion and approval of Resolution No. 964, Mayor Pro Tem Marshall stepped down from the Mayor's seat.

Mayor Kelly stated that St. Louis County was allocated the wrong funds as well, so they are actually reimbursing the TIF as well. If the City had cashed in some of the CDs, the City would have not only lost some of its reserves, but they would have paid a penalty on it as well. To clarify who is getting the money, it is not actually going back to the State. It's going to the trustees for the Meridian TIF which is UMB Bank to be allocated to pay down the bonds.

Alderman Marshall asked about the redistribution sales tax and how does it affect St. Louis County.

City Administrator Seemayer stated that was actually factored into this. With the TIFs the redistribution does not apply, so had the money have gone from the revenue to UMB Bank, the trustee for payment, it would have been about \$550,000. Since it was distributed to the City and the sharing portion was taken out of it, it was reduced to the \$460,000 and the rest was redistributed to the other municipalities. The part that the Mayor spoke about regarding St. Louis County is not that sharing portion. St. Louis County has a ½ percent transportation sales tax that half of those funds by state law go to the TIF project. The same mistake in allocation that went to the City for their sales tax went to St. Louis County for theirs. They received \$108,000 that should have been allocated to the TIF project.

### **ACCOUNTS AGAINST THE CITY**

Motion was made by Alderman Marshall, second by Alderman Wynn to approve the warrant list dated 11/2/09. All in favor none opposed.

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

#### **Mayor's Report**

Mayor Kelly stated that the Veterans Day celebration will be held at City Hall on Wednesday, November 11<sup>th</sup> at 6:00 p.m.

Mayor Kelly stated that they are happy to announce that the Meridian project has leased all of the retail space in the first floor of the main office building. He believes that Club Fitness is taking 25,000 square feet of space.

Mayor Kelly stated that he and Alderman Leahy talked before the meeting about the controversy on election days. Alderman Leahy has been putting signs out at the polls for different reasons on election days.

Alderman Leahy stated that for the last eight years every time that the City hosted an election at the Ward 3 polling place which is the Brentwood Rec Center he has manned the station for the entire thirteen hours that the polls were open. He has taken a sign that reads "thank you for voting" with his name underneath it. The last three elections this has come into question as to whether it complies with Chapter 19 of the City's Code. Review of Chapter 19 has led to multiple and different interpretations by the Zoning Administrator, City Administrator, the Mayor and himself. It has been suggested that they bring it to the Board this evening requesting clarification. Chapter 19 does not define a campaign sign. This sign is not a campaign sign, but it does have his name on it. He is out there promoting the fact that the citizens who are taking the time to come up and vote to let them know that their participation is appreciated. He would like to continue doing so. While he is up there for the thirteen hours he takes complaints or questions from the residents and the following Wednesday visits with City Administrator Seemayer to bring him up to speed on anything that the residents have brought to his attention. It is a service that he performs for the residents that he serves.

Alderman Wynn stated that he doesn't think it is a good idea. It is fine to put flags, etc. but not an individual's name. Alderman Leahy is performing a great service but a service that he doesn't necessarily do for recognition. He does it because he wants to serve the community. It is not political as Alderman Leahy stated. Therefore because they don't need names on signs he thinks it would be a good idea not to have it. It could get to a point where it could become a problem.

Alderman Harper asked if the sign reads Alderman Leahy or Andy Leahy.

Alderman Leahy responded that the sign reads Andrew Leahy. It does not identify any position or any affiliation such as republican, democrat or independent.

Alderman Marshall stated that since it is an ordinance question why don't they ask the city attorney to come up with a determination.

City Attorney Albrecht stated that he has reviewed the ordinance earlier today. Chapter 19, Section 6 has very specific items that are permitted to be placed on the public right of way. That sign does not fall within one of the specified items that are permitted.

Alderman Kramer asked if there is a caveat for temporary signs. For example, if Alderman Leahy requested permission for a temporary sign.

City Attorney Albrecht stated that elsewhere in the code you can apply for a temporary sign permit but this is not the type of sign permit that's specifically authorized on public right of way.

Alderman Kramer stated versus a private property.

City Attorney Albrecht responded that's correct.

Alderman Leahy stated that Section 19.6, Sign in the Public Right of Way states, "No permanent or temporary sign shall be allowed in the public right of way except for the following: Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicle traffic". If he is telling the residents thank you he believes that is conveying public information.

Mayor Kelly stated that the part that reads on behalf of a government body, one alderman is not a government body. You need to act as a group. That is why he said if it is to be allowed it would have to be approved by the Board of Aldermen. He personally thinks that Alderman Leahy is opening up a can of worms for any organization or person that wants to put up a sign. You (Alderman Leahy) have already said it is not political. If it is not political what is the motivation behind it. Alderman Leahy is there and he could tell people thank you for voting.

Alderman Marshall stated that he has said several times that it is important to follow the advice of their legal counsel. The City pays for his counsel in these matters and when he says it is not allowed, he thinks they should not allow it.

Mayor Kelly stated that he is concerned about putting staff on the spot on election days. They get calls from the public as to why the signs are there. It is not just other alderpersons or the mayor complaining. He doesn't want the staff to get caught in the middle that is why he thinks they need to resolve it tonight and say whether they think it is appropriate or not.

Alderman Kramer stated that if there is no emergent circumstance he would suggest they send it to committee for discussion and recommendation.

Alderman Wynn stated that he doesn't know why they can't take a vote tonight.

Motion was made by Alderman Kramer, second by Alderman Leahy to send the matter to the Public Works Committee for their consideration. All in favor, 1 aye; and 6 nays, motion is defeated.

Motion was made by Alderman Wynn, second by Alderman Leahy to allow the sign.

Alderman Kramer stated that if Alderman Leahy is amenable he could just have a sign that says thank you for voting. Would that be allowed? There is a motion but the sign is not clarified.

Mayor Kelly stated that the motion was to allow Alderman Leahy to place the sign at the polls tomorrow which would read, "thank you for voting Andrew Leahy". The point is that no sign is permitted under the code right now. To be reviewed by the Public Works Committee is something that the Board could discuss at a future date. He really doesn't think there needs to be clarification. The question is should an aldermen be allowed to place a sign at the poll tomorrow who isn't running for an election.

Roll call: Alderman Marshall, no; Alderman Leahy, yes; Alderwoman Krewson, no; Alderman Kramer, no; Alderman Robertson, no; Alderman Wynn, no; Alderman Harper, no.

Mayor Kelly announced that the executive session will not be held this evening.

Public Safety Committee - No report

Public Works Committee – No report

Director of Planning and Development

2010 Annual Budget – 8750 Manchester Road CID

City Administrator Seemayer stated that no action is required by the Board of Aldermen for the budget for 8750 Manchester Road CID. As it states on the letter, they are to submit it before the Board this evening. The budget will become final within 30 days from the date of this letter, if the City doesn't have any written comments.

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

Alderman Marshall stated that he received the message recently from CodeRed about the man that has been exposing himself. He would like everybody to go to the website and sign up if they would like the alerts. He thinks it is very important in a situation when they have

somebody who is exposing themselves to children that the public be made aware of that as soon as possible and this is a perfect example of why the system works.

City Administrator Seemayer stated that as of last week there had been an additional 180 people who signed up for it through the website. He was told by the IT Manager that this call was not the City's first call with the new system. It dialed a little over 3,000 numbers and made contact with a little over 2,000.

Alderman Kramer asked if the aldermen are self-populated or do they need to sign up.

City Administrator Seemayer stated that they don't have a list of who was populated by CodeRed. Initially, CodeRed had a list that they entered into the system. The City doesn't have access to that list.

Historical Society – No report

Recreation Center Committee – No report

### **UNFINISHED BUSINESS**

Alderman Marshall stated that concerning the problem with distribution of the TIF money and the State of Missouri, they will have the ability to reconcile every month to make sure that the mistakes that the State made won't happen again.

City Administrator Seemayer stated that whether the mistake would be by the Department of Revenue or the retailer, they will now be able to get reports 30 days after the fact. Within 30 days they would be able to recognize if there was a misallocation, it can be corrected within 30 days instead of four years. That process has already begun.

Mayor Kelly stated that they have to pay for the report, but it's worth it.

Alderman Marshall stated that the thing that worries him is the people that made the mistake are the people that are doing the report for the City.

Mayor Kelly stated that this report will show each business and what has been distributed. It is a pretty intense report and is very confidential from the businesses standpoint. The City has to sign off that only specific people can look at the report.

City Administrator Seemayer stated for example that if Target is in a site code which is called T2, which is TIF area number 2. When they get the report it will have an area that all the businesses in T2 should fall under which would be all the businesses in the Promenade. If Target were to show up in another area of the report which would be under the City's five different general sales taxes they would know there is a problem or if they showed up in a T6 which is Dierbergs Brentwood Pointe. Since they know the businesses and where they belong

they will be able to make the adjustments to get them into the right area. Previously they could have done a little bit of matching with the TDD tax, just on the dollar amounts only. They were collecting the TDD amounts, so the businesses that were in the TDD, when they sent in the TDD tax to them at least they could verify the dollar amount to see if the sales taxes were correct. They will lose that ability on January 1<sup>st</sup>.

Alderman Wynn asked if the Promenade is still on schedule to be paid off.

City Administrator Seemayer stated that it will be paid off in April 2010.

Alderman Kramer asked if the Public Works Committee minutes could be posted on the website.

Mayor Kelly responded yes.

### **NEW BUSINESS**

Alderman Leahy stated that Rock Hill Officer Ziegler retired last month. He was a former Brentwood police officer as well. It would be nice if they could impose upon the Mayor to send him a letter of congratulations on his retirement. He knows they all have joked about the fact that he would stop any and everybody driving on Manchester Road but due to his due diligence their neighborhood also got people going slower and that was a benefit to all of them. The officer did a wonderful job for the time that he served Brentwood and for Rock Hill. He is sorry to see him retire and hope he enjoys his retirement.

Alderman Leahy stated that November is the traditional Scouting for Food program that the Boy Scouts run. It can only be successful if the residents get involved and participate. This year because of the economy and job losses, there are a lot more people making requests of the food pantries. If the residents of Brentwood could participate and be generous with their donations it would be very greatly appreciated. All the food that is collected by the scouts on Saturday, November 21<sup>st</sup> will stay in St. Louis to help meet the needs of this area. The Boy Scouts will be out on the streets on Saturday, November 14<sup>th</sup> to distribute the bags.

The Ward 3 meeting will be held on Tuesday, November 24<sup>th</sup> in City Hall Council Chambers.

Alderman Harper congratulated the Brentwood High School Varsity Girls' Volleyball team for their district championship. He also congratulated the Brentwood High School Boys' Football team and Alderman Marshall's son for their district championship and invited everyone to the game on Wednesday night at 7:00 p.m. at Brentwood High School.

### **ADJOURNMENT**

Motion was made by Alderman Leahy, second by Alderman Wynn to adjourn the meeting at 8:25 pm. All in favor none opposed.

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Pat Kelly, Mayor

Attest:

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Chris Seemayer, City Clerk