

ORDINANCE NO. 2231

JAN - 5 2004

**AN ORDINANCE TO APPROVE THE FINAL SUBDIVISION  
PLAT FOR THE BRELLINGER SUBDIVISION IN THE CITY  
OF COLUMBIA, MONROE AND ST. CLAIR COUNTIES,  
ILLINOIS**

  
City Clerk

WHEREAS, the owner/developer of the "Brellinger" Subdivision, being a subdivision of part of the Southeast Quarter (1/4) and part of the Southwest Quarter of Section 4, and part of U. S. Survey No. 644, Claim 501, Township 1 South, Range 10 West of the Third Principal Meridian, City of Columbia, St. Clair and Monroe Counties, Illinois, has completed and filed with the City Clerk the necessary five (5) copies of the final subdivision plat for the subject subdivision as required by Section 34-3-17 of the City of Columbia, Illinois (the "City") Subdivision Code;

WHEREAS, Section 34-4-6 of the City's Subdivision Code restricts the length of streets to one thousand three hundred (1,300) lineal feet and LaCroix Way in the proposed Brellinger Subdivision is in excess of one thousand three hundred (1,300) lineal feet in length and a variance from strict application of Section 34-4-6 of the City's Subdivision Code is required for subdivision plat approval;

WHEREAS, the Monroe County Soil and Water Conservation Natural Resource Information Report pertaining to this subdivision has certain comments and recommendations regarding development of the subject subdivision property, which are more particularly set forth in Section 9 of this Ordinance and which the owner/developer of the subdivision shall be required to comply with;

WHEREAS, the City and the relevant property owners have agreed to enter into a Cooperation Agreement with regard to the future extension of Rueck Parkway across adjoining property, construction of cul-de-sacs for Brellinger Street in the subdivision and five (5) deferred construction items the performance of which is to be secured by a Letter of Credit Performance Guarantee and the Cooperation Agreement and the Performance Guarantee shall be approved and authorized by this Ordinance;

WHEREAS, the capital infrastructure improvements in the subdivision, including sanitary sewers, storm sewers, street pavement, curbing and guttering, sidewalks and potable water distribution system have been constructed and installed in the subdivision and have been inspected and approved for acceptance of ownership and maintenance by the City; and, the owner/developer has provided to the City the required Bill of Sale for transfer of ownership of said capital improvements to the City, a two (2) year duration Maintenance Guarantee for the capital improvements and an engineering certification that the capital improvements have been constructed and installed in accordance with the requirements of the City and it is necessary and appropriate that the City accept dedication and ownership of the rights-of-way for Lovell Landing, Rueck Parkway, Rueck Road, LaCroix Way, Pfeffer Drive and Brellinger Street in the subdivision and accept dedication and ownership of the municipal infrastructure capital improvements installed in the

subdivision and transferred to the City by the Bill of Sale; and, enact this Ordinance for the same;

WHEREAS, Section 34-3-1 of the City's Subdivision Code requires that the final plat must conform to the City approved preliminary subdivision plat and a variance shall be required to be granted by this Ordinance from strict application of that requirement for the following differences between the approved preliminary plat and the submitted final subdivision plat, to wit:

(1) The out-boundary legal description of the subdivision has changed and as a result thereof lots reconfigured because the original land survey for the preliminary plat was incorrect due to the monument for the southeast corner of Section 4, T. 1 S., R. 10 W., having been removed (and required to be reestablished) resulting in the point of beginning of the preliminary plat survey being incorrectly located and referenced which resulted in the south line of the subdivision and the out-boundary of the subdivision being incorrectly described;

(2) Certain common areas were enlarged and reconfigured to allow and provide for better surface water management in the subdivision; and,

(3) Drainage and utility easements were reconfigured after installation of utilities to provide good and adequate easements for the same and relieve of the encumbrance of such easements on lots where the area for the same was well in excess of what is required;

WHEREAS, except as heretofore stated, all of the requirements of the statutes of the State of Illinois and the Ordinances of the City (including Sections 34-3-22 and 34-3-23 of the City's Subdivision Code) relative to the platting and subdivision of property in the City have been complied with by the owner/developer of the proposed Brellinger Subdivision, to wit: The "Brellinger Trust".

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

**Section 1.** The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

**Section 2.** The City Council hereby authorizes and directs the Mayor to make and enter into a Cooperation Agreement with the Brellinger Trust, Joseph and Hilda Pfeffer, in the form attached hereto, which is hereby approved as to form, for and on behalf of the City, for the uses and purposes set forth above in the Preamble of this Ordinance and in as many counterparts as the Mayor shall determine; and, does hereby authorize and direct the City Clerk, for and on behalf of the City, to attest the signature of the Mayor on the Agreement and affix thereto the corporate seal of the City.

**Section 3.** The Letter of Credit Performance Guarantee for the Cooperation Agreement, which was filed with the City (and a copy of which is attached to the Cooperation Agreement) and the Maintenance Guarantee for the infrastructure improvements installed in the subdivision filed with the City, are hereby approved as to form and amount and accepted by the City.

**Section 4.** A variance from strict application with Subsection 34-4-6 of the City's Subdivision Code which restricts the length of streets to one thousand three hundred (1,300) lineal feet is granted for LaCroix Way based upon the findings of the City Council that the longer street in this case affords a better site design and land utilization.

**Section 5.** A variance from strict compliance with Subsection 34-3-1 of the City's Subdivision Code which requires that a final subdivision plat must conform to the City approved preliminary plat, for the matters and things described above in the Preamble of this Ordinance, is hereby granted for the change in the out-boundary legal description and reconfiguration of lots in the subdivision; for the reconfiguration and enlargement of common areas for better drainage of the subdivision and reconfiguration of drainage and utility easements where, as-built, utilities installed in the subdivision have been adequately provided for, based upon the finding of the City Council that the same affords a better site design and land utilization.

**Section 6.** The subdivision plat entitled "Brellinger Subdivision" being a subdivision of part of the Southeast Quarter and part of the Southwest Quarter of Section 4, and part of U. S. Survey No. 644, Claim 501, Township 1 South, Range 10 West of the Third Principal Meridian, in City of Columbia, St. Clair and Monroe Counties, Illinois, which is more particularly described as follows, to wit:

A part of the South half of the Southeast quarter of Section 4, Township 1 South, Range 10 West of the Third Principal Meridian, being in both St. Clair and Monroe Counties, State of Illinois, conveyed as follows:

Beginning at an old iron "T" Post which perpetuates the corner common to Sections #3, 4, 9, and 10 of Township 1 South, Range 10 West; being also the Southeast corner of Lot # 1 of the referenced Section 4, shown on Page #29 of the 'Surveyor's Official Plat Record "A"', in the Monroe County Recorder's office; thence assuming a bearing of North 88 Degrees, 54 Minutes, 49 Seconds West, along the South line of Lot # 1 of Section 4, a distance of 1370.33 (record 20.6 chains) feet and to an old iron rod set in an iron pipe set in concrete which marks the Southwest corner of Lot # 1 of Section 4; thence continuing North 88 Degrees, 54 Minutes, 49 Seconds West, along the South line of the Southeast quarter of Section 4, a distance of 696.60 feet and to a #5 bar set; thence North 16 Degrees, 51 Minutes, 09 Seconds West, a distance of 783.57 feet and to a #5 bar set; thence South 69 Degrees, 33 Minutes, 13 Seconds East, a distance of 126.52 feet and to a #5 bar set; thence North 20 Degrees, 26 Minutes, 47 Seconds East, a distance of 125.65 feet and to a #5 bar set; thence North 85 Degrees, 44

Minutes, 01 Seconds East, a distance of 150.00 feet and to a #5 bar set; thence North 04 Degrees, 15 Minutes, 59 Seconds West, a distance of 476.24 feet and to a concrete monument set in the North line of Lot # 2 of the Southeast quarter of Section 4 of Township 1 South, Range 10 West, also shown on Page # 29 of the Surveyor's Official Plat Record "A", and being the South line of that tract described to Columbia Golf Club, Inc., by instrument in Deed Record Book # 140, Page # 52 in the Monroe County Recorder's office; thence South 89 Degrees, 30 Minutes, 21 Seconds East along the said North line of Lot # 2, a distance of 698.70 feet and to an old concrete monument in the County line between Monroe and St. Clair; thence South 89 Degrees, 33 Minutes, 45 Seconds East, a distance of 576.38 feet and to a #5 bar set; thence South 00 Degrees, 28 Minutes, 08 Seconds West, a distance of 395.52 feet and to a concrete monument set; thence South 49 Degrees, 55 Minutes, 53 Seconds East, a distance of 976.75 feet and to an iron pin set in the East line of the Southeast quarter of Section 4; thence South 00 Degrees, 23 Minutes, 40 Seconds West, a distance of 314.05 feet and to the Point of Beginning, containing 51.898 acres, more or less.

is hereby approved and the Mayor is hereby authorized to sign the certificate on the plat acknowledging the City's approval of the plat and the City Clerk is hereby authorized to attest the same upon the owner/developer of the subdivision having remitted payment to the City of all fees due for the City Attorney's services and the City Engineer's services rendered in connection with plat approval.

**Section 7.** The City hereby accepts ownership, by subdivision plat dedication, of the street rights-of-way for Lovell Landing, Rueck Parkway, Rueck Road, LaCroix Way, Pfeffer Drive and Brellinger Street depicted on the Brellinger Subdivision final plat for public street and for municipal and public utilities, telecommunication and drainage uses and purposes; and the City does hereby accept ownership by subdivision plat dedication of the easements shown on the plat for the construction and maintenance of municipal utility services, telecommunication services, public utility services, and drainage uses and purposes.

**Section 8.** The City hereby accepts dedication and ownership of the tangible personal property, good and chattels comprising the capital infrastructure improvements in the Brellinger Subdivision, (including water distribution system, sanitary sewer, storm sewers, street pavement, curbing and guttering) by Bill of Sale, the receipt and sufficiency of which is hereby acknowledged by the City Council.

**Section 9.** In accordance with the Natural Resource Information Report of the Monroe County Soil and Water Conservation District dated June 17, 2002, the developer of the Brellinger Subdivision shall be required to do and perform the following with regard to the construction of buildings on the premises of the subdivision:

(1) Due to the shrink-swell potential of soils on the premises of the subdivision, the developer will be required for building construction to use reinforced foundations and widened trenches, and backfilling trenches with suitable coarse material to prevent structural damage caused by shrinking and swelling; and,

(2) To avoid on-site erosion, the developer will be required to limit the removal of plant cover to those sites under active construction to control erosion and sedimentation and shall be required to seed or sod all disturbed areas as soon as possible after completion of construction; and,

(3) Install tile drains along the base of foundations to lower seasonal high water table.

**Section 10.** This Ordinance shall be in full force and effect from and after its passage, as provided by law.

Alderman Ebersoll moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Koesterer, and the roll call vote was as follows:

YEAS: Aldermen Conrad, Ebersoll, Agne, Niemietz, Unnenstell, Hutchinson, Koesterer, Row and Mayor Schneider.

NAYS: None

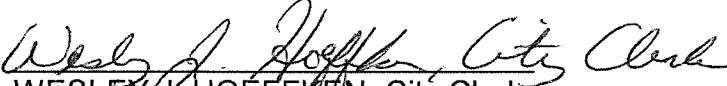

ABSENT: None

ABSTENTIONS: None

PASSED by the City Council and APPROVED by the Mayor this 5<sup>th</sup> day of January, 2004.

  
LESTER SCHNEIDER, Mayor

ATTEST:

  
WESLEY J. HOEFFKEN, City Clerk  
  
(SEAL)

**COOPERATION AGREEMENT BETWEEN THE CITY OF COLUMBIA, ILLINOIS, AS THE FIRST PARTY, THE BRELLINGER LAND TRUST, BY DENNIS R. BRAND, TRUSTEE, AS THE SECOND PARTY, AND JOSEPH AND HILDA PFEFFER, AS THE THIRD PARTIES WITH REGARD TO THE EXTENSION OF RUECK PARKWAY, A PUBLIC STREET IN THE CITY OF COLUMBIA, ILLINOIS, AND CONSTRUCTION OF TEMPORARY CUL-DE-SACS AT THE EASTERN AND WESTERN TERMINI OF BRELLINGER STREET IN THE BRELLINGER SUBDIVISION PENDING THE EXTENSION OF SAID STREET ONTO ADJOINING PROPERTY**

THIS COOPERATION AGREEMENT is made and entered into this 5th day of January, 2004, by and between the City of Columbia, Illinois, a Municipal corporation and body both corporate and politic created and existing under and by virtue of the laws of the State of Illinois, with City Hall located at 208 South Rapp Avenue, Columbia, Illinois, 62236 (the "City" or "Columbia") as the Party of the First Part; the Brellinger Land Trust, by its undersigned Trustee, Dennis R. Brand, of 1187 Moore Street, Waterloo, Illinois, 62298 (the "Brellinger Trust" or the "Trust") as the Party of the Second Part; and Joseph Pfeffer and Hilda Pfeffer, his wife, of 3147 Forest Hills School Road, Millstadt, Illinois, 62260 (the "Pfeffers") as the Parties of the Third Part, WITNESSETH:

WHEREAS, Columbia is a municipality of the State of Illinois which is located in the Counties of Monroe and St. Clair, in the State of Illinois;

WHEREAS, Rueck Road in the City provides the primary access to the Briar Lake Estates Subdivision in the City (130 acres, more or less), and the Brellinger Subdivision in the City (contemplated to comprise 143 acres, more or less), and is expected to also provide access to the Columbia Golf Club, Inc.-Louis I. Mund-H. J. Frierdrich and Sons, Inc. contemplated mixed use and multiple zoned development located north of the Brellinger Subdivision property at some future time when the City's annexation and zoning of that property has been completed (contemplated to comprise 541 acres, more or less);

WHEREAS, Rueck Road (formerly a Monroe County Road District No. 5 road, now a city street by virtue of city annexations), the City Council has found and determined is required to be relocated and reconstructed for the safety and welfare of the motor vehicle traffic expected to be created by the aforementioned real estate developments which will rely upon Rueck Road for access to said subdivision developments and that improvement is required to be made and provided for by the developers of the properties involved;

WHEREAS, by an Annexation Agreement between the City and the American Heritage Land Development, L.L.C. (as the developer of the Briar Lake Estates Subdivision) dated June 16, 2002, said developer is required to, among other things, provide to the City fee title to a right-of-way, sixty five (65) feet wide, for widening, relocating, and reconstructing Rueck Road from the Quarry Road intersection north to the Rueck Parkway at the entrance of the Brellinger Subdivision and to reconstruct the travel-way in said right-of-way to have a rural design (twenty-two [22] foot wide Portland cement concrete pavement, eight (8) inches thick, constructed on four (4) inch thick aggregate sub-base or twelve (12) inch thick lime modified earthen sub-grade, six (6) foot wide bituminous shoulders on each side of the pavement, with five (5) foot wide Portland cement concrete

sidewalk, four (4) inches thick, on the east side of the pavement to be located one (1) foot behind top slope of the drainage ditch);

WHEREAS, the American Heritage Land Development, L.L.C., as owner of the property comprising the Briar Lake Estates Subdivision, is also required by said annexation agreement to dedicate right-of-way (contemplated to be thirty two and one-half (32.5) lineal feet, more or less, in width) along the north boundary of the Briar Lake Estates Subdivision and the owner of the property comprising the Brellinger Subdivision (the Brellinger Trust) is required to dedicate to the City by final subdivision plat fee title to a like amount of right-of-way for said Rueck Road widening and reconstruction (contemplated to be thirty two and one-half (32.5) lineal feet, more or less, in width) along the south boundary of the Brellinger Subdivision, for said use and purpose;

WHEREAS, the American Heritage Land Development, L.L.C., is also required to reconstruct Rueck Road to rural design standard from the intersection of the Quarry Road north to connect to Rueck Parkway in the Brellinger Subdivision and to dedicate the right-of-way of said Rueck Road at said location in and adjoining said Briar Lake Estates Subdivision, located along the western boundary of the Briar Lake Estates Subdivision, (sixty-five [65] feet in width), which improvement is not required to be made until the improvement plans for the realignment and reconstruction of said road at the subject location have been approved by the City;

WHEREAS, the developer of the Brellinger Subdivision, to-wit: D & A Builders has completed the construction and installation of the capital infrastructure improvements in the subdivision and is seeking final subdivision plat approval for that subdivision from the City;



WHEREAS, as a condition for final subdivision plat approval, the owner of the Brellinger Subdivision property, to-wit: The Brellinger Trust and the owner of the remainder of the property the Trust is expected to acquire in order to construct the contemplated additions required to complete that residential subdivision development (Joseph and Hilda Pfeffer) are required to make and into enter this agreement and to provide to the City the performance guarantees required by the City to provide for the eventual and ultimate extension of Rueck Parkway in the City to adjoining property at the desired location and to provide for temporary dead ending of Brellinger Street and Rueck Parkway by temporary cul-de-sacs pending completion of the extension of those public traffic ways onto adjoining property.

NOW, THEREFORE, in consideration of the premises, the parties to this agreement stipulate and agree as follows:

**SECTION 1. Reconstruction of Rueck Road.** In the event American Heritage Land Development, L.L.C., as owner and developer of the Briar Lake Estates Subdivision property ("American Heritage") would default in the performance of its obligation to acquire right-of-way for and reconstruct Rueck Road under and pursuant to the First Amended Annexation Agreement between American Heritage and the City (a copy of which Annexation Agreement was recorded in the Monroe County, Illinois Recorder's Office on June 25, 2003 as Document No. 276083) which Annexation Agreement is incorporated herein by reference and by reference made part of this agreement, then and in that event, the Brellinger Trust shall have the right, but not the obligation to perform Sections 4, 5 and 6 of that Annexation Agreement regarding providing right-of-way for and reconstruction of said Rueck Road (according to rural design standards as described in the preamble of this

Agreement) in and adjoining the property comprising the Briar Lake Estates Subdivision in the City (from the intersection of the Quarry Road and Rueck Road in the City, north to the southern terminus of the Rueck Parkway in the Brellinger Subdivision in the City).

In the event the Brellinger Trust would elect to do and perform all or part of the obligations of American Heritage under said Annexation Agreement, then in that event, the City shall assign to the Brellinger Trust all of its rights of enforcement and the claims or causes of action the City would have and possess against American Heritage under and pursuant to said Annexation Agreement for the Trust to have a subrogation claim for indemnity for the costs the Trust incurred in performing the obligations incumbent upon American Heritage under the Annexation Agreement.

Notwithstanding anything contained in this Section 1 of this Agreement, should American Heritage default on its performance to provide right-of-way for and to reconstruct Rueck Road at the location aforesaid, as is made and provided for in its First Amended Annexation Agreement aforesaid, then and in that event, the Brellinger Trust agrees to (and shall be required to) reconstruct the surfacing of the travel way of the existing Rueck Road from the intersection of Quarry Road and Rueck Road in the City, north to the southern terminus of the Rueck Parkway in the Brellinger Subdivision in the City, to have a twenty-two (22) foot wide oil and chip surfacing on aggregate base, in accordance with City specifications, and subject to City inspection and approval. Further, the Trust shall be required to maintain the surfacing of Rueck Road as reconstructed with oil and chip surfacing pending the reconstruction of said section of roadway to rural design standards as is made and provided for in the American Heritage First Amended Annexation Agreement. The oil and chip surfacing shall be required to be completed within six (6)

months of the City giving written notice to the Trust regarding the need for the reconstruction, (absent adverse weather conditions, other Acts of God, labor strikes, material shortages, or other conditions legitimately beyond the control of the Trust). The City Engineer has approved an estimated one hundred twenty-five percent (125%) of the cost to reconstruct the subject section of Rueck Road for oil and chip surfacing on an aggregate base within the time aforesaid will be Thirty Thousand Dollars (\$30,000). In the event of the failure of the Trust to commence the twenty-two (22) foot wide oil and chip resurfacing within sixty (60) days of receiving such notice and/or in the event of the failure of the Trust to complete said resurfacing within the six (6) month time limit aforesaid (absent adverse weather conditions, other acts of God, labor strikes, material shortages or other conditions legitimately beyond the control of the Trust) the City will perform the reconstruction (or hire outside contractors to do and perform the same) and may draw on the stand-by Letter of Credit referred to in Section 5 of this Agreement to pay for the same.

**SECTION 2. Extension of Rueck Parkway in the Brellinger Subdivision.** Within three (3) years after the City approval of the final subdivision plat for the Brellinger Subdivision, the Brellinger Trust and its developer, D & A Builders, will acquire the remainder of the rights-of-way (sixty five (65) feet in width) from the Pfeffers and complete the construction and installation of the extension of Rueck Parkway to the northeast or east property line of the Pfeffer property along a route and at a terminus location approved by the City. The construction of the subject extension of Rueck Parkway shall be, at a minimum, of the same design and construction standards as the construction of Rueck Parkway in the Brellinger Subdivision (as is provided for by the improvement plans approved by the City for the Brellinger Subdivision).

It is contemplated by the Brellinger Trust and its developer, D & A Builders, that the Rueck Parkway extension will be constructed in connection with the development of a first or second addition to the Brellinger Subdivision and that the land for the subsequent additions subdivisions will hereafter be acquired by the Brellinger Trust from the Pfeffers. To secure the acquisition of the right-of-way and construction and installation of the Rueck Parkway extension aforesaid, within three (3) years of the approval of the final plat for the Brellinger Subdivision, the Brellinger Trust has provided to the City a Performance Guarantee - Letter of Credit issued by First National Bank of Waterloo, Illinois in the sum of One Hundred Ninety-One Thousand Dollars (\$191,000), One Hundred Thousand Dollars (\$100,000) of said Performance Guarantee being the City Engineer approved cost estimate for the right-of-way acquisition (Twenty-Two Thousand Five Hundred Dollars [\$22,500]) and one hundred twenty-five percent (125%) of the estimated costs for engineering and construction of the street extension at the time of reference (Seventy-Seven Thousand Five Hundred Dollars [\$77,500]). A copy of the Letter of Credit Performance Guarantee is attached hereto as an exhibit and is by reference made a part hereof.

The Pfeffers stipulate and agree that they will grant and convey to the City the right-of-way for the extension of Rueck Parkway in the event the Brellinger Trust would fail to make the Rueck Parkway extension as is herein made and provided for (which land acquisition may be paid for by utilizing proceeds from the Letter of Credit Performance Guarantee in a sum of not to exceed Twenty-Two Thousand Five Hundred Dollars (\$22,500) on thirty (30) days prior written notice from the City, utilizing the legal description for the right-of-way provided by the City. Should the Pfeffers fail or refuse to execute the

deed to convey the right-of-way for the Rueck Road extension to the City, then and in that event, a judge of a court of competent jurisdiction is hereby authorized and requested to sign the right-of-way deed for the City, on behalf of the Pfeffers, as their duly authorized agent and representative, and in that event, the funds aforesaid to be used to pay for the acquisition of the right-of-way shall be escrowed at the First National Bank of Waterloo, Illinois, pending resolution of the dispute.

**SECTION 3. Temporary Cul-de-Sacs.** Prior to final subdivision plat approval for the Brellinger Subdivision by the City, the subdivision developer, D & A Builders, shall construct, install, and thereafter maintain, all-weather, aggregate base, temporary cul-de-sacs at the northern terminus of Rueck Parkway and at the western and the eastern termini of Brellinger Street in the subdivision. The temporary cul-de-sacs may be gravel surfaced and are not required to be hard surfaced, and they shall have a radius at the outside of the travel-way of not less than thirty five (35) feet and a diameter at the outside of the right-of-way of not less than one hundred (100) feet. The temporary cul-de-sacs shall be used as turnarounds by the City Fire Department, Police Department, and the City Maintenance personnel in the performance of their duties, the residents of the subdivision and the motoring public utilizing the streets in the subdivision. The temporary cul-de-sacs may be designed and configured as so called "bubble" cul-de-sacs if the subdivider so elects. In the event Brellinger Street is not extended into an adjoining subdivision within three (3) years after the City's approval and recording in the Office of the Monroe County, Illinois Recorder of the final plat for the Brellinger Subdivision, the property developer will be required to construct Portland cement concrete cul-de-sacs at the eastern and western termini of Brellinger Street which shall be constructed and installed in accordance with the

construction standards and requirements of the City in effect at the time of reference. If the extension of the Rueck Parkway to the northeast or eastern boundary of the Pfeffer property has not been constructed within three (3) years of the approval of the final plat for the Brellinger Subdivision, the City may acquire the right-of-way from Pfeffers and construct the street extension utilizing the City's exhibit Performance Guarantee as is made and provided for above in Section 2 of this Agreement.

To secure performance of the construction of the cul-de-sacs at the east and west termini of Brellinger Street, the subdivider has provided the City with the attached exhibit stand-by Letter of Credit Performance Guarantee issued by the First National Bank of Waterloo, Illinois, in the sum of One Hundred Ninety-One Thousand Dollars (\$191,000), Fifty Thousand Dollars (\$50,000), (being Five Thousand Dollars [\$5,000] for right-of-way acquisition for each of the two [2] cul-de-sacs and Twenty Thousand Dollars [\$20,000] for engineering and Portland cement construction on aggregate base of the pavement for each of the two [2] cul-de-sacs) is for the land acquisition and construction of the permanent cul-de-sacs. Should the developer fail to extend Brellinger Street or construct the cul-de-sacs within the time aforesaid, then the City may draw on the Performance Guarantee Letter of Credit to construct the same. The right-of-way for the permanent cul-de-sacs shall be deeded and conveyed to the City by the Pfeffers upon payment of a sum of not to exceed Five Thousand Dollars (\$5,000) for each of the two (2) cul-de-sacs (Ten Thousand Dollars [\$10,000] total) and the City may use the Performance Guarantee Letter of Credit to pay for that right-of-way acquisition.

In the event the Pfeffers fail or refuse to convey the right-of-way for the cul-de-sacs to the City, as required by this agreement, the Pfeffers hereby appoint as their agent in the premises, a judge of a court of competent jurisdiction, and authorize that judge to sign and deliver their deed to the City for the cul-de-sacs right-of-way on their behalf.

In addition to the right-of-way required for the extension of Rueck Parkway and the construction of permanent cul-de-sacs for Brellinger Street, the owners of the Brellinger Trust property and the Pfeffer property involved herein hereby and by the deeds required for right-of-way conveyance to the City shall grant and convey to the City, (including the City's engineers, surveyors, contractors, and other agents), construction easements in gross on, over, along and across the property of the Pfeffers adjoining the Brellinger Subdivision for the location, laying out, platting and monumenting, engineering and construction of the permanent Rueck Parkway extension and permanent cul-de-sacs improvements involved herein.

**SECTION 4. Deferred Construction.** Due to circumstances beyond the control of the Trust, the completion of construction improvements involved in this Section of this Agreement cannot be completed prior to final subdivision plat approval. Consequently, the Trust agrees to complete construction of the following improvements in or for the Brellinger Subdivision within eight (8) months (240 days) of the date of this Agreement, in accordance with the specifications and requirements of the City, to wit:

- (1) Clean out the concrete swales in the bottom of surface water detention facility in the subdivision;
- (2) Raise the elevation of one (1) of the fire hydrants in the subdivision;

(3) Complete the electrical wiring for the off-premises sanitary sewer lift station;

(4) Construct and install asphalt pavement on aggregate base for the access road for the sanitary sewer lift station for the subdivision; and,

(5) Construct and install approximately three hundred (300) lineal feet of additional sanitary sewer force main to connect to a sanitary sewer manhole of the City located east of the Columbia Golf Club, Inc. sanitary sewer line in the event the subject golf club sanitary sewer line is not dedicated to and owned by the City: (i) within the time required for the first occupancy permit application for a residence in the Brellinger Subdivision, or (ii) August 14, 2004, whichever is sooner.

The proper performance of the deferred construction items described above in this Section of this Agreement, within the time set forth above, is secured by the First National Bank Letter of Credit Performance Guarantee in the sum of One Hundred Ninety-One Thousand Dollars (\$191,000) attached hereto as an exhibit. One hundred twenty-five percent (125%) of the City Engineer approved estimated cost to construct deferred construction items one (1) through four (4) above in this Section of this Agreement, in the sum of Eight Thousand Dollars (\$8,000) and the City Engineer approved estimated cost to construct deferred construction item five (5) above, in the sum of Three Thousand Dollars (\$3,000), has been included in the said Performance Guarantee Letter of Credit principal amount.

**SECTION 5. Performance Guarantee.** To secure performance of the obligations and undertakings of the Brellinger Trust set forth in this Cooperation Agreement, even date



herewith, the Trust has provided to the City the stand-by Letter of Credit Performance Guarantee issued by First National Bank of Waterloo in the total sum of One Hundred Ninety-One Thousand Dollars (\$191,000) (a copy of which is attached hereto as an exhibit) to guarantee that the improvements required by and described in Section 4 of this Agreement will be constructed and completed within eight (8) months of the date of this Agreement and to guarantee that the remaining undertakings and obligations of the Trust set forth in this Agreement shall be completed within three (3) years of the date of this Agreement.

**SECTION 6. Binding Effect.** The terms and provisions of this Cooperation Agreement shall be binding upon and shall inure to the benefit of the three (3) parties hereto, their heirs, executors, administrators, other legal representatives, successors and assigns; and shall attach to and run with the title to the real property involved in this Agreement.

**SECTION 7. Attorneys' Fees and Costs.** In the event of a default in the performance of this Cooperation Agreement by any of the parties to this agreement, should it become necessary for a party injured or damaged by the default to incur attorneys' fees and court costs in enforcing the agreement, with or without litigation, the party in default shall be responsible for payment and discharge or reimbursement of the injured party's reasonable attorneys' fees and court costs incurred in enforcing the agreement, and the same may be made part of any judgment or order entered by a court of competent jurisdiction in an action instituted to enforce this agreement.

**SECTION 8. Enforcement.** Notwithstanding anything contained in this agreement to the contrary, should there be a default in the performance of this agreement by a party to the agreement, any other party to the agreement injured by the default may either in law or in equity, by suit, action, mandamus, or other proceedings in a court of competent jurisdiction, enforce and compel performance of this agreement and seek damages for its breach.

**SECTION 9. Severability.** In the event any part or portion of this agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of the agreement shall continue in force and effect and the agreement shall be read and enforced with the invalid or unenforceable provisions struck from the agreement. The remainder of the agreement shall be enforced as nearly as practicable to the original intentment of the parties to the agreement.

**SECTION 10. Waiver of Homestead.** The Pfeffers, as the Parties of Third Part, and owners of property adjoining the Brellinger Subdivision, hereby waive all rights under the Homestead Exemption Laws of the State of Illinois with regard to the real property belonging to them which is involved in this Agreement.

IN WITNESS WHEREOF, the parties to this agreement have made, executed and delivered this Cooperation Agreement to take effect on the date first above written, for the uses and purposes set forth above.

CITY OF COLUMBIA, ILLINOIS, a Municipal corporation, the Party of the First Part

BY: *Lester Schneider*  
LESTER SCHNEIDER, Mayor

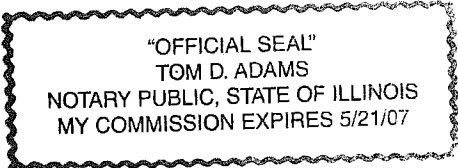
ATTEST:

*Wesley J. Hoeffken*, City Clerk by  
WESLEY J. HOEFFKEN, City Clerk  
*Alan K. McHaffey*, Dep. Clerk  
(SEAL)

STATE OF ILLINOIS                    )  
  )     SS  
COUNTY OF MONROE                )

The undersigned, a Notary Public in and for the County and State aforesaid, hereby certifies that LESTER SCHNEIDER and WESLEY J. HOEFFKEN, personally known to me and know to me to be the Mayor and the City Clerk, respectively, of the City of Columbia, Illinois, a Municipal Corporation, appeared before me, in person, this date, and acknowledged that they signed and delivered the above and foregoing document as their free and voluntary act and deed and as the free and voluntary act and deed of said City pursuant to enabling ordinance of the City duly enacted, for the uses and purposes therein set forth.

Subscribed and sworn to before me, a Notary Public, this *5th* day of *January*, 200*4*.  
*Tom D. Adams*  
Notary Public



BRELLINGER LAND TRUST, the Party of the  
Second Part

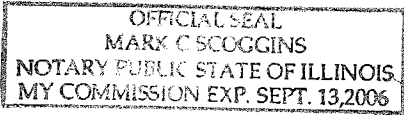
BY: *Dennis R. Brand*  
DENNIS R. BRAND, Trustee

STATE OF ILLINOIS     )  
                                  )     SS  
COUNTY OF MONROE    )

The undersigned, a Notary Public in and for the County and State aforesaid, hereby certifies that DENNIS R. BRAND, personally known to me and known to me to be the Trustee of the Brellinger Land Trust, and known to me to be the same person whose name is subscribed to the foregoing document, appeared before me in person, this date, and acknowledged that he signed and delivered the above and foregoing document as his free and voluntary act and deed and as the free and voluntary act and deed of the Brellinger Land Trust for the uses and purposes set forth above.

Subscribed and sworn to before me, a Notary Public, this 29<sup>th</sup> day of DECEMBER, 2003.

*Mark C. Scoggins*  
Notary Public



OWNERS, the Parties of the Third Part

Joseph Pfeffer  
JOSEPH PFEFFER

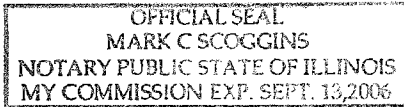
Hilda Pfeffer  
HILDA PFEFFER

STATE OF ILLINOIS     )  
                                  )     SS  
COUNTY OF MONROE    )

The undersigned, a Notary Public in and for the County and State aforesaid, hereby certifies that JOSEPH PFEFFER and HILDA PFEFFER, personally known to me and known to me to be the same persons whose names are subscribed to the foregoing document, appeared before me in person, this date, and acknowledged that they signed and delivered the above and foregoing document as their free and voluntary act and deed for the uses and purposes set forth above, including the release and waiver of the right of Homestead.

Subscribed and sworn to before me, a Notary Public, this 29<sup>th</sup> day of December, 2003.

Mark C Scoggins  
Notary Public



THIS DOCUMENT PREPARED BY:

TOM D. ADAMS #13439  
ADAMS AND HUETSCH  
Attorneys-at-Law  
321 Wedgewood Square  
P.O. Box 674  
Columbia, Illinois 62236  
Telephone (618) 281-5185

**EXHIBIT**

**Letter of Credit Performance Guarantee**

**of**

**First National Bank of Waterloo**

LETTER OF CREDIT CONSTRUCTION PERFORMANCE GUARANTEE

January 5, 2004

City of Columbia, Illinois  
Columbia City Hall  
208 South Rapp Avenue  
P. O. Box 467  
Columbia, IL 62236

Dear Council Members:

WHEREAS, the CITY OF COLUMBIA, ILLINOIS, a Municipal Corporation and body both corporate and politic created and existing under and by virtue of the laws of the State of Illinois ("Columbia" or the "City") and the BRELLINGER TRUST, a land trust created and existing under and by virtue of the laws of the State of Illinois, by DENNIS R. BRAND, as the Trustee of said Land Trust, (the "Brellinger Trust" or the "Trust") did make and enter into a Cooperation Agreement dated December 15, 2003, for the subdivision and development of Brellinger Subdivision in the City of Columbia, Illinois, a copy of which Agreement is attached hereto as Exhibit "A" and by reference made part hereof, (the "Agreement" or the "Cooperation Agreement").

WHEREAS, by the terms of said Cooperation Agreement the Brellinger Trust is required to do and perform the following:

(1) Within three (3) years of the date of the Cooperation Agreement, to either extend Brellinger Street onto adjoining property intended to be developed as subsequent additions of the Brellinger Subdivision at the eastern and western termini of Brellinger Street in the subdivision or construct permanent Portland cement concrete cul-de-sacs for said street at said locations;

(2) Within three (3) years of the date of the Cooperation Agreement, construct the extension of Rueck Parkway from its existing terminus in the Brellinger Subdivision to the northeast or east boundary of the Joseph and Hilda Pfeffer property;

(3) Within three (3) years of the date of the Cooperation Agreement, reconstruct and resurface the travel way in the road bed of Rueck Road from the intersection of Rueck Road and the Quarry Road north to the Rueck Road interconnect to Rueck Parkway in the Brellinger Subdivision, to have twenty-two (22) foot wide oil and chip surfacing on aggregate base, and to maintain the same, in the event American Heritage Land Development, LLC, as owner and developer of the Briar Lake Estates Subdivision property, defaults in the performance of its obligation to acquire right-of-way for and reconstruct said



section of Rueck Road under and pursuant to the First Amended Annexation Agreement between American Heritage Land Development, LLC, and the City;

(4) Within eight (8) months of the date of the Cooperation Agreement, do and perform the following:

- (A) Raise the elevation of one (1) fire hydrant in the subdivision;
- (B) Clean out the concrete swales in the bottom of the surface water detention facility in the subdivision;
- (C) Complete the electrical wiring for the off-premises sanitary sewer lift station;
- (D) Construct and install asphalt pavement on aggregate base for the access road for the lift station for the subdivision; and,
- (E) Construct and install approximately three hundred (300) lineal feet of additional sanitary sewer force main to connect to a sanitary sewer manhole of the City located east of the Columbia Golf Club, Inc. sanitary sewer line in the event the subject golf club sewer line is not dedicated to and owned by the City prior to the first occupancy permit application for a residence in the Brellinger Subdivision or August 14, 2004, whichever is sooner.

WHEREAS, the City is requiring as a condition for approval of the final plat that the Trust and Joseph and Hilda Pfeffer make and enter into the Cooperation Agreement with the City and secure the performance thereof by this stand-by Letter of Credit Performance Guarantee;

WHEREAS, the City is requiring this Letter of Credit to be issued for a term of three (3) years.

WHEREAS, by the Cooperation Agreement, the Letter of Credit is required to be in form and content acceptable to the City's City Attorney; and

WHEREAS, this Letter of Credit has been approved as to form and content by the City Attorney of Columbia, Illinois; is in an amount equal to One Hundred Twenty-Five Percent (125%) of the City Engineer approved cost estimate for the engineering and construction of the infrastructure improvements and Code construction items described in the Cooperation Agreement, a copy of which is attached hereto as Exhibit "A", and by reference made part hereof.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the undersigned financial institution (the "Bank") does hereby establish its Irrevocable Letter of Credit for the account of the Brellinger Trust, Dennis Brand, Trustee, 1187 Moore Road, Waterloo, Illinois, 62298, in favor of the City of Columbia, Illinois, a Municipal Corporation and a body both corporate and



politic, located in the Counties of Monroe and St. Clair, in the State of Illinois (the "City") in the amount of One Hundred Ninety-One Thousand and 00/100 Dollars (\$191,000.00) for the design engineering, construction engineering, installation and construction as required and provided for in the Cooperation Agreement.

WITNESSETH:

**Construction Disbursements.**

If the Bank has been notified by the City, (as described below) of a default by the Trustee, the Bank will disperse the funds to the City for the labor and material furnished, or to be furnished, by contractors employed by the City to construct or complete construction of infrastructure improvements and Code compliance items described in the Exhibit "A" Cooperation Agreement, not to exceed One Hundred Ninety-One Thousand and 00/100 Dollars (\$191,000.00) in accordance with the sworn statement or order of the City Council and certificate of the City Engineer of the City that such work has been properly completed.

**Disbursements Required.**

The construction described in the Exhibit "A" Cooperation Agreement shall be completed subject to the following:

If the Bank receives a resolution of the City Council of the City indicating that the Trustee has failed to construct or to complete the construction described in the Exhibit "A" Cooperation Agreement, and such resolution indicates that the Trustee of the Brellinger Trust has been notified that the City finds there has been a failure of timely construction and/or installation of improvements described in the Exhibit "A" Cooperation Agreement, which shall be considered a "breach" hereunder, and such breach has not been cured within a period of thirty (30) days after notice of breach, then and in that event, the Bank shall make payment for the materials and labor to the City for the City's use in paying such contractors or subcontractors retained by the City who have completed the required construction work. Such payment shall be made upon the certification of the City Engineer that the work has been completed and the submission of proper waivers of liens from the contractors and subcontractors involved.

This Irrevocable Letter of Credit is established by us in favor of the City to be in full force and effect for a three (3) years term to commence on the date set forth below and to end on the 4<sup>th</sup> day of January, 2007.

This Letter of Credit shall remain in effect without regard to any default in payment of sums owed to the undersigned Bank by the Brellinger Trust and/or any beneficiary of said Trust and without regard to other claims which the Bank may have against the Brellinger Trust or any beneficiary of said Trust. Notwithstanding anything contained in this Letter of Credit that could be construed to the contrary, sixty (60) days prior to the expiration of this Irrevocable Letter of Credit, the Bank shall notify the Clerk of the City, Columbia City Hall, 208 South Rapp Avenue, P. O. Box

467, Columbia, Illinois, 62236, by registered mail, return receipt requested, of the impending expiration date. This Irrevocable Letter of Credit shall not terminate without such notice. It is further acknowledged that the consideration for this Irrevocable Letter of Credit is provided by agreement between the Bank and the Trustee of the Brellinger Trust, for and on behalf of the Brellinger Trust.

The sum of credit shall be reduced in the amount of the disbursements made from time to time in accordance with the terms under which this credit is extended as set out above.

This credit is subject to and governed by the laws of the State of Illinois and to the "Uniform Customs and Practice for Documentary Credits" (1993 Revisions, International Chamber of Commerce, publication 500).

Signed, sealed and dated this 5 day of January, 2004.

FIRST NATIONAL BANK OF WATERLOO

By: W. Greg Goodman  
Super (Vice)President

ATTEST:

[Signature]  
Cashier or Vice-President

02re1205.079

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COLUMBIA,  
ILLINOIS HELD MONDAY, JANUARY 5, 2004 IN THE COUNCIL ROOM OF CITY HALL

---

I. CALL TO ORDER

The Pledge of Allegiance was recited.

Mayor Schneider called the City Council of Columbia, Illinois to order at 7:00 PM.

Upon Roll Call, the following members were:

Present: Aldermen Conrad, Ebersohl, Niemietz, Agne, Unnerstall, Hutchinson,  
Koesterer and Row.

Absent: None.

Quorum Present.

Administrative Staff Present: Deputy Clerk Donna Mehaffey, Executive Secretary Marian Ledbetter, City Attorney Tom Adams, Fire Marshall Mike Roediger, Building Commissioner and Ordinance Administrator John Kildea, City Treasurer Robert Naumann, City Auditor Gene Schorb and Director of Community and Economic Development Mike Hemmer.

Mayor Schneider stated that he had a letter from City Clerk Wes Hoeffken indicating he was out of the City and that Deputy Clerk Donna Mehaffey would be taking his place.

II. APPROVAL OF MINUTES

The minutes of the Executive Session of the City Council held Monday, December 15, 2003 were submitted for approval.

Corrections were forwarded to Ms. Mehaffey.

MOTION:

It was moved by Alderman Niemietz, and seconded by Alderman Unnerstall, to approve the minutes of the Executive Session of the City Council held Monday, December 15, 2003, as amended and on file at City Hall. Upon Roll Call vote, Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Hutchinson, Koesterer and Row voted yea. Motion Carried.

The minutes of the Regular Meeting of the City Council held Monday, December 15, 2003 were submitted for approval.

Corrections were forwarded to Ms. Mehaffey.

MOTION:

It was moved by Alderman Koesterer, and seconded by Alderman Unnerstall, to approve the minutes of the Regular Meeting of the City Council held Monday, December 15, 2003, as amended and on file at City Hall. Upon Roll Call vote, Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Hutchinson, Koesterer and Row voted yea. Motion Carried.

III. DELEGATIONS

There were no delegations present.

IV. REPORT OF OFFICERS

A. Building Commissioner

The December 2003 and calendar year 2003 reports of the Building Commissioner were presented to the Council by Mr. Kildea.

MOTION:

It was moved by Alderman Conrad, and seconded by Alderman Niemietz, to accept the December 2003 and calendar year 2003 reports of the Building Commissioner as presented. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

B. Fire Marshall

The December 2003 and calendar year 2003 reports of the Fire Marshall were presented to the Council by Mr. Roediger.

MOTION:

It was moved by Alderman Ebersohl, and seconded by Alderman Unnerstall, to accept the December 2003 and calendar year 2003 reports of the Fire Marshall as presented. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

C. Executive Secretary

The January 5, 2004 Report of the Executive Secretary was presented to the Council by Mrs. Ledbetter.

MOTION:

It was moved by Alderman Niemietz, and seconded by Alderman Unnerstall, to accept the January 5, 2004 Report of the Executive Secretary as presented. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

D. City Attorney

1. Ordinance No. 2231 - Brellinger Subdivision Final Plat

MOTION:

It was moved by Alderman Ebersohl and seconded by Alderman Koesterer to pass Ordinance No. 2231, an ordinance to approve the final subdivision plat for the Brellinger Subdivision in the City of Columbia, Monroe and St. Clair Counties, Illinois. Upon Roll call vote, Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Hutchinson, Koesterer, Row, and Mayor Schneider voted yea. Motion Carried.

2. Ordinance No. 2232 - Milestone Manor Subdivision Final Plat

MOTION:

It was moved by Alderman Agne, and seconded by Alderman Koesterer, to pass Ordinance No. 2232, an ordinance to approve the final subdivision plat for the Milestone Manor Subdivision in the City of Columbia, Illinois. Upon Roll Call vote, Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Hutchinson, Koesterer, Row, and Mayor Schneider voted yea. Motion Carried.

3. Order Approving the Preliminary Subdivision Plat for Franke Farms Subdivision

MOTION:

It was moved by Alderman Row, and seconded by Alderman Unnerstall, to conditionally approve the preliminary plat for the Franke Farms Subdivision, subject to the following conditions:

- (1) Prior to final plat approval for the subdivision, a Cooperation Agreement will be required to be made and entered into between the subdivider and the City to vacate the drainage easements of the City which encroach onto the northwest corner of Lot 23 of the subdivision (or at a minimum the portion thereof which encroach onto the subdivision, whichever the City decides) and an ordinance will be enacted by the City to accomplish the vacation. If the City elects to vacate only the portion of the easement that encroaches on the subdivision, then the developer will pay for and provide the narrative legal description and survey drawing for the vacation agreement and the vacation ordinance.
- (2) The developer of the subdivision will be required to comply with the recommendations of the Monroe County, Illinois Soil and Water Conservation District Natural Resource Information Report dated September 5, 2003 and the same will be included in the City Ordinance to be enacted to approve the final plat for the subdivision, to wit:
  - (A) Tile drains around the base of foundations of dwellings will be required to lower seasonal high water table;
  - (B) Reinforced foundations with widened foundation trenches and backfilling with suitable coarse material will be required due to soil shrinking and swelling.
- (3) This plat approval is conditioned upon the subdivider remitting payment to the City of reimbursement of the City Attorney and City Engineering Consultant fees incurred in connection with the preliminary plat approval.
- (4) Prior to final plat approval, the subdivider will provide to the City a current dated title insurance commitment for the subject property verifying ownership of and liens and encumbrances against the property comprising the subdivision at time of reference and a mortgage subordination agreement for any mortgage liens against the property to provide that the same are subordinate to the final subdivision plat and the easements and rights-of-way and other benefits and restrictions created by the plat.

Upon Roll Call vote, Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Hutchinson, Koesterer, Row, and Mayor Schneider voted yea. Motion Carried.

4. Ordinance No. 2233 - Craig and Dawn Heimbürger Variance

MOTION:

It was moved by Alderman Hutchinson and seconded by Alderman Ebersohl to pass Ordinance No. 2233, An ordinance to authorize a variance from strict application of the rear yard setback requirement in an R-5 (One-family dwelling zoned district) in the City of Columbia, Illinois for property belonging to Craig Heimbürger and Dawn Heimbürger, his wife, having the assigned address of 10 Ashlee Lane, Columbia, Illinois 62236. Upon Roll call vote, Aldermen Conrad, Ebersohl, Unnerstall, Hutchinson, Koesterer, Row and Mayor Schneider voted yea. Aldermen Agne and Niemietz voted nay. Motion Carried.

5. Ordinance to Establish Admiral Parkway TIF District - "Interested Party Registry"

This item was deferred.

6. Order for Conditional Approval of Preliminary Subdivision Plat for Pine Creek Subdivision

MOTION:

It was moved by Alderman Unnerstall and seconded by Alderman Row to conditionally approve the November 26, 2003 preliminary subdivision plat submitted for the Pine Creek Subdivision in the City subject to the following conditions and upon conditional approval of Engineering Consultant Ken Vaughn

- (1) The subdivider remitting payment to the City of the fees incurred by the City for services rendered by the City Attorney and the City Engineering Consultant in connection with the preliminary plat approval.
- (2) In the ordinance approving the final subdivision plat, the City Council will grant a variance from strict compliance with Section 34-4-6 of the Subdivision Code which prohibits any block being shorter than 600 lineal feet for Pine Creek Court, which is less than 200 lineal feet in length, based upon the same providing a better site design and land utilization.
- (3) Prior to final plat approval, the subdivider shall be required to submit to the City Attorney for his review and approval any restrictions that pertain to the subdivision.
- (4) The subdivider will be required to comply with the recommendations of the Monroe County Soil and Water Conservation District Natural Resource Report dated September 9, 1999 to control site erosion.
- (5) Prior to final plat approval, the subdivider will provide to the City a current dated title insurance commitment for the subject property verifying ownership of and liens and encumbrances against the property at time of reference and a mortgage subordination agreement for any mortgage liens against the property to provide that the same are subordinate to the final subdivision plat and the easements and rights-of-way and other benefits and restrictions created by the plat.

Upon Roll call vote, Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Hutchinson, Koesterer, Row and Mayor Schneider voted yea. Motion Carried.

MOTION:

It was moved by Alderman Ebersohl, and seconded by Alderman Agne, to accept the report of the City Attorney as presented. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

EXECUTIVE SESSION

None.

- E. Director of Community and Economic Development  
The December 2003 report of the Director of Community and Economic Development was presented to the Council by Mr. Hemmer.

MOTION:

It was moved by Alderman Niemietz, and seconded by Alderman Koesterer, to accept the December 2003 report of the Director of Community and Economic Development as presented. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

F. Mayor's Report

Mayor Schneider's report of January 5, 2004 was presented to the Council.

G. City Clerk

Ms. Mehaffey presented the January 5, 2004 Clerk's Office report to the Council.

V. CLAIMS & ACCOUNTS

A. Treasurer/Auditor Report

The Statement of Funds for the month of December 2003 was presented to the Council by Mr. Schorb showing a balance of \$6,304,800.42 on December 31, 2003.

1. Columbia Rural Fire Protection District Fire Truck Loan

MOTION:

It was moved by Alderman Ebersohl, and seconded by Alderman Hutchinson, that the City of Columbia loan its Working Cash Fund at 1% interest for one (1) year to the Columbia Rural Fire Protection District 50% of the \$211,500.00, the amount of the grant received by the Columbia Rural Fire Protection District for the purchase of a new fire truck, and that the Columbia Rural Fire Protection District pay all accounting and legal fees. Upon roll call vote, Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Hutchinson, Koesterer, Row and Mayor Schneider voted yea. Motion Carried.

MOTION:

It was moved by Alderman Hutchinson, and seconded by Alderman Ebersohl, to accept Treasurer/Auditor Report for the month of December 2003 as presented. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

B. Vouchers To Be Paid

MOTION:

It was moved by Alderman Hutchinson, and seconded by Alderman Conrad, to authorize the payment of vouchers received through January 2, 2004; the total amount of the vouchers to be paid is one hundred eighty thousand, three hundred thirty-eight dollars, and ninety-three cents (\$180,338.93). Upon Roll Call vote, Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Hutchinson, Koesterer, Row and Mayor Schneider voted yea. Motion Carried.

VI. OLD BUSINESS

A. Columbia Middle School Temporary Classrooms, Library and Cafeteria Buildings

MOTION:

It was moved by Alderman Koesterer, and seconded by Alderman Niemietz, to allow temporary classrooms, Library and Cafeteria buildings at the Columbia Middle School for 18 months or until the new middle school is finished according to the school's site plan and conditional to Building Commissioner John Kildea's approval. Upon Roll Call vote, Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Hutchinson, Koesterer, Row and Mayor Schneider voted yea. Motion Carried.

VII. NEW BUSINESS

A. Briar Lakes Development Blasting Request

Mr. Sean M. Flower of American Heritage Homes explained to the City Council their blasting request for the Briar Lakes Development.

MOTION:

It was moved by Alderman Agne, and seconded by Alderman Ebersohl, to agree to have City Attorney Tom Adams draft the ordinance to amend City Code Section 9.28.030 that prohibits blasting in the City, to be approved under special circumstances by the City Council, and to be under the supervision of Engineering Consultant Ken Vaughn. Upon Roll call vote, Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Hutchinson, Koesterer, Row and Mayor Schneider voted yea. Motion Carried.

VIII. REPORT OF STANDING COMMITTEES

There were no standing committees to report.

IX. CALL FOR COMMITTEE MEETINGS

Tuesday, January 6, 2004

6:00 PM - Personnel Committee

7:00 PM - Water and Sewer Committee

7:30 PM - Municipal Buildings, Property and Capital Improvements Committee

Monday, January 12, 2004

7:00 PM - Combined Meeting of City Council and Plan Commission

Monday, January 26, 2004

7:00 PM - Committee of the Whole

X. ADJOURNMENT

MOTION:

It was moved by Alderman Koesterer, and seconded by Alderman Ebersohl, to adjourn the Regular City Council Meeting held Monday, January 5, 2003 at 9:39 PM. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

*Wesley J. Hoeffken, City Clerk*      *Lester Schneider*  
Wesley J. Hoeffken, City Clerk      Mayor Lester Schneider

*by Sharon K. Medoffey,*  
*Deputy Clerk*