



CITY OF COLUMBIA
CITY COUNCIL MEETING &
ZONING PUBLIC HEARING MINUTES
WEDNESDAY, JULY 15, 2009
9:00 A.M.
COUNCIL CHAMBERS – 3RD FLOOR
1737 MAIN STREET

The Columbia City Council conducted a Regular Meeting and a Zoning Public Hearing on Wednesday, July 15, 2009 at City Hall, 1737 Main Street, Columbia, South Carolina. The Honorable Mayor Pro-Tempore Finlay called the meeting to order at 9:01 a.m. The following members of Council were present: The Honorable Sam Davis, The Honorable Daniel J. Rickenmann and The Honorable Belinda F. Gergel. The Honorable Tameika Isaac Devine arrived at 9:13 a.m. The Honorable Mayor Robert D. Coble and The Honorable E.W. Cromartie, II were absent. Also present were Mr. Steven A. Gantt, Interim City Manager and Ms. Erika D. Salley, City Clerk.

INVOCATION

Reverend Preston Winkler, Executive Director of the Greater Columbia Community Relations Council offered the Invocation.

APPEARANCE OF PUBLIC RELATED TO AGENDA ITEMS

No one appeared at this time.

PRESENTATIONS

1. Introduction of the July 2009 Employee of the Month – Mr. Michael King, Assistant City Manager of Public Safety

Mr. Michael King, Assistant City Manager of Public Safety introduced Mr. Sherwood Toatley, Telecommunications Shift Supervisor / 911 Communications as the City of Columbia July 2009 Employee of the Month. He described Mr. Toatley as a ten year veteran having served in the capacity of Telecommunicator, Assistant Supervisor and Supervisor. During the decade that Sherwood has been with us he has established himself as a compassionate, caring, dedicated team member and a leader. He has a strong sense of attention to detail while always placing customer service first.

Mayor Pro-Tempore Kirkman Finlay III and Mr. Steven A. Gantt, Interim City Manager presented Mr. Sherwood Toatley with a plaque and a token of appreciation for being selected as the City of Columbia July 2009 Employee of the Month.

2. 3rd Quarter Business Spotlight Program Honoree – Mr. Angelo McBride, Business Administrator for the Office of Business Opportunities

Mr. Angelo McBride, Business Administrator for the Office of Business Opportunities introduced the Finklin Pharmacy as the 3rd Quarter of 2009 Business Spotlight Program Honoree. Mr. Leon Finklin opened this business in 1986 with one (1) employee and now he has three (3) employees and plans to hire a Hispanic bilingual employee to accommodate the increasing Hispanic population in the 29203 zip code. They provide an array of services to include processing prescriptions, issuing durable medical equipment, nutrition supplies for convalescent patients, infant formula and diabetes supplies. They cater to senior citizens, the sick and shut in

and non-drivers as special services within the Eau Claire Community. Dr. Finklin plans to open an independent diabetic care center to address the growing SC diabetic population. They believe in giving back to the community by donating school supplies and providing job shadowing experiences for local students with an interest in pharmacy.

Dr. Leon Finklin of Finklin Pharmacy thanked the City of Columbia for honoring him. It is a pleasure to serve the North Columbia community. He asked the Council to please consider prescription services for the pharmacies in Columbia; mail orders don't work for us.

Mayor Pro-Tempore Kirkman Finlay III and the members of Council presented a proclamation to Mr. Finklin declaring the Finklin Pharmacy as the Business Spotlight Program Honoree for the Third Quarter of 2009.

▪ **Ms. Devine arrived at 9:13 a.m.**

3. Smoking Cessation Program – Ms. Ray Borders Gray, Wellness Campaign Coordinator and Mr. Phil Michels, PhD, Developer of the Smoking Cessation Program / Facilitator

Ms. Ray Borders Gray, Wellness Campaign Coordinator explained that one year ago the City of Columbia convened a group of 30 city employees to look at factors that negatively impact healthcare costs. With limited resources, the All Health Program Team identified programs to encourage health improvement. We know that instances of respiratory disease, cancer and other illnesses can be decreased through smoking cessation efforts. With that in mind, we piloted a program with Dr. Phil Michels of the University of South Carolina's School of Medicine and Palmetto Health to offer a smoking cessation program tailored to City employees. Dr. Michels has many years of experience in helping smokers quit and the use of smoking cessation drugs. Most importantly, the program works and it's free.

Mr. Phil Michels, PhD, Developer of the Smoking Cessation Program / Facilitator said that it took him seven years to develop this program, which spawned out of working in the Department of Family Medicine and discovering that patients were coming in and not listening to their doctors; especially those with chronic problems such as high blood pressure, obesity, substance abuse, diabetes and cigarette cessation. My standard response was to educate people, but people would consistently come back without feeling better. The worst we've done in terms of our success rate was 77% of the people that finished the program were smoke free and in the last two years our numbers have risen to 89% success. In six months to two years later, we would have medical students make random calls to smokers that were in the program some time ago and 50% of them still were not smoking. The program was by any standard a huge success. Those numbers are 400% better than the national average. The main gist of the program is that giving people information rarely works; it is to make people conscientious of what they're doing so they then have the freedom to make an informed decision. He apologized to Council, because they did not do well with the City employees. We met once per week instead of twice and we had problems wherein the employees didn't get their medication on time. They have been invited again to take the program for free.

CITY COUNCIL DISCUSSION / ACTION

4. Business License Appeal – Ms. Brenda Kyzer, Business License Administrator

Ms. Brenda Kyzer, Business License Administrator explained that this business license appeal is for a business located inside the City limits at 140 Cort Road and it is called Angelica Corporation. They are a hospital laundry service; they have been in business and paying a business license fee to the City of Columbia since 2004. Recently, we discovered that they had

erred on their application for the license years of 2006, 2007 and 2008 and we contacted them about the business license discrepancy; they immediately provided the information and paid the fee along with the penalties that were assessed. We also received from them a business license appeal. Mr. Coffee is here today to speak about that.

Mayor Pro-Tempore Kirkman Finlay III stated that there are some fairly draconian penalties under SC State law for discussing confidential information; therefore, this will feel scripted and by nature it is. This hearing is in the nature of an appeal by Angelica Corporation. The hearing is being held pursuant to Sec. 11-46 of the City of Columbia Code of Ordinances. We will receive testimony and evidence today and City Council will take the matter under advisement. We will issue a written order at a later date and we will ratify the order by subsequent resolution. You are encouraged to adopt by reference any materials you have previously submitted, or to hand up any additional materials today.

Mr. Russell Coffee, Tax Manager for the Angelica Corporation explained that they feel that their prior year annual license fees were based largely in part on instructions given to us from the License Division. When I started with the company in March, I reviewed all of the licenses that we have throughout the United States and we have quite a few. Around April 30th, I called the City's License Division and asked one of the clerks myself whether the license fees were based on revenues from customers in the City limits or revenues everywhere for the center. I was told that fees were based on revenues within the City limits. I checked with our Accounting Clerk, who had calculated prior year license fees and she confirmed that she had been told revenues within the City limits as well. You can see how misleading this can be to the lay person. Obviously, it's gross revenues for the center, since the center is in the City limits. Many of our out-of-state licenses are just the customers within the City of that State. In early May when I received a call from the License Division, I had needlessly say, calculated it on gross revenues as it should have been done correctly. And when I got another call in May, I had slightly miscalculated and was due a small refund. But, during the discussion the subject of the City sales came up again and the clerk thought I should be refunded about \$9,000. The License Division called again around May 20th and we agreed at that point that gross revenues were calculated correctly as I had done it. But, the clerk had also ran a history of our payments and asked me to check revenues for prior years. I voluntarily disclosed the corrected revenues from 2006 to 2008 and having done voluntary disclosure agreements from various state tax departments, I've always been relieved of penalties in those cases. We pay an additional \$22,000 in fees as well as \$28,000 in penalties. I can't help but feel that perhaps the City shares some complicity in this misunderstanding. I found it disconcerting that the City didn't try to contact us when the license fees dropped so dramatically. City business license rules vary around the country, but I've never seen penalties that exceed the license fees. I mean, even the Internal Revenue Service has penalties not to ever exceed the amount of taxes. During these tough economic times, most business friendly cities are willing to abate or adjust penalties given reasonable cause. I just ask you to work out a more reasonable solution. To quote from one of your educational programs "Together We Can".

Mayor Pro-Tem Finlay asked Mr. Coffee the following questions and Mr. Coffee provided the following responses:

Do you contend that you were not doing business in the City of Columbia without the appropriate business license in 2006, 2007 and 2008?

- No, I don't contend that we were doing business without a license. We had a license; the fees were just incorrectly calculated.

Do you contend that the Business License Administrator made any factual error or relied upon any erroneous fact in concluding that you owed business license taxes for 2006, 2007, 2008 and penalties? If so, please state the factual errors or erroneous facts.

- Well, I do contend that in the past when we had contacted the Business License Division, we were given the instructions on customers within the City limits sales, hence the misunderstanding. The difference being is with our center located within the City limits, we should be reporting gross revenues worldwide for the center. But, when we had questioned the Business License Clerk, whomever it was at the time, we were told it was strictly the customers within the City limits, instead of worldwide sales.

Councilor Gergel asked when that was.

Mr. Russell Coffee, Tax Manager for the Angelica Corporation said that he spoke with the Clerk on April 30th of this year.

Councilor Gergel asked if that was beginning in 2006.

Mr. Russell Coffee, Tax Manager for the Angelica Corporation replied I assume so; it was a three year period. Once you've completed it incorrectly one year, you'll oftentimes just boilerplate it the next few years, so this thing just went on.

Councilor Davis asked Mr. Coffee if his position is that the rates should apply to the Angelica Corporation, because they do business worldwide or what.

Mayor Pro-Tem Finlay clarified that Mr. Coffee is asking us to abate or help him with the penalties. He understands that they calculated it incorrectly, but a \$22,000 business license fee with a \$28,000 penalty seems a bit draconian.

Mr. Russell Coffee, Tax Manager for the Angelica Corporation concurred, adding that they are trying to do the right thing here and it's not the greatest thank you. Had the City sent us something when our fee dropped dramatically, we would've avoided this completely; we would've paid whatever penalties for that brief period of time.

Mayor Pro-Tem Finlay said that he also has questions on another business license matter wherein they were assessed on a previous year's revenue for the current year and there is no prorating of that. In other words, if you do business on January 1st in the City of Columbia you owe a full year's business license, because it is based on the previous year. I would ask that we discuss this matter during next week's Work Session. We will have a response to you by the end of the day on next Wednesday.

5. Closing of Finlay Park Parking Lot – Mr. S. Allison Baker, Assistant City Manager for Public Services and Mr. Michael King, Assistant City Manager for Public Safety

Councilor Rickenmann clarified that at the last meeting they discussed having a Public Hearing, but he doesn't consider this to be the Public Hearing. We will notify everybody, because everybody deserves an opportunity to speak on this issue. I've received a lot of calls over the last couple of days about people not understanding what's going on. Before we leave today, we need to set a Public Hearing to allow people to come.

Councilor Devine concurred. She said that this wasn't advertised as a Public Hearing and since this is a public park and a public parking area, we need to do a full range of advertising on the

Public Hearing. I would suggest that we schedule it two weeks from now on August 5, 2009.

Councilor Davis concurred. Whatever comes out of the hearing and the prolonged discussions would result in a decision that becomes policy, then it will have citywide implications.

Councilor Devine clarified that this discussion is about the top parking lot at Finlay Park. We still have a bottom parking lot that is open, but there are clearly not as many spaces.

Councilor Finlay added that there is a way that the City functions. He asked the City Manager and City Attorney if Council members are allowed to direct staff to close parking lots.

Mr. Ken E. Gaines, City Attorney said that it takes a vote of four (4) Council members to direct City staff.

Mr. Tom Turnipseed, Esquire / Food Not Bombs Organization explained that the organization was started in 2002 by USC students out of concern for the City's homeless and wasted food they saw everyday. We have been feeding Sunday midday meals since September 2002. We have served as many as 190 individuals at times. The first interaction with the City was in March 2003 when an officer approached our group in the lower parking lot of Finlay Park off of Taylor Street. They told us there was a problem and we needed to contact the Parks and Recreation Department. We called Barry Wells and we talked about littering from groups feeding in the park and whether or not we needed to get a permit; buy insurance; and hire security for our events in the park. We decided to appeal directly to the City Manager and requested a meeting. On April 30, 2003 three of us from Food Not Bombs met with Acting Police Chief Swisher, two of his officers, Barry Wells and Dana Turner, Assistant to the City Manager. We answered their concerns explaining that we were there one hour for one day a week and that our purpose was to reclaim wasted food, distribute it to the needy, fill a gap in services that are denied to a segment of the population that's a bit marginalized. We also discussed how any person in the room may one day be homeless; how we divide ourselves based on what side of the table we are on, server or recipient; and how many other groups in Columbia have come out to join us for the Sunday sharing. We bring green trash barrels each Sunday to the pavilion; fill them; return them across the park to the fenced area; we sweep; and clean our tables. It was agreed that we would be given a Sunday calendar of events at Finlay Park so that we could relocate to the top of the park if something was going on at the pavilion. In June 2004, we received a call from Barry Wells stating that the City supported what we were doing, but they preferred that we serve at the top by the waterfall except when it rains. There are about 25 of us that come every Sunday to share food. The police often come by and visit and we've had no problems. We want relief as quickly as possible. It's been so bad over the last few weeks not having access to those parking spaces. It's a public park and that's what we have law enforcement personnel for. Please give us access as soon as you can. It is one of the finest public parks.

Mr. Livingston Truluck, Governor's Hill Homeowners Association said that the area we are talking about has finally become a neighborhood now. I lived in Shandon for 18 years and I moved downtown for certain reasons; I wanted to be part of what I thought was going to be a very progressive area. There are five (5) neighborhoods around the park now to include Parkside Condos, Renaissance, Justice Square, Governors Hill and Arsenal Hill. This has gone on for a long time. We've had crime, drugs and things going on at night. We've had to call the police numerous times; we met with the previous Chief of Police and City Manager; and the current Chief of Police. We asked the Mayor and Mr. Cromartie to meet with us and they made a decision; it may not have been appropriate without the full Council, but we were at a breaking point. They suggested that the parking lot be closed on a temporary basis. We are not closing it to people; we are closing it to vehicles, because that's where the problem has been. After an 11 year period, we figured out that this parking lot is a design problem. There shouldn't be a parking lot in the middle of a park; there is plenty of parking below and on both sides of Taylor

Street. You can add additional parking on Laurel Street. We want to make this a walking mall and the last 45-days have shown us that it has worked. We normally have 6-7 calls per week to the police, but we've had zero calls since doing this. We want people to use the area; we support Shakespeare in the Park. We are asking for people to listen to the fact that we live there; we can't just leave and go home. The park has a terrible reputation and we want to do something constructive. We've been encouraged to come forward and try to do something as citizens. He asked the Council to extend the closing until the Public Hearing is held in a couple of weeks and then we can resolve this matter. He complained of loud radios, constant music playing, car washing, drug activity and sexual activity. He insisted that 97% of people who come into that parking lot do not use the park.

Councilor Devine said that Mr. Truluck is mainly concerned about the crime issues. The way to respond to crime activity is to call the police and let the police handle it. What happens when you call and report criminal behavior?

Mr. Livingston Truluck, Governor's Hill Homeowners Association said that the police have been very good; the response time is very good most of the time, but by the time they get there the activity is over. We've had that happen many times. We've had horse patrols in the park, two Community Safety Officers patrolling the park and police sitting in the park. The parking lot is a design flaw, because it's too narrow.

Councilor Davis said that he can name two other areas with the same problems. Are police patrols there during the performances? Where are they?

Mr. Livingston Truluck, Governor's Hill Homeowners Association said yes they move around and patrol the area.

Councilor Davis asked how many police patrols you see in that area during the day.

Mr. Livingston Truluck, Governor's Hill Homeowners Association said once per hour.

Councilor Davis asked Mr. Truluck how he accounts for that many activities going on with the Police Department being 1 ½ blocks away from there.

Mr. Livingston Truluck, Governor's Hill Homeowners Association said that's why they say that it's a design flaw with the parking lot. We are providing an area where people can pull in off of the street; back into spaces; and do what they feel they need to do between the cars. By closing the parking lot, we have eliminated a lot of the problems.

Councilor Gergel said that the missing piece is an assessment by the Columbia Police Department and a plan from Public Safety on how to address this. Last week, I asked to we hear from our Public Safety personnel today. I need to know that they have developed a plan for this area. This is the first time I've heard the request to extend the closing with a new use for the parking lot.

Councilor Finlay said that he sat with a business leader on yesterday whose house has been broken into twice; his car has been broken into twice; and his wife has been assaulted on a major thoroughfare in the City of Columbia. I have another friend whose car was stolen out of his yard three times in a nine month period. There is a theory coming, which is the police can't fix it; we need to go.

The discussion was continued later in the meeting. *Please refer to **Item I**.*

ZONING PUBLIC HEARING

- **Council opened the Zoning Public Hearing at 10:03 a.m.**

ZONING CONFIRMATIONS –FIRST READING

No one appeared in support of or in opposition to **Items 6.** through **12.**

Upon motion by Mr. Davis, seconded by Mr. Finlay, Council voted unanimously to give first reading approval to the *Zoning Confirmation* of **Items 6.** through **12.** with a single motion.

6. **5432 Farrow Road**, TMS# 11612-07-18; confirm C-3 (General Commercial) zoning for property annexed 02/18/2009. – *Approved on first reading.*
7. **2629 Percival Road**, TMS# 19716-01-06; confirm C-3 (General Commercial) zoning for property annexed 02/18/2009. – *Approved on first reading.*
8. **1313 Rosewood Drive**, TMS# 11208-01-02; confirm M-1 (Light Industrial) zoning for property annexed 01/07/2009. – *Approved on first reading.*
9. **11.24 acres, N/S Clemson Road**, TMS# 25700-04-05; confirm M-1 (Light Industrial) zoning for property annexed 02/18/2009. – *Approved on first reading.*
10. **0.76 acres, SE/S Wildewood Centre Drive**, TMS# 25608-10-11; confirm C-3 (General Commercial) zoning for property annexed 03/25/2009. – *Approved on first reading.*
11. **1019 and 1023 Darlington Street**, TMS# 09106-03-10; confirm RG-2 (General Residential) zoning for property annexed 03/25/2009. – *Approved on first reading.*
12. **121 Shop Road Extension**, TMS# 16200-04-18; establish City of Columbia M-1 (Light Industrial) zoning for property annexed 06/24/2009. – *Approved on first reading.*

MAP AMENDMENTS – FIRST READING

13. **USC Athletics Village – Area generally bound by Heyward Street, S. Marion Street, Norfolk Southern R.R., and Rosewood Drive**, TMS# 11305-01-01, -02; 11305-02-01; 11305-14-19; rezone from C-1 (Office and Institutional) to PUD-C (Commercial Planned Unit Development). – *Approved on first reading.*

Mr. Marc Mylott, Director of Planning and Development Services explained that this is an application to rezone the USC Athletic Village to a PUD-C such that they can facilitate its redevelopment with removing the baseball field, inserting soccer practice fields, tennis facilities, parking decks and various administrative buildings to support the athletic facility.

No one appeared in support of or in opposition to **Item 13.**

Upon motion by Mr. Davis, seconded by Mr. Rickenmann, Council voted unanimously to give first reading approval to the *Map Amendment* for USC Athletics Village – Area generally bound by Heyward Street, S. Marion Street, Norfolk Southern R.R., and Rosewood Drive, TMS# 11305-01-01, -02; 11305-02-01; 11305-14-19; rezone from C-1 (Office and Institutional) to PUD-C (Commercial Planned Unit Development).

14. **6810 N. Main Street**, TMS# 11813-05-23; rezone City of Columbia Fire Station #12 from D-1 (Development District) to C-1 (Office and Institutional). – *Approved on first reading.*

Mr. Marc Mylott, Director of Planning and Development Services explained that this rezones one of our fire stations from D-1 to C-1. This makes the zoning consistent with the area and doesn't affect the fire station in any way.

No one appeared in support of or in opposition to **Item 14.**

Upon motion by Mr. Davis, seconded by Ms. Devine, council voted unanimously to give first reading approval to the *Map Amendment* for 6810 N. Main Street, TMS# 11813-05-23; rezone City of Columbia Fire Station #12 from D-1 (Development District) to C-1 (Office and Institutional).

15. **1215 and 1225 Confederate Avenue**, TMS# 9113-01-03, -04; rezone to remove –CC (Community Character) overlay from C-3 (General Commercial) base district zoning. – *Approved on first reading.*

Mr. Marc Mylott, Director of Planning and Development Services explained that this removes the Community Character Protection Overlay from two commercial properties.

No one appeared in support of or in opposition to **Item 15.**

Upon motion by Ms. Devine, seconded by Mr. Davis, Council voted unanimously to give first reading approval to the *Map Amendment* for 1215 and 1225 Confederate Avenue, TMS# 9113-01-03, -04; rezone to remove –CC (Community Character) overlay from C-3 (General Commercial) base district zoning.

16. **1000 Catawba Street**, TMS# 11301-02-01; rezone from M-2 (Heavy Industrial) PD (Planned Development) To PUD-C (Commercial Planned Unit). – *Approved on first reading.*

Mr. Marc Mylott, Director of Planning and Development Services explained that this is to rezone 1000 Catawba Street to PUD-C for the South Carolina Research Authority Innovation Building. This will be an incubator building. The problem with the current zoning wasn't necessarily the M-2; however, it had an overlay district that put all of the intended uses into special use categories. The PUD gives the South Carolina Research Authority the flexibility to put in the best tenants that they can. It also reflects the parking configuration that is largely down there.

No one appeared in support of or in opposition to **Item 16.**

Upon motion by Mr. Rickenmann, seconded by Ms. Devine, Council voted unanimously to give first reading approval to the *Map Amendment* for 1000 Catawba Street, TMS# 11301-02-01; rezone from M-2 (Heavy Industrial) PD (Planned Development) To PUD-C (Commercial Planned Unit).

17. **Rosewood Community**, TMS# Multiple - please refer to case summary; add –CC (Community Character) overlay to all identified residential parcels on the map. – *Approved on first reading.*

Mr. Marc Mylott, Director of Planning and Development Services explained that this is an application by Councilwoman Belinda Gergel to establish the Community Character Protection measures over the Rosewood Community. There is documentation outlining the extent to which the Rosewood Community extended outreach.

Councilor Rickenmann said that it's not an overlay to all zoning districts, because commercial and industrial districts are not included. The motion should clarify that this applies to residential. He said that Rosewood is a large area and there needs to be a plan on receiving input from everybody.

Ms. Jackie Harden, Property Owner appeared before the members of Council to find out what the –CC designation means.

Mr. Marc Mylott, Director of Planning and Development Services explained that generally the Community Character Protection Overlay does three things: it establishes that the DDRC shall review and approve demolitions of structures more than 50 years old; and as it relates to subdivisions and infill development on newly subdivided lots, require that any infill development upon that newly subdivided lot has setbacks that are generally consistent with the setbacks of the area and we do that by averaging and measuring the surrounding properties; it also says that if you are proposing a taller structure next to a shorter structure that there be greater setback afforded for the taller structure from the shorter structure and in unique circumstances where your subdividing a corner lot, when you have structures that will be proposed perpendicularly it provides a greater setback between those perpendicular structures so you don't have the appearance of a house being shoehorned in behind a house on the opposite face.

Councilor Finlay added that the protection expires two years after the effective date, which is after second reading on August 5, 2009.

Ms. Jackie Harden, Property Owner said that both of her houses are over 60 years old. Would I be able to tear down those houses?

Mr. Marc Mylott, Director of Planning and Development Services said that it doesn't mean that you couldn't do it; there would be public notice and an application to the DDRC. I will provide her with a copy of this.

Ms. Jackie Harden, Property Owner stated that her two houses are both zoned commercial.

The members of Council explained to Ms. Harden that she is exempt from this amendment.

Upon motion by Dr. Gergel, seconded by Mr. Rickenmann, Council voted unanimously to give first reading approval to the *Map Amendment* for Rosewood Community, TMS# Multiple - please refer to case summary; add –CC (Community Character) overlay to all identified residential parcels on the map.

TEXT AMENDMENTS – FIRST READING

18. **Amend §17-258** to permit Computer and Data Processing Services as a permitted use in M-2 (Heavy Industrial) zoning districts.

Ordinance No.: 2009-064 – Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 17, Planning, Land Development and Zoning, Article III, Zoning, Division 8, District Descriptions; Use and Dimensional Regulations, Sec. 17-258, Table of permitted uses, SIC 737 computer and data processing services – *Approved on first reading.*

Mr. Marc Mylott, Director of Planning and Development Services explained that this is a text amendment that adds computer and data processing services as a permitted use in the M-2 zoning district.

No one appeared in support of or in opposition to **Item 18**.

Upon motion by Mr. Rickenmann, seconded by Mr. Finlay, Council voted unanimously to give first reading approval to Ordinance No.: 2009-064 – Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 17, Planning, Land Development and Zoning, Article III, Zoning, Division 8, District Descriptions; Use and Dimensional Regulations, Sec. 17-258, Table of permitted uses, SIC 737 computer and data processing services.

- **Council closed the Zoning Public Hearing at 10:32 a.m.**

STAFF REPORTS

19. Redevelopment District Plan – Mr. Tony Lawton, Director of Community Development and Mr. Norman Whitaker, Executive Director of Central Midlands Council of Governments – *The presentation of this report was deferred.*

CONSIDERATION OF BIDS, AGREEMENTS and CHANGE ORDERS

Councilor Finlay asked staff to confirm that funding is reserved for **Item 24**.

Mr. Bill Ellis, Deputy Finance Director confirmed that the transfer was completed.

Councilor Rickenmann inquired about the earmarked funding for **Item 23**.

Mr. Steven A. Gantt, Interim City Manager explained that the money was earmarked approximately 4-5 years ago. The money is in the bank.

Upon motion by Ms. Devine, seconded by Mr. Rickenmann, Council voted unanimously to approve **Items 20**. through **24**. with a single motion and as amended.

20. Council is asked to approve Project #SS7056 (31); Purchase of Two (2) Crown Pumps for the Spring Valley Pump Station, as requested by Utilities and Engineering. Award to Pumps, Parts & Service Inc., as a Sole Source in the amount of \$11,083.06. This vendor is located in Charlotte, NC. *Funding Source: Sewer Improvement Fund 5529999-SS705631-851200 - Approved*

21. Council is asked to approve Project #SS6790 (3); North Columbia Lift Station By-Pass Pumping and Pump Repair and Replacement, as requested by Utilities and Engineering. Award to McClam and Associates in the amount of \$435,000. This vendor is located in Little Mountain, SC. *Funding Source: Sewer Improvement Fund 5529999-SS679003-851200 - Approved*
22. Council is asked to approve Fiscal Year 2009/2010 Testing by Independent Laboratories for Environmental Monitoring Programs Required by the City's Code of Ordinances and State and Federal Regulations, as requested by Utilities and Engineering. Award to the following Testing Services in the amount of \$168,483.00. *Funding Source: Metro Wastewater Treatment Plant (5516208638300); Columbia Canal Water Treatment Plant (5516206638300); Lake Murray Water Treatment Plant (5516207638300); Operations (5516218638300 and 5516219638300) - Approved*
23. Council is asked to approve an Agreement for Design of Streetscape Improvements along Harden Street from Read Street North to the Railroad Trestle North of Calhoun Street (Harden Street Phase II Project) and for Construction Administration Services for both the Harden Street Phase II Project and the Read Street Drainage Project Designed by Wilbur Smith Associates, as requested by Utilities and Engineering. Award to LPA Group in the amount of \$1,149,002.00. This vendor is located in Columbia, SC. *Fund Source: 2005 SAFETEA-LU Act Earmark and 2006 TCSP Grant Earmark (2529999-9801000104-432815) **Note:** This is a Mentor-Protégé Program Project. - Approved*
24. ******Council is asked to approve Project CM1007; Owens Field Skate Park, as requested by the Parks and Recreation Department. Award to AOS Specialty Contractors, Inc. as the lowest bidder in the amount of \$450,185.00. This firm is located in Columbia, SC. *Funding Source: GL4039999-659300 / JL PK004501-659300 - Approved*

ORDINANCES – SECOND READING

Upon motion by Mr. Finlay, seconded by Mr. Rickenmann, Council voted unanimously to give second reading approval to **Items 25.** through **28.** with a single motion.

25. Ordinance No.: 2009-034 – Granting an encroachment to Richland County for installation and maintenance of a walkway within the right of way area of the 1700 block of Taylor Street and 1600 block of Henderson Street adjacent to The Township Auditorium at 1703 Taylor Street – *(Mr. Marc Mylott, Director of Planning and Development Services: Recommends approval) – First reading approval was given on July 8, 2009. – Approved on second reading.*
26. Ordinance No.: 2009-060 – Granting encroachment to the University of South Carolina Development Foundation for installation and maintenance of an irrigation system, seventeen trees and fifty-one concrete car stops within the right of way areas of the 700 blocks of Greene Street, Gadsden Street and Devine Street adjacent to Richland County TMS No. 08915-12-01 *(Mr. Marc Mylott, Director of Planning and Development Services: Recommends approval) – First Reading approval was given on July 8, 2009. – Approved on second reading.*
27. Ordinance No.: 2009-063 – Annexing 5809 Indian Mound Road, Richland County TMS #13715-01-05 *(Mr. Marc Mylott, Director of Planning and Development Services: Recommends approval) – This property site is located within a Donut Hole. – First reading approval was given on July 8, 2009. – Approved on second reading.*

28. Ordinance No.: 2009-077– Authorizing the Interim City Manager to execute a Lease Agreement between the City of Columbia and Humane Society for the Prevention of Cruelty to Animals for lease of approximately 1.38 acres (59,970.92 square feet) of property on Humane Lane - *First reading approval was given on July 8, 2009. – Approved on second reading.*

ORDINANCES- FIRST READING

29. Ordinance No.: 2009-051 – Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 24, Vehicles for Hire Division 2, Driver’s Permit, Sec. 24-81, Appeals – *Approved on first reading.*

Mr. Ken E. Gaines, City Attorney explained that this tweaks the time periods and makes the process more efficient for us.

Upon motion by Mr. Rickenmann, seconded by Mr. Finlay, Council voted unanimously to give first reading approval to Ordinance No.: 2009-051 – Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 24, Vehicles for Hire Division 2, Driver’s Permit, Sec. 24-81, Appeals.

30. Ordinance No.: 2009-081 – A Sixth Supplemental Ordinance Supplementing Fifth Supplemental Ordinance No. 2007-072 and Providing for the Issuance and Sale of City Columbia, South Carolina, Waterworks and Sewer System Revenue Bonds, Series 2009, in the principal amount of not exceeding \$105,000,000; delegating the authority to the Mayor and Interim City Manager to determine certain matters with respect to the bonds; prescribing the form and details of such bonds; making certain amendments to general bond ordinance No.94-43; and other matters relating thereto – *Approved on first reading.*

Councilor Devine said that she thought the bonds would not exceed \$80 +/- million.

Mr. Steven A. Gantt, Interim City Manager explained that the amount depends on whether or not we do a fixed rate or variable rate. We are proceeding on two tracks with an ordinance that allows us to do a fixed rate bond sale or a variable rate bond sale so that depending on where we are in September we can go forward with the best option.

Councilor Devine asked if we can still do this even though we did a SWAP.

Mr. Steven A. Gantt, Interim City Manager said yes; we can buy ourselves out of the SWAP and be in a position to go whichever way that is most financially positive for us.

Upon motion by Ms. Devine, seconded by Mr. Finlay, Council voted unanimously to give first reading approval to Ordinance No.: 2009-081 – A Sixth Supplemental Ordinance Supplementing Fifth Supplemental Ordinance No. 2007-072 and Providing for the Issuance and Sale of City Columbia, South Carolina, Waterworks and Sewer System Revenue Bonds, Series 2009, in the principal amount of not exceeding \$105,000,000; delegating the authority to the Mayor and Interim City Manager to determine certain matters with respect to the bonds; prescribing the form and details of such bonds; making certain amendments to general bond ordinance No.94-43; and other matters relating thereto.

RESOLUTIONS

31. Resolution No.: R-2009-019 – Authorizing participation in the South Carolina Local Government Investment Pool - *Approved*

Mr. Steven A. Gantt, Interim City Manager explained that this allows our Treasurer to use the State's investment Pool, which we haven't taken advantage of in the past.

Upon motion by Ms. Devine, seconded by Mr. Finlay, Council voted unanimously to approve Resolution No.: R-2009-019 – Authorizing participation in the South Carolina Local Government Investment Pool.

Upon motion by Mr. Rickenmann, seconded by Mr. Davis, Council voted unanimously to approve **Item A.** as presented and **Item B.** subject to authorizing the Interim City Manager to extend the hours of the Main Street Latin Festival from 10 p.m. to 12:00 a.m. Please refer to **Item H.**

- A. Resolution No.: R-2009-041 – Authorizing consumption of beer and wine at the River Jam in the Amphitheater Area of Riverfront Park - *Approved*
- B. Resolution No.: R-2009-044 – Authorizing consumption of beer and wine at Main Street Latin Festival - *Approved*
- C. Resolution No.: R-2009-052 – Authorizing the City Manager to transfer two front-end loaders to the Columbia Housing Authority - *Approved*

Upon motion by Mr. Rickenmann, seconded by Ms. Devine, Council voted unanimously to approve Resolution No.: R-2009-052 – Authorizing the City Manager to transfer two front-end loaders to the Columbia Housing Authority.

- D. Resolution No.: R-2009-054 – Authorizing the City Manager to execute a Lease between the City of Columbia and Stevens & Wilkinson of South Carolina for the First Floor of 1644 Main Street – *Consideration of this item was deferred until July 22, 2009.*

Councilor Finlay asked that this item be held until next week.

Mr. Ken E. Gaines, City Attorney explained that Stevens & Wilkinson has not approved the lease, but it is the same as the lease for the previous tenant.

Councilor Finlay asked if anybody is personally on the hook for this lease. We are not particularly good at collecting rent.

Mr. Ken E. Gaines, City Attorney said that it's in the corporate name. We can add a personal guarantee if that's the will of Council.

Councilor Rickenmann asked the City Attorney to bring this back with some conditions, because the lease we had before was not enforceable.

Mr. Ken E. Gaines, City Attorney said that it would have been enforced if the Legal Department knew about it. We must be told that there's a past due payment and we need to go forward and collect it. Then we have to bring it to Council by way of Resolution authorizing us to file the litigation.

Mr. Bill Ellis, Deputy Finance Director said that it came to Council's attention after he started working for the City. We now have it reviewed every month and if there is a problem, we will report it.

Councilor Finlay reiterated the request for a policy on collections. He said that if a personal guarantee is unacceptable, he is sure that a rolling letter of credit for six months of rent will suffice.

There was a consensus of Council to defer this matter until July 22, 2009.

- E. ****Resolution No.: R-2009-056 – Adopting City of Columbia Use of Force Policy – Consideration of this item was deferred until July 22, 2009.**

Councilor Davis asked that this matter be deferred until July 22, 2009. I would like to look at the policy again.

APPOINTMENTS

- F. Animal Services Advisory Committee

Upon motion by Mr. Rickenmann, seconded by Mr. Finlay, Council voted unanimously to approve the appointment of Mr. Jim Sonefeld and Ms. Mary Denis Cauthen to the Animal Services Advisory Committee.

- G. Climate Protection Action Committee – *Consideration of this item was deferred.*

APPEARANCE OF PUBLIC HAVING BUSINESS WITH CITY COUNCIL

- H. Main Street Latin Festival – Mr. Genaro Padilla

Mr. Genaro Padilla appeared before the members of Council to request an extension of the hours for the Main Street Latin Festival from 10:00 p.m. until midnight. He said that this request was approved last year and they never received any complaints of noise after 10 p.m.

Mr. Harold Reaves, Director of Homeland Security explained that they have been working with Mr. Matt Kennell and the Downtown Business Association; he would like to ensure that they are aware of the additional hours; and then he will make the recommendation to the City Manager.

Upon motion by Mr. Finlay, seconded by Davis, Council voted unanimously to authorize the City Manager to consider a request from Mr. Genaro Padilla to extend the hours for the Latin Festival from 10 p.m. to midnight subject to the recommendation from the Homeland Security Department. Please refer to **Item B**.

Mr. Temple Ligon, The Columbia Star reminded the Council that he spoke at the last meeting and asked the City of Columbia to bring the tennis courts at Wheeler Hill up to an acceptable level of appearance; there were a dozen people with Councilwoman Gergel on Thursday at 10:00 a.m.; and the tournament went on as planned on Friday. You are not off the hook; you still have the worst tennis courts downtown in the United States and they need to be resurfaced. I understand that there is money on hold to do this.

Councilor Rickenmann said that is correct.

Councilor Finlay said that we came up with a great plan to help with new equipment at the Drew Wellness Center. I suggest that we embark on the same policy. Are the courts still \$3 an hour?

Mr. Temple Ligon, The Columbia Star said \$2 per player; a double team pays \$8.

Councilor Finlay suggested that the fee be raised just as we plan to do at the Wellness Center. Use that money to keep the courts in good shape. He asked Mr. Baker if he would have a problem with raising the rate \$1 per hour per person at the Columbia Tennis Center and use that money to fund improvements at the Tennis Center itself.

Mr. Ken E. Gaines, City Attorney advised the Council that a public hearing is required.

A motion made by Mr. Finlay and seconded by Mr. Rickenmann to increase the rates at the Columbia Tennis Center from \$2 per hour per person to \$3 per hour per person and to use those funds for improvements, was withdrawn.

Upon motion by Mr. Rickenmann, seconded by Ms. Devine, Council voted unanimously to schedule the public hearings for the proposed increase in fees at the Charles R. Drew Wellness Center and the Columbia Tennis Courts on August 19, 2009.

Councilor Devine requested a full report on all tennis courts operated by the City of Columbia.

Mr. S. Allison Baker, Assistant City Manager for Public Services explained that several years ago when the Hospitality Tax Bond was done it included funds to renovate the Columbia Tennis Center. We've had discussions with members of City Council about moving that money to complete Southeast Park; using the remaining \$200,000 to \$300,000 to renovate the Columbia Tennis Center; moving the staff from the Columbia Tennis Center to Southeast Park meaning that the Columbia Tennis Center would become an unmanned facility. That was the long-term plan and the funds are still in place.

Mr. Temple Ligon, The Columbia Star said that we have a new use for the Tapp's Building; you can make it an indoor tennis court, because according to the American Institute of Architects, commercial construction for 2009 is down 16% and in 2010 it will be down 12%.

CITY COUNCIL DISCUSSION / ACTION

- I. Closing of Finlay Park Parking Lot – Mr. S. Allison Baker, Assistant City Manager for Public Services and Mr. Michael King, Assistant City Manager for Public Safety

Mr. S. Allison Baker, Assistant City Manager for Public Services respectfully requested that they hold the staff recommendations until the public hearing. He said that he met with Mr. King on yesterday to affirm and confirm what they intend to recommend. We have recommendations from a park perspective to how our Police Department can assist other agencies in making the parking lot safe or to change the behavior of those individuals using that parking lot.

Councilor Rickenmann said that the recommendations need to be incorporated with the public hearing.

Councilor Davis said that going forward this sets the tone and it reflects the philosophy behind some of the correspondence we've received. I would not want to hear the recommendations for Finlay Park in terms of correcting the problems that's been cited unless those recommendations include strategies for addressing the same problems in other parks. One of the reasons for the concerns is because the activities spill over from the parks into the neighborhoods. It would be

unfair to the other parts of this City to aggressively address this problem when the same problems have been lingering in other parks and neighborhoods for too long. I am also concerned that we have the heart, soul and the brain of law enforcement 1 ½ blocks from this location and we're supposedly getting the kinds of calls and problems that have been brought to our attention. Akin to that would be Hyatt Park where we have an extreme number of crimes going on and we have a substation located right there. There is no logic to where we're going. The same things are happening at Greenview Park.

Councilor Devine said that she would like to see the police reports for that area and the kinds of calls that come in. What kinds of things are happening and what are we doing in response to that? People need to understand our ability to limit certain kinds of behaviors. Just because it's not something you want to see out your window doesn't mean that it's something that we can regulate from happening in a public area. Additionally, I've spoken with former Council members who've said that this was a big discussion when Finlay Park came online and when Governors Hill came online. What was told to the residents who were moving next to a public park? Would there be minutes on that discussion? We should explore the concept of turning the parking lot into a walking park as indicated by Mr. Truluck. I would like to see plans for replenishing some of the parking if we were to do this. I don't agree that there's plenty of parking.

Mr. Michael King, Assistant City Manager for Public Safety said that they are doing a full audit of all calls coming into the 911 Center over the last year for Finlay Park as a whole. We are doing two reviews and it will provide us with all calls to include EMS and Fire. I have also ordered the Police Department to do a full audit on all police reports and calls for that area. It will be as comprehensive as possible.

Councilor Rickenmann asked for the same audit information for the 45-day period that the lot has been closed. I would like to know if we've assessed the lighting at the park. No one seems to have a problem with closing the parking lot at night. He suggested that they close the parking lot from 6 p.m. until 6 a.m. until the Public Hearing to see what will happen during that period. Can we patrol the area correctly on the weekends?

Councilor Gergel asked what the park hours are.

Mr. S. Allison Baker, Assistant City Manager for Public Services said from 6:00 a.m. until 9:00 p.m. and the parking area is closed as part of the park at 9:00 p.m.

Councilor Finlay said that the parking lot was not being chained at 9:00 p.m. and reopened at 6:00 a.m. prior to the closing of the parking lot; that was the source of conflict.

Mr. S. Allison Baker, Assistant City Manager for Public Services said that there were instances where it was not closed at 9:00 p.m., but we have been doing this for two years. About 30-days before the closing we had a discussion with the Police Chief and made a decision that the Park Rangers, as part of their duties of closing Riverfront Park, they would also close Finlay Park. We did that and there were no issues.

Councilor Devine said that she has received several calls and e-mails from residents who don't agree with the Association's request to close the parking lot. One person mentioned that a lot of residents routinely use that parking lot for their guest parking. Will there be a request from the Association for them to exclusively use the parking lot for their guests. I would be against using a public parking area for the sole use of the people who live there. What would they recommend for their guests if we changed it to a walking park?

Councilor Davis said that there are inconsistencies in how we open and close parks. Several parks are unique and that's their character. He said that Earlewood Park has a straight drive through 24 hours per day and we don't shut that down. They are experiencing the same problems and we have not addressed that in any shape or form.

Councilor Rickenmann suggested that they reassign a Park Ranger to Finlay Park temporarily to be sure that somebody is patrolling the area.

Councilor Davis said that he would also like to see a Ranger at Earlewood and Hyatt Parks.

Mr. S. Allison Baker, Assistant City Manager for Public Services suggested that they reassign a Community Safety Officer instead of a Park Ranger.

Upon motion by Mr. Rickenmann, seconded by Dr. Gergel, Council voted four (4) to one (1) to authorize the closing of the upper parking lot at Finlay Park from 6:00 p.m. until 6:00 a.m. The parking lot is to remain open while security is patrolling the area during the Summer Concert Series. A Public Hearing for citizen input on the closing of the parking lot is scheduled for August 5, 2009 at 9:00 a.m. Voting aye were Mr. Davis, Mr. Rickenmann, Mr. Finlay and Dr. Gergel. Ms. Devine voted nay.

ORDINANCES- FIRST READING

- J. Ordinance No.: 2009-078 – Amending Ordinance 2007-048 to Adopt the Budget for the City of Columbia, South Carolina, for the Fiscal Year ending June 30, 2008 – *Approved on first reading.*

Councilor Devine asked staff to explain the amendments.

Ms. Melisa Caughman, Budget Director explained that the budget amendment is to amend the fiscal year 2007/2008 budget for the General Fund in order to finalize the Comprehensive Annual Financial Report (CAFR) and the bond sale. It amends the original budget to reflect all of the movements and the transfers that were made during the audit process in order to balance the budget.

Councilor Finlay said that he wants staff to understand that he's not doing this again. I have to go pass what I think is good governance, which is amending a budget after the fact, because if I don't we won't get an audit, which will then cost the City \$11 million. This is unacceptable. I don't understand how everybody thinks this works. My guess is that the General Fund is at \$0 today.

Mr. Bill Ellis, Deputy Finance Director said that we have to do this again for 2008/2009.

Councilor Devine stated that some of the amendments were a result of changes in the way things were recorded. She asked Mr. Ellis if that issue has been resolved.

Mr. Bill Ellis, Deputy Finance Director said that will never be 100% resolved, but we have identified most of the issues.

Councilor Devine said that a previous CFO talked about making sure that the departments understood how things needed to be booked and developing a manual. Has that been done?

Ms. Melisa Caughman, Budget Director said that some of that is being resolved. At least \$11 million of this is not related to departments. As Mr. Ellis referenced, Project Spider was a hit on both revenues and expenditures and even though it netted to zero, that was \$6.4 million added to the \$33 million over budget on the General Fund. Another transaction was the TIF. Those items were unique to 2007/2008 and you won't see them again in 2008/2009.

Councilor Gergel said that the budget has to be met this year.

Councilor Rickenmann stated that the members of Council can't add anymore requests, either.

Councilor Davis said that he would expect the monthly reports to be a part of the monitoring process.

Upon motion by Mr. Davis, seconded by Ms. Devine, Council voted unanimously to give first reading approval to Ordinance No.: 2009-078 – Amending Ordinance 2007-048 to Adopt the Budget for the City of Columbia, South Carolina, for the Fiscal Year ending June 30, 2008. Second reading consideration will be given on Wednesday, July 22, 2009.

STAFF REPORTS

K. Performance Assessment – Mr. S. Allison Baker, Assistant City Manager for Public Services

Mr. S. Allison Baker, Assistant City Manager for Public Services said that given our need to be more effective; to do the right thing well; to streamline our processes; and to reduce our expenditures, I am excited about the possibility of the efficiency study that we did an RFP for. We have provided the score cards. The assessments were done according to our procurement policy. There were three (3) evaluators; seven (7) groups submitted proposals/qualifications; out of the seven (7) there were less than five (5) points between those that were rated the top four (4). I would recommend that Council allow the top four (4) groups, which are Berkshire Advisors, MGT of America, The Mercer Group and Equa Terra Inc. to make a 30-minute presentation. The Purchasing Department will notify the firms of the time for the presentations. We absolutely cannot afford not to do this.

Councilor Devine said that the biggest thing is whether or not this is a good time and do we have the money for it. We are looking at having a negative budget and we must slash millions of dollars from our budgets; layoffs and things of that nature are not getting us to where we need to be within the time we need to do it. We are going to have to make some honest decisions and make sure that it doesn't affect the way we provide services. We may not get there in one year, but we won't get there unless we do a full assessment of our services and processes.

Upon motion by Mr. Rickenmann, seconded by Dr. Gergel, Council voted unanimously to schedule presentations from the four (4) respondents rating the highest on Wednesday, August 12, 2009 during the Work Session at 9:00 a.m. and then conduct a Budget Committee Meeting.

APPEARANCE OF PUBLIC HAVING BUSINESS WITH CITY COUNCIL

Mr. Bill Manley appeared before the members of Council to follow-up on the efficiency study discussion. It's not about finding more money; it's how you use the money. The General Fund cannot carry itself. When you close this year, you are going to take more money out of water and sewer. Why can't the managers manage their own money? People from Finance and Budget are getting hit and all they can report is what you allow to be done. They prepare the budget and then you don't check up. I asked to look at the Risk Management Fund and other services and

charges; someone has to look at. Somebody has to pull out the fact that you are spending money that you don't even know about. How many consultants have you had since 2007? I was surprised that in 2007/2008 there was \$32 million worth of adjustments. You wouldn't run your business the way you're running City government. I am going to ask again through an official FOI to look at the Risk Management Fund and the other services and charges.

Mr. Michael Simmons appeared before the members of Council to express concerns related to him no longer being able to work at the Charles R. Drew Wellness Center as a trainer. I went in there for a membership application and Assistant City Manager Mr. Allison Baker denied the membership and he put a no trespassing notice on me to prevent me from entering the facility. I talked to the cops and they said that unless I did something wrong inside the facility, I should be able to go inside. Also, I pay taxes and I live inside the City limits. Mr. Damon McDuffie informed me about a complaint about fondling someone; we set up a meeting with Mr. McDuffie and Ms. Hattie Bing. I asked who it was that made the complaint and they said they had 2 complaints and a written complaint, but they would not tell me who it was. Mr. Baker would not tell me, because he said I was an employee. I told him that I work under a contract and I am not an employee. I met with Mr. Gantt, Interim City Manager and asked him shouldn't I know who the accuser is; he said yes; and said that he would talk with Mr. Baker. Neither Mr. Gantt nor Mr. Baker ever called me back. On the 7th I received a contract for \$45 per hour and \$90 per week, but you can't do that due to the location of the facility. For three years I did not have a contract with the City. I have been teaching classes; personal training; and I wrote the job description for the classes I taught and brought there.

Councilor Finlay told Mr. Simmons that Council would discuss this matter in Executive Session and they will direct the City Attorney to contact him about this matter; this is not for public discussion.

EXECUTIVE SESSION

Upon motion by Mr. Davis, seconded by Ms. Devine, Council voted unanimously to go into Executive Session at 11:55 a.m. for the discussion of **Items L. and M.** as amended.

- L. Discussion of negotiations incident to proposed contractual arrangements
 - Lobbyist

Items were discussed in Executive Session. No action was taken.
- M. Receipt of legal advice which relates to a matter covered by attorney-client privilege
 - Conflict Waiver

Items were discussed in Executive Session. No action was taken.
- **Mr. Finlay returned to the meeting at 1:53 p.m.**
- **Council adjourned the Executive Session at 2:14 p.m. to convene the Audit Committee Meeting.**
- **Ms. Devine left the meeting at 2:14 p.m.**

AUDIT COMMITTEE

- N. ****Fiscal Year 2007/2008 Audit – The Honorable Kirkman Finlay III**

Councilor Finlay read the following statement from Ms. Holly Scofield, External/Internal Auditor:

Mr. Finlay, I've been checking with Bud and Bill this week concerning the audit. There's a problem with the investment figure, but it was resolved yesterday. As of this morning, all outstanding items have been cleared. Bud should have a clean copy of the CAFR this afternoon and we'll submit it immediately for technical review. He is hopeful that it will come through that process with only minimal changes. Right now the outstanding items are the management representation letter and the budget amendment.

Councilor Finlay said that we're going to take care of the second reading of the ordinance next week. Who does the management representation letter?

Mr. Bill Ellis, Deputy Finance Director said that there are six (6) or eight (8) people that have to sign the representation letter. I am going to distribute that on tomorrow morning.

Councilor Finlay asked Mr. Bud Addison if the letter sounded like a correct assessment of where we are. It is paramount that we get this audit done, but it is going to be paramount that on July 28, 2009, we get this next audit done. We have to close this gap. Are there any open audit issues that we need to resolve between now and July 27, 2009?

Mr. Bud Addison, Audit Senior Manager / Webster Rogers, LLP replied that he was not aware of any issues at this point.

Mr. Bill Ellis, Deputy Finance Director replied none that I am aware of.

Mr. Steven A. Gantt, Interim City Manager replied none that I am aware of.

Mr. Jeff Palen, Treasurer said nothing.

Councilor Rickenmann stated that if something comes up we need to know as soon as possible.

Mr. Bill Ellis, Deputy Finance Director said that we are doing everything we can do to get it completed as quickly as humanly possible. By the end of the month, we have to do cash statements for the water and sewer accounts that are unaudited.

Councilor Gergel inquired about the timeline for the 2008/2009 audit.

Mr. Bill Ellis, Deputy Finance Director said that the schedule is too early to predict at this point. We haven't adequately closed the books for Mr. Addison to start anything other than preliminary test work.

The members of Council discussed the completion of the fiscal year 2007/2008 audit. There was a consensus of Council to direct staff to immediately notify them of any issues that may delay the completion of the audit by July 27, 2009.

- **Council adjourned the meeting at 2:30 p.m.**

Respectfully submitted by:

Erika D. Salley
City Clerk