

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COLUMBIA,
ILLINOIS HELD MONDAY, OCTOBER 1, 2007 IN THE COUNCIL ROOM OF CITY HALL

I. CALL TO ORDER

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

Upon Roll Call, the following members were:

Present: Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf.

Absent: None.

Quorum Present.

Administrative Staff Present: City Clerk Wes Hoeffken, City Administrator Anthony Traxler, City Attorney Tom Adams, Building Inspector Al Holden, and City Engineer Ron Williams.

The Council recited the Pledge of Allegiance.

II. APPROVAL OF MINUTES

The minutes of the Public Hearing of the City Council held Monday, September 17, 2007 were submitted for approval.

Corrections were forwarded to Mr. Hoeffken.

MOTION:

It was moved by Alderman Niemietz, and seconded by Alderman Unnerstall, to approve the minutes of the Public Hearing of the City Council held Monday, September 17, 2007, as amended and on file at City Hall. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

The minutes of the Executive Session of the City Council held Monday, September 17, 2007 were submitted for approval.

Corrections were forwarded to Mr. Hoeffken.

MOTION:

It was moved by Alderman Row, and seconded by Alderman Unnerstall, to approve the minutes of the Executive Session of the City Council held Monday, September 17, 2007, as amended and on file at City Hall. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

The minutes of the Regular Meeting of the City Council held Monday, September 17, 2007 were submitted for approval.

Corrections were forwarded to Mr. Hoeffken.

MOTION:

It was moved by Alderman Unnerstall, and seconded by Alderman Stumpf, to approve the minutes of the Regular Meeting of the City Council held Monday, September 17, 2007, as amended and on file at City Hall. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

III. DELEGATIONS

A. Progress For Columbia - Gene Bergmann

Mr. Bergmann asked questions of Aldermen Hejna, Stumpf, and Oberkfell. Aldermen Hejna and Oberkfell stated as long as litigation over the Columbia Crossing development is pending, they will not answer questions regarding the development. Alderman Stumpf was questioned about the levee districts and a conversation he had with the Corp of Engineers. Alderman Stumpf provided a detailed response.

IV. REPORT OF OFFICERS

A. City Engineer

The report of the City Engineer was presented to the Council.

1. DOPW Service Truck

MOTION:

It was moved by Alderman Row, and seconded by Alderman Agne, to accept the low bid of \$32,241.17 submitted by Mertz Ford, of Millstadt, Illinois, for the purchase of a 2008 F250 Regular Cab 4X4 service truck for the Department of Public Works. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

2. Ordinance No. 2591 - Sewer Rate Efficiency Discounts

MOTION:

It was moved by Alderman Row, and seconded by Alderman Ebersohl, to pass Ordinance No. 2591, an ordinance amending Chapter 18 of the City of Columbia, Illinois Municipal Code by amending Section 18.01.005 to Title 18 entitled "Sewer Rate Efficiency Discount" to be in effect for the remainder of the City's fiscal year ending April 30, 2008 and until said Title 18 of the City's Municipal Code is again amended by ordinance of the city enacted to change said fees and charges. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf, and Mayor Hutchinson voted yea. Motion Carried.

3. Carl Street Improvement Project

MOTION:

It was moved by Alderman Agne, and seconded by Alderman Ebersohl, to accept the recommendation of the City Engineer and postpone commencement of the Carl Street Improvement Project until early 2008, contingent upon the construction costs remaining the same as originally bid by the low bidder, Baxmeyer Construction. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

4. Water System Pump Station

MOTION:

It was moved by Alderman Row, and seconded by Alderman Ebersohl, to authorize the City Engineer to proceed with contacting Horner and Shifrin to prepare a bid for a new pump station to replace or upgrade the existing Wecker Pump Station. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

B. Building and Zoning

The monthly report of the Building and Zoning Department was presented to the Council.

C. Plan Commission

The report of the Plan Commission was presented to the Council.

D. City Attorney

1. Ordinance No. 2592 - Real Estate Exchange

MOTION:

It was moved by Alderman Ebersohl, and seconded by Alderman Niemietz, to pass Ordinance No. 2592, an ordinance authorizing a Real Estate Exchange Agreement between Budnick Converting, Inc., a Delaware Corporation authorized to do business in the State of Illinois, and the City of Columbia, Illinois. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf, and Mayor Hutchinson voted yea. Motion Carried.

2. Ordinance No. 2593 - Columbia Kinder College Variance

MOTION:

It was moved by Alderman Agne, and seconded by Alderman Hejna, to pass Ordinance No. 2593, an ordinance to grant City of Columbia, Illinois Zoning Code Side Yard Setback variances, a Rear Yard Setback variance, and a variance from the Minimum Parking Space Requirement for a day care or day nursery building for the Columbia Kinder College business belonging to Herbert and Deborah Killy on a lot having the assigned address of 218 South Rapp Avenue in the City of Columbia, Illinois. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf, and Mayor Hutchinson voted yea. Motion Carried.

3. Ordinance No. 2594 - Columbia Hospitality Company, LLC Variance

MOTION:

It was moved by Alderman Agne, and seconded by Alderman Niemietz, to pass Ordinance No. 2594, an ordinance to grant Sign Code variances to Columbia Hospitality Company, LLC, to allow the installation, display, and maintenance of three (3) signs comprising a total area of one hundred eighty-nine (189) square footage of signage for the Hampton Inn Hotel to be located on Lot 10 of the Admiral Trost Development Subdivision at 300 Admiral Trost Drive in the City of Columbia, Illinois. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf, and Mayor Hutchinson voted yea. Motion Carried.

4. Resolution No. 11-2007 - Hampton Inn Building Materials

MOTION:

It was moved by Alderman Ebersohl, and seconded by Alderman Hejna, to pass Resolution No. 11-2007, a resolution authorizing the use of EIFS building materials for the construction of the Hampton Inn Hotel to be located at 300 Admiral Trost Drive in the Admiral Trost Development Subdivision in the City of Columbia, Illinois. Upon Roll Call vote, Aldermen Ebersohl, Niemietz, Row, Hejna, Stumpf, and Mayor Hutchinson voted yea. Aldermen Agne, Unnerstall, and Oberkfell voted nay. Motion Carried.

5. Resolution No. 12-2007 - Library Tax

MOTION:

It was moved by Alderman Unnerstall, and seconded by Alderman Agne, to pass Resolution No. 12-2007, a resolution levying a tax of .02% of the value of the taxable property in the City of Columbia, Illinois for

equipping, maintaining, repairing, and alteration of the Columbia Public Library Building for the fiscal year of the City commencing May 1, 2007 and ending April 30, 2008. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf, and Mayor Hutchinson voted yea. Motion Carried.

6. Letter Of Support - Costello Amendment

Mayor Hutchinson explained Congressman Costello has sponsored a bill providing for funding for levee improvements along the Missouri and Mississippi Rivers. Mayor Hutchinson then stated the amendment has passed the House and is currently in the Senate and stressed the need for the City to send letters to Senators Obama and Durbin recommending they support this bill which is currently in the US Senate.

MOTION:

It was moved by Alderman Agne, and seconded by Alderman Ebersohl, to direct Mr. Adams to draft a letter to be sent to Illinois Senators Obama and Durbin supporting the Costello Amendment which is currently in the US Senate. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

E. Administration Department

The report of the City Administrator was presented to the Council.

1. Horner & Shifrin PMOA Letter

Alderman Unnerstall questioned why Horner & Shifrin worked to secure a PMOA agreement from Monroe County when they knew how the council felt about the PMOA. Mayor Hutchinson stated Horner & Shifrin is under the scope of work defined in Ordinance No. 2371 which was passed by the City on June 20, 2005 and authorized G. J. Grewe to act as an agent for the City with regards to the agreement. Alderman Unnerstall stated the engineer violated the scope of the agreement by exceeding the contract amount. Mayor Hutchinson stated the engineer exceeded the budgeted amount under the direction of the City's dedicated agent and it would be unfair to accuse Horner & Shifrin of any wrongdoing. Alderman Unnerstall stated he did not feel the letter included any accusatory statements. Alderman Niemietz stated Ordinance No. 2371 is in effect and controls the activities of the engineer. Mayor Hutchinson stated the PMOA was required for the Access Justification Report, which was part of the deliverables from the engineer as part of the agreement.

MOTION:

It was moved by Alderman Unnerstall, and seconded by Alderman Hejna, to direct Mr. Traxler to send the letter he drafted to Horner & Shifrin requesting answers regarding their involvement with securing a PMOA agreement with Monroe County. Upon Roll Call vote, Aldermen Unnerstall, Hejna, and Oberkfell voted yea. Aldermen Ebersohl, Agne, Niemietz, and Mayor Hutchinson voted nay. Alderman Row abstained because of his working relationship with Horner & Shifrin as a result of his job with Monroe County, and Alderman Stumpf abstained because he did not have enough information to act of the request. Motion Failed.

2. Columbia Crossing - Attorney for Litigation

Mayor Hutchinson inquired why Alderman Unnerstall was insisting on the firm of Rabin, Myers, & Hanken (RMH) when there are two other local firms that are more qualified to defend the suit. Alderman Hejna stated RMH has more qualifications and one of the local firms, Hepler Broom, is only two years out of law school. Alderman Oberkfell stated RMH has extensive municipal litigation experience and mileage will not be a major concern. Mayor Hutchinson then inquired if anyone knows the fee schedule for RMH. Alderman Unnerstall stated the City will

need to ensure they are being charged a fair rate. Mayor Hutchinson stated Hepler Broom (HB) and Gallop, Johnson & Neuman (GJN), both local firms, provided fee schedules. Alderman Niemietz stated GJN is the 16th largest law firm in Missouri while Carmody is the 25th largest. Alderman Niemietz then stated this is a suit that will be argued in Federal Court and questioned why the city would hire a firm outside the immediate area, especially when GJN already represents the City in labor issues. Mayor Hutchinson then inquired if RMH will be charging the City mileage every time they send a lawyer down from Springfield. Alderman Row stated he thought the next step would be to request a bid from RMH. Alderman Unnerstall stated his motion will be to employ RMH. Mayor Hutchinson then stated the proposal from RMH does not provide much detail and leaves several unanswered questions. Mayor Hutchinson provided other details and comparisons between HB, GJN, and RMH. Mayor Hutchinson also stated GJN and HB both carry \$10,000,000.00 in malpractice insurance, while RMH only carries \$1,000,000.00.

Alderman Unnerstall stated Mayor Hutchinson provided a lot of questions but he believes RMH puts the City in the best position, especially since they have taken cases before the Illinois Supreme court. Alderman Unnerstall also stated RMH has zoning and development experience and with their breadth of experience will be able to provide service under one roof and will not require as much consultation as other firms. Alderman Unnerstall added RMH will be assisted by Robert Boslett in Federal Court. Alderman Ebersohl stated the firm of Boslett & O'Leary is a personal injury firm. Alderman Ebersohl stated that going with RMH would be a reckless decision. Alderman Row stated the City should seek bids before they agree to hire a particular firm.

MOTION:

It was moved by Alderman Unnerstall, and seconded by Alderman Stumpf, to employ the firm of Rabin, Myers & Hanken, P.C. as the legal firm to represent the City of Columbia, Illinois in all matters regarding the Columbia Crossing litigation. Upon Roll Call vote, Aldermen Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Aldermen Ebersohl, Agne, and Niemietz voted nay. Motion Carried.

Mayor Hutchinson stated that he would be exercising his right to veto a motion when the ordinance to employ Rabin, Myers, and Hanken, P.C. is presented to the Council.

MOTION:

It was moved by Alderman Niemietz, and seconded by Alderman Row, to accept the report of all Departments and Officers as presented. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

V. CLAIMS & ACCOUNTS

A. Vouchers

MOTION:

It was moved by Alderman Hejna, and seconded by Alderman Oberkfell, to authorize the payment of vouchers received through September 26, 2007; the total amount of the vouchers to be paid is one hundred ninety-eight thousand, twenty-six dollars, and eighty-seven cents (\$198,026.87). Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

VI. OLD BUSINESS

There was no Old Business brought before the Council.

VII. NEW BUSINESS

A. Domestic Violence Awareness Month Proclamation

MOTION:

It was moved by Alderman Niemietz, and seconded by Alderman Ebersohl, to authorize Mayor Hutchinson to sign the Domestic Violence Awareness Month, October 2007 Proclamation. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

B. Parkview School PTA Fall Festival

MOTION:

It was moved by Alderman Niemietz, and seconded by Alderman Stumpf, to approve the request of the Parkview School PTA to close McDannold Drive on Friday, October 5, 2007 for the annual Fall Festival and Mr. Traxler was directed to research current policy to determine if this was allowed per existing City Ordinances. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

VIII. REPORT OF STANDING COMMITTEES

A. License, Insurance Claims, CEMA, and Contracts Committee

Minutes of the License, Insurance Claims, CEMA, and Contract Committee meeting held Monday, September 24, 2007 were presented to the Council for approval.

Corrections were forwarded to the City Administrator.

MOTION:

It was moved by Alderman Unnerstall, and seconded by Alderman Ebersohl, to approve the minutes of the License, Insurance Claims, CEMA, and Contract Committee meeting held Monday, September 24, 2007 as amended and on file at City Hall. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

B. Water and Sewer Committee

Minutes of the Water and Sewer Committee meeting held Monday, September 24, 2007 were presented to the Council for approval.

MOTION:

It was moved by Alderman Row, and seconded by Alderman Agne, to approve the minutes of the Water and Sewer Committee meeting held Monday, September 24, 2007 as on file at City Hall. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

C. Ordinance, Planning, and Zoning Committee

Minutes of the Ordinance, Planning, and Zoning Committee meeting held Monday, September 24, 2007 were presented to the Council for approval.

MOTION:

It was moved by Alderman Agne, and seconded by Alderman Row, to approve the minutes of the Ordinance, Planning, and Zoning Committee meeting held Monday, September 24, 2007 as on file at City Hall. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

D. Streets, Sidewalks, Drainage, and Public Utilities Committee

Minutes of the Streets, Sidewalks, Drainage, and Public Utilities Committee meeting held Monday, September 24, 2007 were presented to the Council for approval.

MOTION:

It was moved by Alderman Ebersohl, and seconded by Alderman Agne, to approve the minutes of the Streets, Sidewalks, Drainage, and Public Utilities Committee meeting held Monday, September 24, 2007 as on file at City Hall. Upon Voice vote, all Aldermen present voted yea. Motion Carried.

IX. CALL FOR COMMITTEE MEETINGS

Monday, October 8, 2007

7:00 PM - Fire Department

7:05 PM - Municipal Buildings, Property, and Capital Improvements

7:10 PM - Finance, Claims, Bonds, and Interest

7:15 PM - Personnel

7:20 PM - Parks, Playgrounds, and Recreation

X. EXECUTIVE SESSION

Mayor Hutchinson informed the Council he would entertain a motion to go into Executive Session for the purpose of discussing the Shoemaker Schoolhouse litigation and the Columbia Crossing litigation.

MOTION:

It was moved by Alderman Niemietz, and seconded by Alderman Oberkfell, to direct the Mayor to go into Executive Session at 8:50 PM for the purpose of discussing the Shoemaker Schoolhouse litigation and the Columbia Crossing litigation. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

MOTION:

It was moved by Alderman Unnerstall, and seconded by Alderman Oberkfell, to return to Regular Session of the City Council at 9:16 PM. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.

Upon return to Regular Session, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf and Mayor Hutchinson were present.

Mayor Hutchinson inquired if there was any business to be brought before the Council as a result of the Executive Session.

A. Motion To Reconsider

MOTION:

It was moved by Alderman Row, and seconded by Alderman Stumpf, to reconsider the previous action of the Council regarding the motion to employ the firm of Rabin, Myers & Hanken, P.C. as the legal firm to represent the City of Columbia, Illinois in all matters regarding the Columbia Crossing litigation. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Row, and Stumpf voted yea. Aldermen Unnerstall, Hejna, and Oberkfell voted nay. Motion Carried.

B. Rescind Motion To Employ Rabin, Myers, & Hanken, P.C.

MOTION:

It was moved by Alderman Row, and seconded by Alderman Stumpf, to rescind the previous motion of the Council authorizing the employment of Rabin, Myers & Hanken, P.C. as the legal firm to represent the City of Columbia, Illinois in all matters regarding the Columbia Crossing litigation. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Row, and Stumpf voted yea. Aldermen Unnerstall, Hejna, and Oberkfell voted nay. Motion Carried.

C. Employ Hepler Broom

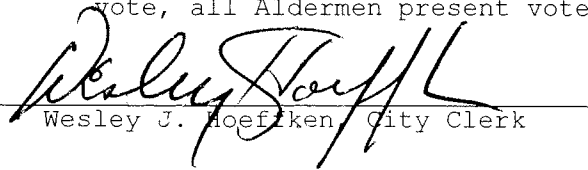
MOTION:

It was moved by Alderman Row, and seconded by Alderman Stumpf, to employ the firm of Hepler Broom as the legal firm to represent the City of Columbia, Illinois in all matters regarding the Columbia Crossing litigation. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf voted yea. Motion Carried.


XI. ADJOURNMENT

MOTION:

It was moved by Alderman Niemietz, and seconded by Alderman Row, to adjourn the Regular City Council Meeting held Monday, October 1, 2007 at 9:22 PM. Upon Voice vote, all Aldermen present voted yea. Motion Carried.



Wesley J. Hoefken, City Clerk



Mayor Kevin B. Hutchinson