



CITY OF COLUMBIA  
CITY COUNCIL MEETING MINUTES  
TUESDAY, DECEMBER 20, 2011  
6:00 P.M.  
CITY HALL – COUNCIL CHAMBERS  
1737 MAIN STREET

The Columbia City Council conducted a Regular Meeting on Tuesday, December 20, 2011 at City Hall, 1737 Main Street, Columbia, South Carolina. The Honorable Mayor Stephen K. Benjamin called the meeting to order at 6:06 p.m. and the following members of Council were present: The Honorable Sam Davis, The Honorable Tameika Isaac Devine, The Honorable Daniel J. Rickenmann, The Honorable Belinda F. Gergel, The Honorable Leona K. Plough and The Honorable Brian DeQuincey Newman. Also present were Mr. Steven A. Gantt, City Manager and Ms. Niki Daniels, City Clerk Assistant. This meeting was advertised in accordance with the Freedom of Information Act.

### **PLEDGE OF ALLEGIANCE**

Master Jeremiah of Satchelford Elementary School led the audience in the Pledge of Allegiance.

### **INVOCATION**

Chaplain Jim Reese, Columbia Fire Department offered the Invocation.

### **ADOPTION OF THE AGENDA**

Upon a motion made by Mayor Benjamin and seconded by Mr. Davis, Council voted unanimously to adopt the agenda subject to the following revisions:

- Item 30 Resolution No.: R-2011-077 – Approving the honorary renaming of the Eau Claire Town Hall Conference Room to the “Henry Hopkins/Bill Manley Room”, will be moved to Presentations.
- Item 29 Resolution No.: R-2011-076 – City of Columbia Staff Serving on City of Columbia Boards and Commissions will be discussed prior to a motion being made.

### **APPEARANCE OF PUBLIC WITH COMMENTS RELATED TO THE AGENDA**

*No one appeared at this time.*

### **PRESENTATIONS**

1. Introduction of the November 2011 Employee of the Month – Mr. Aubrey Jenkins, Chief of Columbia Fire Department

Fire Chief Aubrey Jenkins introduced Mr. Kris Scott, Deputy Fire Marshal as the November 2011 Employee of the Month. He described Mr. Scott as a twelve year employee that has served in many positions. He is a very unique individual that knows how to get the job done. Mr. Scott is active in many associations and has obtained his Class III Police Certification.

Mayor Benjamin presented Mr. Scott with a plaque and Mr. Steven A. Gantt, City Manager presented Mr. Scott with a token of appreciation for being selected as the City of Columbia November 2011 Employee of the Month.

2. Introduction of the December 2011 Employee of the Month – Mr. Joey Jaco, Director of Utilities and Engineering

Mr. Bill Davis, Wastewater Engineer introduced Mr. Ashley Dove, Environmental Technician /Wastewater Compliance Manager as the December 2011 Employee of the Month. Mr. Dove possesses a Collection Systems license and is responsible for the Septage Receiving Station at the Metro Treatment Plant, the Industrial Waste Water Pre-Treatment Program, the Sewer Overflow Response Program and the Fats, Oils and Grease Programs. He is a 14-year employee that arrives early and stays late. He's a team player and encourages everyone around him.

Mayor Benjamin presented Mr. Dove with a plaque and Mr. Steven A. Gantt, City Manager presented Mr. Dove with a token of appreciation for being selected as the City of Columbia December 2011 Employee of the Month.

3. 2012 Dr. Martin Luther King, Jr. Day Celebration and Food Drive – Mr. Durham Carter, President of the Dr. Martin Luther King, Jr. Memorial Foundation

Mr. Durham Carter, President of the Dr. Martin Luther King, Jr. Memorial Foundation said that he is proud to be a part of the Martin Luther King Day Celebration held on the 3<sup>rd</sup> Monday of each January. This is a federal holiday throughout the United States. In South Carolina, during my administration in the South Carolina State Employees Association, I lobbied for South Carolina to recognize Martin Luther King Day. In 1988, the Columbia City Council approved a Martin Luther King Day Celebration and a Committee to plan activities each year for the celebration of the works of Dr. King. We raised funds to erect the Stone of Hope at Martin Luther King Park. In honor of Dr. King, we will collect can goods for the Harvest Hope Food Bank and financial donations can be made at the Chik-Fil-A in Five Points. We will provide scholarships to Richland District One students with award winning essays as part of the Dream Keeper Award.

4. Resolution No.: R-2011-077 – Approving the honorary renaming of the Eau Claire Town Hall Conference Room to the “Henry Hopkins/Bill Manley Room” - *Approved*

Councilor Davis said “It is my pleasure to join the residents of the Eau Claire and North Columbia area in requesting that Council so honor Mr. Bill Manley and Mr. Henry T. Hopkins through the renaming of the conference room in their honor. Mr. Hopkins has been the Executive Director of the Eau Claire Community Council; he served on the Eau Claire Development Corporation; he has been involved in the growth we are experiencing in North Columbia as well as his advocacy for the people of Eau Claire. He along with Bill Manley have not only talked the talk, but walked the walk. Bill Manley functions as the pulse for the area. He advocates for the area and on behalf of the young people. He's very active in the North Columbia Rotary Club and he also helped to create the Capital Senior Center.

Councilor Plough said that she grew up in Eau Claire and these two gentlemen were truly role models. They have a spirit of that community at heart and they have a particular passion for the youth in that area. It has touched my heart for many years and I am thrilled to be a part of this vote.

Upon a motion made by Mr. Davis and seconded by Ms. Devine, Council voted unanimously to approve Resolution No.: R-2011-077 – Approving the honorary renaming of the Eau Claire Town Hall Conference Room to the “Henry Hopkins/Bill Manley Room”.

Mr. Henry T. Hopkins thanked the Council. He stated that we are still on the battlefield. I was leery about this. Bill and I have been on the fighting field like bulls, but as I grow older, I feel like I can't be as aggressive. It makes me feel good that we have done something positive in Eau Claire/North Columbia. He introduced his family to the members of Council.

Mr. Bill Manley said that he has worked with Henry for 25 to 30 years and it has been a tremendous relationship. He asked all of their family members and friends to stand. We are a family in Eau Claire. He introduced his family to the members of Council. Twenty-one days from today Doris and I will be married 64 years. I used to come here quite often and I thank my bride for our lovely children, grandchildren and great-grandchildren. I wanted you to meet my family, because they are a part of your family. We have been living in Eau Claire for 64 years and we've seen a lot of changes. We thank God that almost all of the changes have been positive. Thank you for being our friends and our leaders.

Mayor Benjamin invited the honorees to be photographed with the members of Council. A formal presentation will be scheduled at a later date.

### **CONSENT AGENDA**

Upon a motion made by Mr. Davis and seconded by Dr. Gergel, Council voted unanimously to approve the **Consent Agenda Items 5** through **9** and **11** through **23**. Consideration of **Item 10** was deferred until January.

#### **CONSIDERATION OF BIDS, AGREEMENTS and CHANGE ORDERS**

5. Council is asked to approve an Agreement between the City of Columbia and the City Center Partnership, Inc. for the Administration of the City Center Business Improvement District. - *Approved*
6. Council is asked to approve the Community Development Block Grant Sub Recipient Agreement for Fiscal Year 2011/2012 for Community Improvement and Litter Prevention Program, as requested by the Community Development Department. Award to Keep the Midlands Beautiful in the amount of \$15,000.00. This vendor is located in Columbia, SC. *Funding Source: FY 2011 CDBG-JL910030041 - Approved*
7. Council is asked to approve the Community Development Block Grant Sub Recipient Agreement for Fiscal Year 2011/2012 for Eau Claire Promise Zone, Capacity Building, as requested by the Community Development Department. Award to the Eau Claire Promise Zone in the amount of \$40,000.00. This vendor is located in Columbia, SC. *Funding Source: FY 2011 CDBG-JL9100300711- Approved*
8. Council is asked to approve the Community Development Block Grant Sub Recipient Agreement for Fiscal Year 2011/2012 for College Summit South Carolina (Richland One), as requested by the Community Development Department. Award to College Summit in the amount of \$40,000.00. This vendor is located in Columbia, SC. *Funding Source: FY 2011 CDBG-9100300211- Approved*

9. Council is asked to approve Capital Improvement Project SS696603; Change Order 2, Sanitary Sewer Rehabilitation Annual Contract, as requested by Utilities and Engineering. Award to McClam and Associates in the amount of \$59,710.50. This vendor is located in Little Mountain, SC. *Funding Source: Sewer Improvement Fund - Approved*
10. Council is asked to approve a Contract for the Installation of Three (3) Digital Equipment Pay-by-Space Devices for the Taylor Street Garage and Two (2) Devices for the City Center Garage. Award to Southern Time Equipment Company, pending Legal's Review for a cost not to exceed \$59,981.05. This vendor is located in Wilson, N.C. *Funding Source: 2005 Parking Revenue Bond (PG001109 for the units at the Taylor Street Garage and PG001103 and PG001104 for the City Center Garage) – Consideration of this item was deferred until January for the members of Council to be briefed.*
11. Council is asked to approve the Purchase of an Excavator, as requested by the Wastewater Maintenance Division. Award to Blanchard Machinery, the lowest bidder meeting specifications in the amount of \$264,356.00. This vendor is located in West Columbia, SC. *Funding Source: Utilities Wastewater Maintenance/Auto, Trucks, Heavy Equip-Capital; 5516205-658500 - Approved*
12. Council is asked to approve Capital Improvement Project SS7146(9); Rental Services for Two (2) Centrifuge Belt Filters for the Metro Wastewater Treatment Plant, as requested by Utilities and Engineering. Award to Bio-Nomic Services, Inc., in the amount of \$1,200,000.00. This vendor is located in Charlotte, NC. *Funding Source: Sanitary Sewer Maintenance Fund; 5516212-636400 - Approved*
13. Council is asked to approve Capital Improvement Project SS7209; An Agreement for Professional Services for Wildlife Management, as requested by Utilities and Engineering. Award to McClam & Associates in the amount of \$1,402,500.03. This vendor is located in Little Mountain, SC. *Funding Source: Sewer Improvement Fund; 5516212-SS720901-636600. Note: The Forest & Wildlife Group, Inc. (Columbia, SC) will assist with this project at 81.4% of the total contract. - Approved*
14. Council is asked to approve Capital Improvement Projects WM4137, WM4136, and WM4113; An Agreement for Design and Construction of Three (3) 2-million gallon (mg) Water Storage Tanks, as requested by Utilities and Engineering. Award to Kimley Horn & Associates, Inc., for a cost not to exceed \$1,603,800.00. This vendor is located in Raleigh, NC. *Funding Source: Water Improvement Fund; 5516210-WM4137-636600; 5516210-WM4136-636600; & 5516210-WM4113-636600 - Approved*

#### ORDINANCES – SECOND READING

15. Ordinance No.: 2011-077 – Granting encroachment to the Hermitage House Home Owners Association for installation and maintenance of a flagstone path, landscaping and an irrigation system within the right of way area of the 600 block of King Street adjacent to 619 King Street, Richland County TMS #11382 – *First reading approval given on December 13, 2011. – Approved on second reading.*

16. Ordinance No.: 2011-079 – Granting an encroachment to Art Bar for installation and maintenance of a scored concrete patio and landscaping within the right of way area adjacent to 1211 Park Street, Richland County TMS #09013-11-08 and twenty (20) chairs and five (5) tables for use by its patrons for outdoor dining during normal business hours – *First reading approval was given on December 13, 2011. – Approved on second reading.*
17. Ordinance No.: 2011-081 – Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 23, Utilities and Engineering, Article V, Water and Sewer Rates, Sec. 23-152 Sewer plant expansion fee (b) – *First reading was given on December 13, 2011. – Approved on second reading.*
18. Ordinance No.: 2011-092 – Granting an encroachment to Timothy G. Adams, Sr. for installation and maintenance of a brick wall and landscaping within the right of way adjacent to 29 Samson Circle, Richland County TMS #14203-14-11 – *First reading approval was given on December 13, 2011. – Approved on second reading.*
19. Ordinance No.: 2011-093 – Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 11, Licenses, Permits and Miscellaneous Business Regulations, Article II, Business and Professional License, Sec. 11-32 Definitions to add Boardinghouse and Roominghouse, and Charitable purpose, Sec. 11-34 License fee, Sec. 11-35 Registration of businesses; application for license; Sec. 11-36 Deductions from gross income; exemptions; determination of classification; Sec. 11-49 Classification rate schedules – *First reading approval was given on December 13, 2011. – Approved on second reading.*
20. Ordinance No.: 2011-097 – Granting an encroachment to City Center Partnership for placement and maintenance of one bike rack and one sculpture within the sidewalk right of way of the 1300 block of Main Street adjacent to 1136 Washington Street – *First reading approval was given on December 13, 2011. – Approved on second reading.*
21. Ordinance No.: 2011-098 – To Grant to Sprint-Nextel Communications Company, its Successors and Assigns the Right, Power and Authority to Construct, Install, Maintain and Operate In, Over, Upon and Under the Streets and Public Places of the City of Columbia, its Lines, Poles, Wires, Cables and other Telecommunications Facilities to Render Telecommunications Services to its Customers in the Limit of the City of Columbia for Such Period as Provided Herein; and to Provide for the Payment for Compensation for the Use of the Streets and Public Places – *First reading approval was given on December 13, 2011. – Approved on second reading. This is an annual renewal.*
22. Ordinance No.: 2011-100 – Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 8, Environmental Health and Sanitation, Article III, Noise, Division 1, generally, Sec. 8-67 Radios, phonographs, musical instruments and other sound-amplifying devices – *First reading approval was given on December 13, 2011. – Approved on second reading.*

23. Ordinance No.: 2011-101 – Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 2, Administration, Article V, Procurement to add Sec. 2-208 Purchase and sale of real property, exceptions for certain utilities project and site acquisitions – *First reading approval was given on December 13, 2011. – Approved on second reading.*

### **OTHER MATTERS**

24. Assembly Street Ball Park Redevelopment Project

Mayor Benjamin said that he has several questions and concerns to lay out for consideration by the developer and/or answers by the staff.

Councilor Plaugh asked city staff for the maximum building footage that would be permitted on this site.

Ms. Krista Hampton, Director of Planning and Development Services said that the maximum square footage would be determined generally by the parking, because lot coverage requirements generally aren't applicable for commercial zones, but what does constrain you is your parking requirements as well as any buffer landscaping requirements and of course storm water requirements. We would have to look at the acreage and then determine that.

Councilor Plaugh said that property is zoned M-1. Would it have to be rezoned to C-3?

Ms. Krista Hampton, Director of Planning and Development Services stated that general merchandise stores are permitted in M-1. The rear portions of the parcels that front onto Bluff Road are currently residential and would need to be rezoned. We would encourage a general commercial zone, which is more appropriate if you are going through a rezoning. You can establish a general merchandise store in M-1 zoning. Those parcels are not in the city and we would have to annex those as well. You cannot build across lot lines and we wouldn't want those zoning lines there either. We would want the entire parcel to be zoned consistently.

Councilor Plaugh inquired about the likelihood of this being done as a planned unit development (PUD).

Ms. Krista Hampton, Director of Planning and Development Services said that you cannot have a single use PUD. It would be contingent upon including residential parcels to make it a mixed-use.

Councilor Plaugh inquired about the 20' retaining wall. It is a high wall.

Ms. Krista Hampton, Director of Planning and Development Services said it's not precluded by a zoning ordinance. As long as it is a structure and meets setback requirements and those kinds of things, it can be addressed in a PUD. Obviously, it would need to be engineered. We have fairly massive retaining walls in some areas, but they aren't prevalent downtown.

Councilor Plaugh inquired about the 2-acre area at the front of the property that has been described as park land or where the tributary will be relocated to. Is there a way to ensure that the area will be redeveloped in line with the picture without going through a PUD?

Ms. Krista Hampton, Director of Planning and Development Services said that the two avenues are through the contract or through a PUD and include that language in the descriptive statement as well as the site plan.

Councilor Plough stated that the development is not at a point where they can have enough engineering done to know whether it can be a babbling brook or does it need to be a retention area. She asked Matt Sasser, the developer if he was opposed to considering a PUD.

Mr. Matt Sasser, Project Developer stated that they are not opposed to considering a PUD. We are very premature in committing to that type of a structure. This process is backwards to what I am used to. I like that site plan. As tenants commit to this, we need flexibility to that site plan. A 25,000' tenant might become 28,000'. I would propose that we state in the agreement that this is the site plan we are developing and any substantial change to that has to go through staff for further review and approval.

Councilor Plough stated that she did her homework from the beginning. I had conversations with staff and I looked at the appraisal. I never saw a site plan before I voted. There were expectations that I had in terms of how this site would be developed. I never envisioned there being an anchor tenant.

Mayor Benjamin said in fairness to the developer, the initial discussion of the contract on this property was handled the way that every sale of property has been handled at the city over the last several years. There's a policy that gives the person who owns or controls the adjacent the right of first refusal on the property. It was never within the purview of this Council to look at the site plan for the entire site, because we are talking about 1/5 of the parcel. When this first came before Council, regardless of the executive session discussion, which I won't refer to, this Council all voted in favor of selling the land. I believe that was unanimous. I want to make sure that the history is clear here.

Councilor Rickenmann asked the City Attorney in which way this should be handled. Is storm water a PUD related issue or can you put this in a contract? The contract seems more enforceable. There is a laundry list of things. Is your recommendation to put this in a contract or a PUD?

Mr. Kenneth E. Gaines, Esq., City Attorney said there may be problems with enforcing this in a contract. What's your remedy if it is not complied with down the road? I would suggest we put it in both.

Councilor Devine inquired the use of a development agreement.

Mr. Kenneth E. Gaines, Esq., City Attorney said that this site doesn't meet the state statute to allow for a development agreement. There is an acreage requirement and it's not that big.

Councilor Rickenmann asked the Director of Utilities and Engineering if they had ample time to look at the regulations for storm water runoff and if they will be involved as things move forward. There are a lot of questions about our portion of Rocky Branch, but I haven't heard about the other portion. Have there been discussions with Richland County? What is their intention? Are they planning to take part in working through this issue?

Mr. Joey Jaco, Director of Utilities and Engineering said that they met briefly with their engineer. We've not seen any calculations. It's all conceptual at this time. We do question whether or not their proposal will work. In order for this to happen, they have to submit a conditional letter of map revision to FEMA for approval before a permit can be issued. This has to be reviewed and endorsed by staff. There is a public notification process, as well.

Councilor Rickenmann asked Mr. Jaco if he had any conversations with the county about what they are planning to do. Are they planning to do some rehab work or is this all going to lay on our shoulders?

Mr. Joey Jaco, Director of Utilities and Engineering said that they can contact the county to see what the plans are. The proposed modifications within Rocky Branch are in the county and that approval would have to go through the county.

Councilor Davis asked the developer if this is proposed to be a part of the new urban concept/design being promoted with Wal-Mart.

Mr. Matt Sasser, Project Developer said yes. I do consider this to be a very urban type development. Again, no tenants have committed to this project. We've had good discussions with a number of people. We've laid the parking out in very small pockets, rather than large masses of asphalt. The parking ratio on the top deck where all the retail is located is below a 3.0 per thousand feet of retail, which is ½ a car per thousand lower than your regulations. The city's regulations are 3.5 per thousand. In order to achieve your minimum requirements, we put the balance of the parking below in the deck. It has created a very urban atmosphere, in my opinion.

Councilor Davis inquired about the difference in this proposal and what is proposed by the developer elsewhere, in terms of the new urban concept.

Mr. Matt Sasser, Project Developer said that this is the first urban development he has worked on. It's inside the city.

Councilor Davis asked if the flood study commissioned by Mr. Sasser was available.

Mr. Matt Sasser, Project Developer explained that they have spent under \$10,000 on a flood study. I didn't want to waste your time, my time or my money. That was honestly, one of the first things I did. I asked the resident flood expert for the City of Columbia to look at this and give me his honest assessment as to whether or not this could be mitigated and resolved. He has done that and he said yes. I have not seen that study. As soon as it is available, we will submit it to your staff and everybody.

Councilor Davis inquired about anchor. Is the square footage negotiable? You are proposing 92,000 sq. ft.

Mr. Matt Sasser, Project Developer said that it is a small store for the tenant he is proposing to put there.

Councilor Davis said that there is concern about the length of stay and abandonment; leaving a box in that particular location if the tenant moved away. Are you opposed to a no abandonment agreement?

Mr. Matt Sasser, Project Developer said that he would have to ask the tenant. Honestly, I can't answer that question. I understand your concerns. The tenant I'm proposing to put there, used to build 200,000' to 220,000' stores. Those are very difficult to backfill. Usually, you have to do it with multiple tenants. I can rattle off six (6) tenants that are larger than that and could backfill that store very easily, if they ever did vacate.

Councilor Davis said that there is some discussion about the redevelopment of Assembly Street. Are there going to be plans to tie this location/development into the Assembly Street development?

Mayor Benjamin stated that Assembly Street from Rosewood to Elmwood is a significant chunk and we've focused most intently on completing the State Infrastructure Bank Application for submission and working closely with the University and Department of Transportation on the very important stretch that would go from Gervais to Blossom Street. I've asked the Assistant City Manager to share with Bright Myers and anyone else who's interested, at very least, the conceptual drawings. Our focus has been on improving pedestrian safety, improving connectivity on the western side and remedying the challenges with the railroad crossings. I've heard you all say that you would commit to the on-street improvements.

Councilor Davis asked again if the size of the anchor is negotiable.

Mr. Matt Sasser, Project Developer said that it's the smallest store for the proposed anchor tenant that sells groceries as well as dry goods. I don't know how to size it down. It's 30,000 square feet smaller than the Target on Garners Ferry Road. It's smaller than the JC Penney's and Belk at Sandhill. It's half the size of the next smallest Wal-Mart in Columbia. We've taken all of the suburban bells and whistles out of the store. It doesn't have a garden center or tire and lube. It's there for an urban-type setting.

Councilor Devine inquired about the status of the flood study. Once it's available will you provide it to staff?

Mr. Matt Sasser, Project Developer said yes; we would have to. Once we've done the full flood study I have to give it to staff and it has to go to FEMA.

Councilor Devine inquired about the proposal to relocate the creek. What does that entail? My concern is the picture that you showed. Is that a creek that you relocated?

Mr. Matt Sasser, Project Developer said yes; there is an existing creek that bisects the property. It has concrete on both sides and a lot of the bottom is concrete. We are proposing to reroute it to the front of the project, open it up and re-establish the creek.

Councilor Devine asked how the creek would be re-routed. Do you pipe what's currently there?

Mr. Matt Sasser, Project Developer explained that from where it comes underneath Ferguson Street it will be routed towards Assembly Street and then head north. As soon as it crosses underneath the main driveway, it's opened up and then it winds through the natural area out front. The pictures I showed you of a relocated stream was an actual creek that we relocated and refurbished in Rock Hill, South Carolina as part of a project we did there. We did that as our mitigation. My contractors don't do it, we hire wetlands specialist that relocate creeks.

Councilor Devine asked the Director of Utilities and Engineering if the relocation would go to the Army Corp of Engineers as well as FEMA.

Mr. Joey Jaco, Director of Utilities and Engineering said that it may. I don't know if we know enough information about it now as to whether or not the Corp would call jurisdiction on it. If it is a jurisdictional stream, to reroute it, it would have to go through the Corp. It also affects the FEMA mapping as well. It could require both.

Councilor Devine asked if the developer's streetscaping project would include both sides of Assembly Street.

Mr. Matt Sasser, Project Developer said that he doesn't know if they have the ability to do the other side. There are railroad tracks over there.

Councilor Devine asked if the development would be owned by Bright Myers.

Mr. Matt Sasser, Project Developer said yes, it would be.

Councilor Devine asked if it would be maintained by Bright Myers.

Mr. Matt Sasser, Project Developer replied, it would be.

Councilor Devine asked if that would include the maintenance of the detention pond.

Mr. Matt Sasser, Project Developer said that it would include the natural park area. There are 23 acres and it would all fall under our jurisdiction.

Councilor Devine noted that there have been concerns about the Forest Drive retention pond and whether or not it is maintained. I want to make you aware of making sure that property owners are maintaining it ten years, twenty years, or fifty years from now.

Mr. Matt Sasser, Project Developer explained that they usually enter into detention pond maintenance agreements with the city, county or the municipality we are within.

Councilor Devine said that there has been a lot of discussion regarding connectivity. There is Susaki Plan that has a lot of information regarding that corridor and connecting eventually to Innovista. Are you familiar with that plan? If not, have you considered looking at it and incorporating it into any type plan that you have?

Mr. Matt Sasser, Project Developer said that he has been shown several plans, but he's not sure if he has seen the plan being referred to. I will look at it and make sure we are working with it.

Councilor Devine referred to Mr. Guild's comments made on yesterday regarding the commitments relating to water quality and flooding. From my conversations with Joey Jaco and others, those approvals are contingencies on the current contract.

Mr. Kenneth E. Gaines, Esq., City Attorney said that he would have to look at the contract.

Mr. Steven A. Gantt, City Manager said that they are part of the site plan review that would go through the Engineering Department. All of those would have to be approved for the project to move forward. That is the normal process on any development.

Councilor Devine asked if the contract would be voided if there are problems once they get deep into the engineering studies.

Mr. Kenneth E. Gaines, Esq., City Attorney said that it would be impossible to perform the contract. If it's not a contingency, it is a very simple matter of making it one.

Councilor Devine requested the City Attorney's opinion on Mr. Guild's comments regarding contingencies on the contract if the contract moved forward. She asked if the Waterfront Steering Committee had an opinion on this project.

Mayor Benjamin said that the committee has not opined.

Councilor Gergel asked the Director of Planning and Development Services what has been approved up to this point as part of the City's overall plan for Assembly Street.

Ms. Krista Hampton, Director of Planning and Development Services stated that we have a comprehensive plan, but we do not have specific plans for the South Assembly area.

Councilor Gergel said that she looked at the City's comprehensive plan, but she didn't see anything mentioned about this, in particular.

Ms. Krista Hampton, Director of Planning and Development Services agreed that there was no specific plan for the South Assembly Street area.

Councilor Gergel said that we don't have any specific plans. The only discussions were the discussions that came up when we talked about Rocky Branch afterwards. We learned that there had been thorough planning or discussions that had taken place about the city, county, University and some of the neighborhoods who were interested in seeing the Branch restored and the greenway developed.

Ms. Krista Hampton, Director of Planning and Development Services explained that there are plans that had been conducted, but they weren't city sponsored. I don't know that they came before you for adoption.

Councilor Gergel said that the plans were during 2003/2004. We do know that grants were applied for the bodies that came together. There is no other plan that has been completed at this point. That's one of the concerns that I have. This should have been asked in July/August. We don't have the plans in place. When I first took office, the Urban Land Institute commissioned a study of land use planning in South Carolina. It was called a *Future of Choice or Chance*. The major theme was the importance of building after you plan; of knowing what you wanted; what sort of public visioning needed to take place before you moved with planning. That's one of the greatest regrets in this, that I did not ask these kinds of questions earlier.

Ms. Krista Hampton, Director of Planning and Development Services reiterated that plans have been conducted by other individuals and groups, but the city has not adopted a plan specific to this area.

Councilor Gergel asked about staff's assessment of this proposed project's impact on flooding upstream and downstream.

Mr. Joey Jaco, Director of Utilities and Engineering explained that they haven't seen any calculations. We've seen details and had conversations with the engineer. From what we've seen, we do not think it will affect upstream flooding that we see every year. We've seen a proposal to lower the downstream constraint below the 50-year mark. There will be no real affect to the flooding we see every year. We will not see any change upstream; good or bad.

Councilor Gergel requested that staff assess the impact of this project on flooding. This is critical, because we are on a floodplain. Has our staff evaluated the impact of this project on our traffic density and congestion?

Ms. Krista Hampton, Director of Planning and Development Services said that they haven't had the opportunity to conduct that type of analysis. We need more time, concrete numbers and expertise to help determine those impacts. The site plan review plan process entails the requirement in this type development for a traffic impact study.

Councilor Gergel inquired about the design guidelines for the proposed project. How were they determined and what are they modeled after.

Ms. Krista Hampton, Director of Planning and Development Services said that John Fellows, an Urban Design Planner for the City was asked to develop some those guidelines based on urban design principles.

Mr. Fred Delk, Executive Director of the Columbia Development Corporation explained that the guidelines were especially done by Mr. Fellows for this property. They cover a variety of things to make sure the facades of these buildings are properly fenestrated. A variety of types of materials would be included. It includes guidelines for walls and windows that face public traffic; various requirements for buffering in and around the development; the location of sidewalks; plantings; and drainage.

Councilor Gergel asked if the project would go back to the Design Development Review Commission (DDRC).

Mr. Fred Delk, Executive Director of the Columbia Development Corporation said no; there's a committee that includes the City Manager, Urban Design Planner and Stormwater Engineer.

Councilor Gergel asked if this is the traditional way that we do design review.

Mr. Fred Delk, Executive Director of the Columbia Development Corporation stated that projects usually go through the DDRC. This particular part of the city has no design criteria; therefore, we are attaching design criteria to a property that otherwise would not have any.

Councilor Gergel asked where the appeal would go.

Mr. Fred Delk, Executive Director of the Columbia Development Corporation stated that an issue that cannot be resolved would be forwarded to the City Manager's Office by either party for a formal decision from the City Manager after hearing each party's concerns.

Councilor Gergel asked if that was standard.

Ms. Krista Hampton, Director of Planning and Development Services said that an appeal from the DDRC would go to Circuit Court as set forth in state law.

Councilor Gergel asked the City Attorney if the contract would have to be changed if any modifications were made.

Mr. Kenneth E. Gaines, Esq., City Attorney said absolutely; the City Manager was authorized to sign the contract. He was not directed to sign the contract. If he signs the contract as it is now, that would be the legally binding contract, which would only be amended by the consent of the parties. Currently, we do not have a contract. I would suggest that we consider repealing the ordinance that's lying out there and when the new contract is negotiated in final form we put it back on the agenda authorizing the City Manager to sign the new contract. We will have the new contract attached to the ordinance authorizing the signature.

Councilor Newman said that proposed changes have been made, but we don't have a commitment. He asked the City Manager if anything had been drafted that says the developer will hold to this commitment?

Mr. Steven A. Gantt, City Manager said no. This has been a moving target for the last 60-days. There have been a lot of discussions on both sides and there have been some changes and discussions with the developer regarding things he would be willing to do with the project. I will put it to paper when we come to a resolution about what we are or aren't going to do. That will be a part of the contract, an addendum or an attachment that both the developer and the city agree to.

Councilor Newman requested that the changes be compiled and distributed to the members of Council. Would a performance bond be applicable to this situation?

Mr. Steven A. Gantt, City Manager said that he's never had a performance bond on a project that didn't belong to the city. We have performance bonds when we bid out a project for work done on our behalf. I would have to ask the City Attorney if there is anything that we could do to guarantee that this project is completed as proposed. I am not sure what that would be.

Mr. Kenneth E. Gaines, Esq., City Attorney said that he would research the matter.

Councilor Newman asked the City Attorney if we have any recourse for projects that have a huge detrimental impact to an area. Do we have any recourse if the plans are substantially different from what the developer says? Is there a requirement that we put on a developer if Olympia floods in excess of what has happened before?

Mr. Kenneth E. Gaines, Esq., City Attorney said there may be private remedies against the developer for casting water upon the property, once the project is built. The city may be out of it by then, because it becomes private property as opposed to public property. I am trying to come up with some way to require the developer to remedy the problem. I am not sure there is a way to do that. The performance bond issue is in reverse, but we may be able to get a performance bond that says he will build it the way he said he would build it. You have your contractual provisions. I suggest that we those things in the PUD, because there is some control.

Councilor Newman said that he understands the developer will need flexibility in the square footage. He asked the City Attorney to identify cases that have provided recourse for the city if a developer committed to something and then made a substantial change. What constitutes a substantial change?

Mr. Kenneth E. Gaines, Esq., City Attorney said that he would define a substantial change as a specific percentage of change. That should be defined in the contract.

Councilor Newman asked the developer about the comprehensive engineering study. Is that the same as a flood study? If not, where does that fall in your process?

Mr. Matt Sasser, Project Developer explained that a lot of permitting goes on. There are grating plans, erosion control plans, utility plans, storm/sewer plans, etc. All of those things are produced, submitted to the City, reviewed, commented on and revised. There are two (2) types of hydrology studies: one determines how we handle water on our site and how it affects the rest of the stream. There is a hydraulic study of the actual creek area.

Councilor Newman if there is anything in place to combat the concerns about water quality, run-off and pollution.

Mr. Matt Sasser, Project Developer said that currently the site sheet drains into the existing creek. We will install inline filtration systems in the storm/sewer lines. It will filter out impurities and oil and grease.

Mayor Benjamin thanked Matt Sasser for his patience as we work through this process. When you're dealing with the disposition of public property, it's never an easy process, particularly when some of the questions range from overall vision issues to some very technical issues to some issues that are a bit in the weeds. Several things that are being asked of you are incredibly premature when you don't have the property under contract yet. At the same time, I want to thank everyone here whether you are a proponent or opponent of this prospective sale or development for your vigilance in making sure we're well aware on how you feel about this issue. We have a number of issues and we made a pledge over a year ago to not just take up the easy issues, but to take up the tough ones and to discuss them openly. I would say that this is one in particular that we've received valuable and informative feedback on. We have a deep pool of talent in this city. He asked that all of these issues/concerns be compiled with the members of Council and anyone who wants a copy of them. He requested a copy of last night's presentation. He asked the City Attorney to determine which issues can be made a part of the contract or contingency. I want to see a completed flood study of the affected site area and Olympia Avenue. As a condition of this contract, I would like for the developers to commit to meeting or exceeding the requirements of our stormwater ordinance, to include the prospective ordinance. I'm concerned about stormwater run-off issues as well as water quality issues. I want to make sure that our prospective changes to the code are contemplated here. There were both pro and con discussions last night from the residents of the Olympia Neighborhood, most of them who live in the county. But, again our responsibility is to the people who live in the city and county alike. Quality of life issues are any and every effort that can be made contractually liable to limit noise from the site, instances of light pollution and proper egress/ingress tract access. There were discussions about tying in to the existing greenway and property ownership. We have to make sure that any commitments can be followed up on. Last year's referendum included significant improvements to both Rocky Branch and Smith Branch. We called Mike Dawson today to figure out what exactly was anticipated with those improvements. I would ask staff to facilitate getting the information in that study to

Bright Myers. If that commitment is going to be made, then everybody needs to know what that commitment is. If in fact it can be fulfilled, I would like to see it fulfilled as part of this. I would also like for staff to share with the developers and anyone else who's interested, the conceptual of Assembly Street from Gervais to Blossom. We've been working diligently in partnership with the University and others so that it's understood to all the commitment to pedestrian safety, traffic management, cyclist safety and how we want Assembly Street developed. I heard commitments to the issues of a bus stop and to some of the overall transportation issues. I want to make sure that we can also lock that down. I heard concerns from staff and community leaders about the culvert improvements and what affect that might have. I still need clarity about what that might mean upstream, downstream and everywhere in between just to make sure that if there are some changes to be made, they are in the best interest of the future of the City and the people who live, work and play there. We do have to make some decisions. I take responsibility. Most of my colleagues were more than eager and ready to vote tonight. I felt we needed to discuss this more. Let's put all questions on the table. It's important. I think we have an obligation to Mr. Sasser and we have a larger obligation to our citizens.

Councilor Gergel asked what the Council would be getting back from staff. She expressed an interest in receiving a presentation from staff on the future development of the greenway.

Mr. Steven A. Gantt, City Manager referenced a display in Chambers that showed the conceptual plan for the greenway and looping the entire city.

Mr. Fred Delk, Executive Director of the Columbia Development Corporation explained that staff has reviewed the 2003 River Alliance grant application to the Environmental Protection Agency (EPA) requesting money to do this study. All of the plans related to greenway development along the Rocky Branch are conceptual in nature. Nobody has done the necessary engineering studies.

Mayor Benjamin asked if those were the same documents Richland County relied on in the referendum.

Ms. Teresa Wilson, Assistant City Manager stated that Richland County did its own estimates with its staff. We scheduled a meeting with Mike Dawson of the River Alliance during the first week in January. He's going to take all of the prior plans and mapping he has and overlay that on top of what our staff has done. We will develop a more realistic depiction of what is going on.

Councilor Gergel requested a briefing on that information.

There was a consensus of Council to proceed as follows:

- Ask staff to compile a list of all concerns and questions that Council has expressed, realizing that some questions can't be answered now, because we are early in the process;
- An assessment by the City Attorney as to whether or not these conditions can be placed in a contract for sale of the property to Bright Myers;
- Ask Fred Delk to outline whether or not the prospective development of this property and the development of the greenway are mutually exclusive.
- Ask staff for a briefing on the greenway; and
- Ask staff to provide an assessment on the impact of this project on downstream and upstream flooding.
- Council is expected to make a decision on this matter on January 10 or 17, 2012.

Ms. Melissa Smith Gentry, P.E., Assistant City Manager said that staff can't provide a full assessment without calculations and without the study. There's no way to truly determine that without this information.

### **ORDINANCES – SECOND READING**

25. Ordinance No.: 2011-095 - Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 21, Stormwater Management and Sedimentation Control, Article II, Storm Drainage; Sediment and Erosion Control; and Chapter 23, Utilities and Engineering Article VI, Stormwater Management to repeal Sec. 23-204 through Sec. 206 – *First reading approval was given on November 15, 2011. – Approved on second reading.*

Ms. Dana Higgins, City Engineer and Ms. Tracy Mitchell, Stormwater Engineer reviewed the proposed changes to the storm water management ordinance.

Ms. Viola Hendley made a statement on behalf of the Congaree River Keeper. (*This statement has been made a part of the permanent record. Please see attached.*)

Ms. Emily Jones appeared on behalf of the Gills Creek Watershed Association to endorse the proposed ordinance as a worthy first step in improving water quality with the following qualified comments of support: The public input process was rushed and disorganized and key stakeholders were not able to participate fully and in a timely fashion. There were many late breaking proposals for language and there wasn't opportunity to build a true broad consensus. We look for continued commitment for public input and review with an initial focused effort on the review of the BMP manual beginning early next year and continuing with an annual review and assessment of the impact of the ordinance and how it's working in the ground as its implemented. We also supported the inclusion of the alternative language proposed by the Congaree River Keeper as a very worthwhile strong statement of policy and commitment from the Council. That was not inserted in the ordinance language to date. We support its inclusion or its adoption by the Council in another form or fashion. It's clear from our Association's efforts and from the discussions over the last two nights, if not the last two months, that water quality and urban stream restoration are of paramount concern to a wide group of residents across the city.

Ms. Tracey Mitchell, Stormwater Engineer stated that the River Keeper's recommendations were reviewed. We weighed both sides to include planning and we wanted to balance the two. We integrated some of the language. We did promise to take those comments and possibly integrate them into the next round of revisions that will occur during every permit term.

Upon a motion made by Mr. Rickenmann and seconded by Dr. Gergel, Council voted unanimously to give second reading approval to Ordinance No.: 2011-095 - Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 21, Stormwater Management and Sedimentation Control, Article II, Storm Drainage; Sediment and Erosion Control; and Chapter 23, Utilities and Engineering Article VI, Stormwater Management to repeal Sec. 23-204 through Sec. 206.

## **ORDINANCES – FIRST READING**

26. Ordinance No.: 2011-039 – Amending the 1998 Code of Ordinance of the City of Columbia, South Carolina, Chapter 19, Solid Waste Management, Article II, Collection and Disposal, Sec. 19-41 Restrictions on collection (h) Bulk containers for commercial and industrial users– *Approved on first reading.*

Mr. Steven A. Gantt, City Manager explained that this ordinance concerns the noise from dumping dumpsters and when they should be dumped. We continue to get complaints about this. I would like to have first reading and allow Robert to meet with the container operators to inform them that second reading will take place, if they don't start to comply. I don't want to be the dumpster police.

Councilor Gergel said that she requested that this ordinance be placed on the agenda. We have to say what we mean and I continue to hear from residents about concerns with the dumpsters at 4:30 a.m. and 5:00 a.m.

Mr. Robert Anderson, Public Works Director explained that there are issues that we must consider, such as the location of the dumpsters and the impact on morning traffic.

Councilor Plough stated that she had similar problems, but she agrees with the process. I would hate to think that we would have to go through with an ordinance to be the police in this matter.

Upon a motion made by Ms. Devine and seconded by Mr. Davis, Council voted unanimously to give first reading approval to Ordinance No.: 2011-039 – Amending the 1998 Code of Ordinance of the City of Columbia, South Carolina, Chapter 19, Solid Waste Management, Article II, Collection and Disposal, Sec. 19-41 Restrictions on collection (h) Bulk containers for commercial and industrial users.

27. Ordinance No. 2011-088 – Annexing 5307 Forest Drive and 5377 Forest Drive, Richland County TMS #76706-03-29 and 76706-03-30 – *Approved on second reading.*

Upon a motion made by Ms. Plough and seconded by Ms. Devine, Council voted unanimously to give first reading approval to Ordinance No. 2011-088 – Annexing 5307 Forest Drive and 5377 Forest Drive, Richland County TMS #76706-03-29 and 76706-03-30.

## **RESOLUTIONS**

28. Resolution No.: R-2011-073 – Recognizing Bob Chen as an Honorary Ambassador between the City of Columbia, South Carolina and Taiwan and the Pacific Rim – *Approved*

Upon a motion made by Mayor Benjamin and seconded by Ms. Devine, Council voted unanimously to approve Resolution No.: R-2011-073 – Recognizing Bob Chen as an Honorary Ambassador between the City of Columbia, South Carolina and Taiwan and the Pacific Rim.

29. Resolution No.: R-2011-076 – City of Columbia Staff Serving on City of Columbia Boards and Commissions

Councilor Devine explained that she serves on Councilwoman Plough's committee that is recommending this Resolution. Since we recommended this Resolution, there has been some additional information that staff needs to provide. The Administrative Policy Committee talked about staff serving on boards and commissions. We recommended that staff not serve on boards and commissions. I believe this is problematic, because the Commercial Revolving Loan Committee has pending applications and loan modifications they are entertaining. We have two members of staff serving on that committee. If we passed this Resolution, we would delay their work for a few months. This work is time sensitive. If we move forward with this Resolution at this point, I would like for Council to consider allowing staff to continue to serve until new appointees are appointed. I believe the Economic Development Administration (EDA) has raised concerns about whether or not the City would be abdicating its responsibilities if a city representative did not serve on the loan committees. I know the concerns that were raised, but we may want to reconsider this particular issue.

Ms. Teresa Wilson, Assistant City Manager further explained that staff is moving forward with the Commercial Revolving Loan Review Board specifically, regarding loans being approved, modifications and at least hearing loans. That's going well. Staff has come up with a new process and a new format that the committee seems to be very positive about. This includes our staff participation at this point, where we currently have the loans being presented to staff in addition to the staff that serves on the committee. In conversations with the EDA we were asked about the intent and were not able to adequately answer that question. The only distinction the EDA makes based off of a conflict of interest, would be having City staff serving on the committee that are in the chain of command of the loan officer or the staff that is packaging, reviewing and presenting the loans to the committee. That is not an issue on our committee. We reorganized and the Office of Business Opportunities' staff presents these loans and works with the committee. Ms. Livingston as the Director of Community Development and is no longer in the chain of command. Mr. Baker is the other member. Mr. Baker and Ms. Livingston are the two staff members that serve on the Commercial Revolving Loan Review Board and there is no conflict based on EDA regulations. The EDA representative asked why you wouldn't have your staff serving on a committee when you're dealing with federal funds. He also asked if the Council knows that if there is any issue with loan repayment, the City is the entity that has to repay the funding. Again, he said that it gives the impression of a formal abdication in some regard. If you decide to pass the resolution and have no staff then we need to change the code. If you decide to keep it like it is, then we need to clean up the code.

Mayor Benjamin made a motion to table Resolution No.: R-2011-073. It was seconded by Ms. Devine.

A substitute motion made by Ms. Plough and seconded by Dr. Gergel, to approve Resolution No.: R-2011-076 – City of Columbia Staff Serving on City of Columbia Boards and Commissions, failed. Voting aye were Mr. Rickenmann, Dr. Gergel and Ms. Plough. Voting nay were Mr. Davis, Ms. Devine, Mr. Newman and Mayor Benjamin.

Upon a motion made by Mayor Benjamin and seconded by Ms. Devine, Council voted four (4) to three (3) to deny approval of Resolution No.: R-2011-076 – City of Columbia Staff Serving on City of Columbia Boards and Commissions. Voting aye were Mr. Davis, Ms. Devine, Mr. Newman and Mayor Benjamin. Voting nay were Mr. Rickenmann, Dr. Gergel and Ms. Plough.

30. Resolution No.: R-2011-077 – Approving the honorary renaming of the Eau Claire Town Hall Conference Room to the “Henry Hopkins/Bill Manley Room” – *This item was approved. Please refer to Item 4.*

### **CITY COUNCIL COMMITTEE REPORTS**

*No reports were given at this time.*

### **APPEARANCE OF PUBLIC HAVING BUSINESS WITH CITY COUNCIL**

Ms. Viola Hendley, 104 Alabama Street noted that there are four grocery stores within a 2-mile radius of the Olympia Neighborhood. The best and highest use of the ballpark site is to function as a floodplain in the Rocky Branch watershed. Columbia is currently under EPA mandate to deal with sewer discharge into our waterways. Discharged stormwater and watershed management are intertwined.

Mayor Benjamin stated that Ms. Hendley’s statement regarding the EPA is incorrect.

Ms. Viola Hendley, 104 Alabama Street urged the Council to take time and review the sale of the ballpark. It is the only naturally functioning component of the watershed. Moving forward without due diligence would cause irreparable harm to the City’s ability to manage stormwater in the Five Points, USC, Assembly Street and Olympia neighborhoods. As you do move forward, I trust you will have contractual agreements and requirements in place regarding quality of life and flooding.

Mr. William Yandle, 103 Mulberry Lane and Business Owner urged the Council to get these commitments in writing and that they don’t deviate from it. He expressed concerns about the loss of local business, the appearance of a retention/detention pond and traffic in the area. He agreed that the area between Blossom Street to Rosewood need development, but not in this way. It needs to be beneficial to the City of Columbia and the people in South Carolina. He reported that the We Are Olympia Association and the Waverly Neighborhood Association are against this.

Mr. Mel Jenkins, 3324 Montgomery Avenue asked who will have the most lawyers to pick the contract a part; the City of Columbia or an unidentified big box. I am not confident that we can put everything in a contract. He thanked the developer for pointing out some flaws in our process that we need to fix. If the city had a vintage Rolls Royce stored in a garage and then suddenly discovered it and it was sitting there, the people who want to sell Capital City Ballpark would describe that as a dusty old car that hadn’t been used in a number of years and then they’d put it up for sale as scrap metal. That’s what you’ve done. The greenway issue reminds of the pitch that is generally given by the companies that blow up mountain tops in Kentucky and Virginia. They say trust us, it will nicer when we are finished than when we started. Then they blow the top of the mountain and it slides down into the valley. It will nicer, don’t worry about that. It bothered me to hear about Council’s responsibility to Bright Meyers. The City Council has no responsibility to Bright Meyers; it has responsibility to the citizens of Columbia.

Mayor Benjamin recalled that he made those comments in the same sentence. I said that we have a responsibility to the developer and anyone who does business in this city, but we also have a larger responsibility to our citizens.

Mr. Bob Guild, Esq., Granby Neighborhood Resident and Attorney thanked the Council for their willingness to reconsider this issue. He endorsed the City Attorney's suggestion for Council to repeal the ordinance authorizing entering into this contract and that you ensure that performance objectives are clearly specified in the contract of sale and the land use regime for the site or a PUD agreement. Performance standards that are specific to this project for water quality and flood control are essential, because your City staff's storm water permitting and state and federal regulations will not ensure protection of Rocky Branch Creek. The water quality requirement in your storm water ordinance is only triggered by development of 25-acres. This is a 23-acre site. There will be no requirement to meet a water quality standard, unless you include it in a PUD or a contract. I suggest that you have specific discharge limitations for the water quality leaving the site. Mr. Sasser's offer to put filtration boxes in the collection system is a new measure that's proposed, but there are engineering ratings for those devices that will or will not produce the desired level of water quality discharge. The standard should be not making Rocky Branch worse. Secondly, with regard to flooding, consider that they are going to build outside of the regulated floodway, but they are going to create an island of fill surrounded by a 20' retaining wall. That is going to simply divert whatever flood water that hits that wall and discharge to somewhere else. If it doesn't make flooding upstream worse, then it has to make flooding downstream worse. The ball field performs storm water detention functions. If you remove the empty parking lot and you replace it with an island surround by a 20' wall by definition, that site no longer functions as a reservoir to hold and detain storm water to protect people elsewhere. It's a matter of physics. They can probably get a FEMA, DHEC and Corps permits for filling that site if they stay out of the floodway, but that doesn't solve the problem downstream. If you put the box culvert in above the inadequate culvert on the railroad berm and it succeeds in moving storm water off his site, where does it go next? It goes to my neighborhood, Olympia Park, Olympia Avenue and then you are in the city limits again and affecting the Mills that we fought to restore. Rocky Branch is the rear property line of the Mills. I am suggesting that you put forth those performance standards in the contract or PUD and require that engineering demonstration upfront.

Ms. Leslie Miner, 2716 Blossom Street / Co-Owner of Hip Wa Ze in Five Points stated that she does not want Columbia to be the city with the most Wal-Mart's per capita. She said that Five Points has flooded 5 times in 5 years. During those times, business owners reported having 3" to 6" of water inside their buildings. There is money out there to make the greenway happen. That would be step one and that would alleviate flooding, which is a serious problem. Step two should be developing the Assembly Street corridor. I agree that something needs to be done, but we don't need another big box store in Columbia.

Mr. Joe Azar, Owner of Upstairs Audio and Video in Five Points said that this isn't an Olympia versus City issue. There is plenty of property in the area and Wal-Mart could find another location. There are plenty of places up and down Bluff Road. He asked the Council to explain why there wasn't an open bidding process on this property.

Mayor Benjamin explained that the policy that has been in place for years is to give the right of first refusal to the person who either owns or controls the adjacent property.

Mr. Joe Azar, Owner of Upstairs Audio and Video in Five Points said that many people would like to see that policy changed.

Mayor Benjamin said that the policy has been changed and will be voted on tonight.

Mr. Joe Azar, Owner of Upstairs Audio and Video in Five Points asked if this property was in the city limits.

Mayor Benjamin said yes; the ballpark is in the city. Some of the property under consideration isn't in the city. There is a significant amount of overlap between the commercial and residential parcels. Quite a bit of Olympia is in the county and that's why we are asking county residents to actively participate in this discussion as well.

Mr. Joe Azar, Owner of Upstairs Audio and Video in Five Points asked if we will annex in the rest of the property that Bright Meyers is going to take. Do we plan on doing that soon?  
Mayor Benjamin said I am sure we will. I am not sure if they own it. I am not sure if they can move for an annexation of the property.

Mr. Joe Azar, Owner of Upstairs Audio and Video in Five Points asked how many of Council had been to and seen the creek.

Mayor Benjamin stated that he has been there and driven the neighborhood extensively.

Mr. Joe Azar, Owner of Upstairs Audio and Video in Five Points stated that if you go down there today, you will see that the creek is 12' down and a tree has been washed up above the bridge. We are talking about flooding up to 14' and if we do not maintain and expand that, then we won't have enough capacity to handle what's current as well as what's going to come in the future. Not just digging deeper, but wider. You can see that the walls are collapsing. We need to preserve that. We are putting the cart before the horse. I would strongly suggest that we do all of the engineering. There is no rush. Why don't we encourage them for adaptive reuse at Sunset?

Councilor Rickenmann said that the property on Sunset is being rented by Sam's Club for a warehouse. It is owned by a New York company.

Mr. Joe Azar, Owner of Upstairs Audio and Video in Five Points stated that the city has talented citizens that can answer some of the questions people want answers to.

Mr. Steven A. Gantt, City Manager explained that we can't widen, deepen or rearrange the creek in any fashion that we choose. In order to that we would have to obtain permits from the Corps, DHEC and FEMA. We can hand trim some of the vegetation on the side. We can't put equipment in the creek without permitting.

Mr. Dillon Corbett, 738 Maryland Street stated that this is a terrible idea. You've heard overwhelming opposition to the development of Assembly Street. It's unclear what we are opposing. We don't know how this is going to look. We have no contractual agreement that says the developer is going to stick to those guidelines. I am not opposed at all to a development in this area. We need amenities. This needs to be looked at. I would like for City Council to rescind the authorization of the City Manager to sign this contract until the contract has been negotiated. I know the developer is not happy with the fact that they thought had a done deal, but its important that we have a voice in the shape that our city takes. If you ignore our voice for Bright Meyers money, then you're making a statement that I don't like. Lastly, we have an obligation to protect our watershed. There is no way we can develop this property and do no harm.

Ms. Ryan Nevius, Executive Director of Sustainable Midlands stated that all over America, cities are buying back their flood plains; Charlotte did it. They are buying them back to restore their watersheds; to stop the flooding; to stop the damage to the economy and individuals' property; and to make their cities more livable. Here we are talking about selling our floodplain for development. It's unbelievable to me. We constantly talk about restoring Rocky Branch to alleviate flooding. It's a watershed that goes from one end of the creek to the river. It is irresponsible to say to our citizens that we are going to allow development in the floodplain when we don't know what role that piece of property plays in the overall watershed. A greenway is more than what route it is going to take through the city. A greenway is more than an 8' concrete pathway. It can be a series of activities and places that generate livability in our city. It is more than a drawing on a map; it's a process. The proposed developer does not own or control the land where the proposed greenway will be built. Wal-Mart has stores down to 40,000 sq. ft. This is not an urban design. It does have some connectivity and sidewalks. Bike racks don't make connectivity. Wal-Mart has standalone stores with escalators to the 2<sup>nd</sup> floor. There are lots of sites. We should say to them that we want your jobs, we want your store, but we don't want it on our floodplain.

Mr. Jim Smith, Five Points Businessman / Vice President of the Five Points Association stated that the first role of government is to protect its citizens. This Wal-Mart is not a local business. It will pay a lot of money in sales tax; that money is not on top of what the local businesses and citizens generate. It will be taking from us and funneling that money outside the city. The citizens have the right to decide what kind of community we live in. We in the small business community do not want a Wal-Mart in the downtown area. The environmental concerns are very great. Wal-Mart generally means a loss of jobs, tax revenue, small business and downgrading of quality of life. Wal-Mart hasn't said or done anything to alleviate those concerns. It concerns me that an economic impact study has not been done by the City of Columbia. The Five Points Association unanimously opposes this.

Ms. Susie Heyward, 421 Edisto Avenue noted that Council members repeatedly asked questions of staff and the developer and there were no answers. This is really dangerous and we should watch these things a lot more closely.

Mayor Benjamin stated that the nature of this discussion has grown significantly. The initial discussion is about the alienation of a piece of property. It's not all of the additional discussions regarding environment, development or engineering. A number of these questions will not go into the sale of every piece of property.

Ms. Susie Heyward, 421 Edisto Avenue reiterated that it is very scary that we as a city, you as a Council and our city management came close to making this decision without knowing what's in the contract.

Councilor Rickenmann disagreed, stating that the contract was a contingency for them to run all of those studies. They are taking a risk. In all fairness we did not come into this completely blind. There are questions that we would like answered. There is a lot of detail in the contract that you've never seen in other contracts. I would encourage you to look at the wording.

Ms. Susie Heyward, 421 Edisto Avenue said that they've heard many rumors to include city staff agreeing to aid in zoning changes and annexations. I do hope that you would take time to review the contract and conduct more studies. Tear it up and start over.

Mayor Benjamin said that it is consistent with the annexation policy. We are aggressively trying to annex as much as possible.

Ms. Kelly McBride Ni said that she was here to write a story. She said that she was a recent victim of flooding in Wilmington, NC. The surrounding property used to be wetlands and as it was developed, there was more flooding in the area. It is a serious issue and it's important to consider everything for the people and their safety. A lot of resources have to be used during a flood.

Mr. Travis Bland said that young people want culture. This is not culture. It is the suburban sprawl that I moved away from. We need jobs, too. We need better jobs than this will provide. It will provide the same underemployment that is already hurting us. We can do better if we want to develop it. He said that this is a legacy defining moment for Mr. Rickenmann and Dr. Gergel, since they are not running for re-election. It is also a defining moment for the City of Columbia. It's clear that it's a Wal-Mart. It has been said that the stream cannot be moved or diverted. The greenway is a solution.

Councilor Gergel asked that staff determine the issues surrounding the restoration of Rocky Branch. How does that fit into bigger plans for the greenway?

Upon a motion made by Mayor Benjamin and seconded by Dr. Gergel, Council voted unanimously to adjourn the meeting at 9:32 p.m.

Respectfully submitted by:

Erika D. Moore  
City Clerk