City of Chesterfield
MINUTES – Executive Session (closed meeting)
Monday, July 18, 2016

A motion was made by Councilmember Flachsbart, seconded by Councilmember Logan, to go into EXECUTIVE SESSION (closed meeting), as provided by RSMO 610.021(1) for the purpose of discussing legal actions, causes of action, litigation or privileged communications between the City’s representatives and its attorneys and RSMO 610.021(2) for the purpose of discussing the lease, purchase or sale of real estate between the City’s representatives and its attorneys. A roll call vote was taken, with the following results: AYES – McGuinness, Nations, Hurt, Logan, DeCampi, Tilman and Flachsbart. NAYS – None. Mayor Bob Nation declared the motion passed unanimously.

The meeting was called to order by Mayor Nation at 5:40 p.m. Also in attendance were Interim City Attorney Chris Graville, Interim Co-City Administrator Mike Geisel, Community Services/Economic Development Director Libbey Tucker and Parks, Recreation and Arts Director Tom McCarthy.

Sales Tax Litigation

Mr. Jeff Brooks, Gamble & Schlemeier, and Mr. Chuck Hatfield, Stinson Law Practice, gave a brief update regarding HB 1561; City of Chesterfield v. State of Missouri. The cities of Florissant, Wildwood, University City, Ballwin, Webster Groves, Manchester and St. Louis County actively petitioned the Governor’s office against the signature of this bill. Mr. Brooks assured the Governor’s office that the City of Chesterfield was willing to put the lawsuit on hold for a reasonable period of time to see if the legislation, once signed, is applied in the manner we anticipate. After reviewing how the law is actually applied, the City would re-visit the litigation. The concept of dismissing the lawsuit with prejudice was rejected. The Governor subsequently signed HB 1561 into law. The parties to the litigation participated in a conference call to determine each party’s expectations going forward. The next step is to confirm that all parties involved with the case are in agreement to temporarily “park” the litigation. Interim City Attorney Graville indicated that the St. Louis County attorney, Cynthia Hoemann appeared reluctant to “park” the litigation and seemed to be desirous of moving forward to the summary judgement hearing. From a legal standpoint, the fact that this lawsuit is currently on file protects whatever rights the City of Chesterfield had when the suit was filed.

Mayor Nation and Council thanked Mr. Brooks and Mr. Hatfield for their hard work on this issue and they left the meeting.
River Valley Drive – River Bend Association Correspondence

Since the previous Executive Session, representatives of the River Bend neighborhood have met with Mr. Geisel, Public Works Director/City Engineer Jim Eckrich and Civil Engineer Chris Krueger regarding how to proceed with the closure of River Valley Drive. Included in the Executive Packet was correspondence from the River Bend Association indicating that they had raised $12,000 of an estimated share of $25,000 towards the legal effort to obtain clear title for the right of way. City Staff had previously suggested that the legal process to obtain clear title would cost $50,000. In as much as the City Council had not yet agreed to the “Hybrid” approach as previously recommended by Interim City Attorney Graville, wherein the City and River Bend Association each shared equally in the expenses, Mr. Geisel wanted to be able to respond to the River Bend Association so they had a reasonable expectation of the City’s commitment.

Mr. Geisel further explained that several individuals have suggested revising the plan in lieu of pursuing the clear title. He indicated that the location of the road terminus was placed to minimize impacts and minimize project costs. The entire design for this project had been completed in-house, without outside expense. The bid cost for construction was $155,000. As currently proposed, there are no retaining walls and no significant drainage structures. In Mr. Geisel’s opinion, redesign of the project would become quite complicated due to the steep terrain, soil types, and drainage. The design and project construction costs could easily double if a re-design were pursued. As such, Mr. Geisel and Mr. Graville both recommend the hybrid approach and cost sharing if the City were still committed to the road closure project.

Councilmember Flachsbart made a motion, seconded by Councilmember McGuinness, to approve a “hybrid approach” and partner with the River Bend neighborhood to share the cost of obtaining the easement/right of way necessary for closure of River Bend Drive. Discussion pertaining to safety, potential traffic volume and cost ensued. Councilmember McGuinness withdrew her second to the motion made by Councilmember Flachsbart, and Council agreed to postpone a vote on this issue until Interim City Attorney Chris Graville has developed a more comprehensive determination of the legal impediments that the River Bend Association and the City will be facing to obtain clear title.

Buck Innovation Project

Council discussed various scenarios pertaining to the potential purchase of the additional acreage discussed at the previous Executive Session.

Councilmember Flachsbart made a motion, seconded by Councilmember Logan, to adjourn and re-convene after the City Council meeting. A roll call vote was taken with the following results: Ayes – McGuinness, Nations, Hurt, Logan, DeCampi, Tilman and Flachsbart. Nays – None. Whereupon Mayor Nation declared the motion to adjourn and re-convene passed.
Councilmember Logan made a motion, seconded by Councilmember Tilman, to reconvene into closed session, pursuant to RSMo 610.021(2) for the purpose of discussing the lease, purchase or sale of real estate between the City’s representatives and its attorneys. A roll call vote was taken with the following results: Ayes – DeCampi, Tilman, Nations, McGuinness, Flachsbart and Logan. Nays – Hurt. Whereupon Mayor Nation declared the motion passed.

Community Services/Economic Development Director Libbey Tucker distributed paper copies of the revised proposed Letter of Intent. Mayor Nation announced that he and Councilmember Tilman had carefully reviewed the proposed Letter of Intent and made comments and suggestions, but these suggestions were not included in the Letter of Intent provided at this evening’s meeting.

Council discussed including a requirement for "earnest money" upon execution of the development agreement, where the developer would be required to provide money in exchange for encumbrance of the land during the development and construction phase, and to cover any legal or other fees the City may incur during this phase.

After lengthy discussion, there was a plurality of Council that this proposed use would be desirable, if agreement could be reached between the parties involved.

Councilmember Tilman made a motion, seconded by Councilmember Flachsbart, to include suggested revisions in the proposed Letter of Intent and provide to Council for review. A roll call vote was taken with the following results: Ayes – Nations, Flachsbart, Logan and Tilman. Nays – Hurt, DeCampi and McGuinness. Whereupon Mayor Nation declared the motion passed.

There being no further business to discuss, the meeting was adjourned by Mayor Nation at 9:58 p.m.

Respectfully submitted:

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Mike Geisel  Vickie Hass
Interim Co-City Administrator  City Clerk

APPROVED BY CITY COUNCIL: ___________________