

MEETING OF THE CITY COUNCIL
VIA VIDEOCONFERENCE
Monday, January 24, 2022
6:30 p.m.

A. MEETING CALLED TO ORDER

At the Regular Session of the City Council of University City held on Monday, January 24, 2022, via videoconference, Mayor Terry Crow called the meeting to order at 6:31 p.m.

B. ROLL CALL

In addition to the Mayor, the following members of Council were present:

Councilmember Stacy Clay
Councilmember Aleta Klein
Councilmember Steven McMahon
Councilmember Jeffrey Hales
Councilmember Tim Cusick
Councilmember Bwayne Smotherson

Also in attendance were City Manager, Gregory Rose; City Attorney, John F. Mulligan, Jr., Public Works Director, Sinan Alpaslan, and Director of Finance, Keith Cole.

C. APPROVAL OF AGENDA

Councilmember Hales moved to approve the Agenda as presented, it was seconded by Councilmember Clay, and the motion carried unanimously.

D. PROCLAMATION

E. APPROVAL OF MINUTES

1. January 10, 2022, Study Session Draft Minutes – Gunshot Detection Update was moved by Councilmember Klein, it was seconded by Councilmember Cusick, and the motion carried unanimously.
2. January 10, 2022, Regular Draft Minutes was moved by Councilmember Cusick, it was seconded by Councilmember Klein, and the motion carried unanimously.

F. APPOINTMENTS TO BOARDS AND COMMISSIONS

G. SWEARING IN TO BOARDS AND COMMISSIONS

H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)

Procedures for submitting comments for Citizen Participation and Public Hearings:

*ALL written comments must be received **no later than 12:00 p.m. on the day of the meeting.** Comments may be sent via email to: councilcomments@ucitymo.org, or mailed to the City Hall – 6801 Delmar Blvd. – Attention City Clerk. Such comments will be provided to City Council prior to the meeting. Comments will be made a part of the official record and made accessible to the public online following the meeting.*

*Please note, when submitting your comments, a **name and address must be provided.** Please also note if your comment is on an agenda or non-agenda item. If a name and address are not provided, the provided comment will not be recorded in the official record.*

Mayor Crow stated all comments meeting the aforementioned guidelines have been provided to Council and will be included in the record. He then expressed Council's appreciation to everyone who took the time to submit their written comments or concerns.

I. PUBLIC HEARINGS

1. Liquor License – In Da Loop (6665 Delmar Blvd. Suite 100B)

Mayor Crow opened the Public Hearing at 6:34 p.m., and after acknowledging that no public comments had been received, the hearing was closed at 6:34 p.m.

J. CONSENT AGENDA

1. Tree Removal Contract
2. Indoor Turf Replacement – Centennial Commons
3. Relocation Assistance Agreement – O’Hara (8640 Olive Blvd., Apt. A)
4. Relocation Assistance Agreement –Sandler (1183 Briscoe Place, Apt. A)

Councilmember Hales moved to approve Items 1 through 4 of the Consent Agenda, it was seconded by Councilmember Clay.

Councilmember Smotherson asked Mr. Rose if the 3rd Ward would be included in the grant? Mr. Rose stated the entire City will be included in the Tree Removal Contract. In fact, the 3rd Ward was the first ward to be inventoried.

Voice vote on Councilmember Hales' motion carried unanimously.

K. CITY MANAGER’S REPORT

1. River Des Peres Proposed Plan

Mr. Rose stated this is a presentation by Mr. Alpaslan related to the Army Corps of Engineers' River Des Peres Project. Thereafter, staff will be asking for approval to notify the Corps' Study Team of the City's direction to pursue a Locally Preferred Plan.

Mr. Alpaslan stated the Locally Preferred Plan (LPP) is a deviation from the Tentatively Selected Plan (TSP) that was presented to Council on October 25th.

After the TSP was reviewed by the Stormwater Commission and staff, a letter indicating their areas of concern was drafted and delivered to the Corps on November 5th. The Commission's specific objections were:

- Criteria for non-structural mitigation excludes most residential properties that have flooding problems, i.e., those with basement flooding due to flood levels lower than 1 foot from the main floor and those with flood levels that are 0-2 feet above the main floor.
- The plan fails the commonsense test in affected neighborhoods. Properties only inches higher than an acquired adjacent property are excluded from any help, while houses up the street, that are even higher are offered help in the form of basement elimination; (fill).
- The plan poorly prioritizes life-safety considerations. For instance, no mitigation was offered for the Westover Apartments where predicted flood levels would be 4.5 feet on the first floor and 8 feet in the parking lot; (thus preventing escape). Yet expensive floodproofing was included for large commercial buildings such as Washington University’s North Campus at Skinker and Vernon, where projected water levels were in the 1-foot range.
- It is not cost-effective. \$25 million; (the City’s 35% share is approximately \$9 million), only buys mitigation for 48 structures; (\$521,000 per structure), of which 29 are residential.
- The USACE denied the Commission’s request to make acquisitions voluntary. Nor could they guarantee the City an adequate voice in choosing structures eligible for mitigation and types of mitigation, despite our better “on the ground” understanding of properties affected by flooding.

The Commission reviewed the Corps' response to their objections at their regularly scheduled meeting and met with the Corps in an attempt to reach an amicable resolution but was unable to do so. Thereafter, the Commission recommended that Council:

- Reject the National Economic Development (NED) provisions of the study requiring that the plan selection be based on the maximum annual net benefits; and,
- Suggest and select an LPP to design and build flood control Detention Basin #4 (DB4) to lower flood elevations at multiple sections of the River des Peres, and whose design will account for data measured locally including rainfall patterns, river water levels, and timing of flood wave propagation.

Rejecting the NED provisions of the study and incorporating components of the TSP requires approval by Council as the Project Sponsor for the LPP. Once approval is received, the Corps can start its process of requesting a waiver and meeting with their Vertical Team, which must be completed by the end of February.

Mr. Alpaslan stated the total cost of constructing a Detention Basin in Woodson Road Park is \$9,670,000. If Congress approves the authorization of funds, the cost to U City will be 35% or 3.5 million dollars. The City of Overland, which owns the Woodson Road Park land is currently under an agreement with the National Parks Service to manage that land for recreation. To move forward with constructing DB4, Overland must request that the NPS repurpose the land for a "higher use" of life safety. The City of Overland has advised staff of their intent to make such a request.

Councilmember Cusick concurred with Mr. Alpaslan's presentation and acknowledged that the Commission had spent many, many long hours discussing the different aspects of the TSP, as well as performing on-site visits of flooded areas to record measurements that would determine how much the TSP actually matched the needs of U City. Essentially, there were vast discrepancies in the TSP with regards to what was truly needed. Councilmember Cusick stated he is proud of the work performed by this Commission and is confident that they addressed each key aspect of the TSP before making its recommendation to Council.

Councilmember Clay posed the following questions to Mr. Alpaslan:

Q. Can you articulate the key differences between the Tentatively Selected Plan and the Locally Preferred Plan?

A. Although the TSP includes the LPP, the City has elected to take components of the TSP and utilize them in its LPP. The two components in consideration are the structural component (DB4), and the non-structural component, which is filling basements of residential properties, buying residential properties, and floodproofing commercial properties. The component of the TSP that the City has elected not to adopt is the non-structural portion which would cost approximately 25 million dollars to implement.

Q. Will anything happen to those residential properties if the 25 million dollars of remediation is eliminated?

A. The Commission's recommendation includes the need to engage in floodproofing and buyouts as outlined by the Corps but suggests using other funding to accomplish that goal.

Q. What is that other funding?

A. Other options are FEMA, The Metropolitan Planning Agency, and if possible, Congressional earmarks.

Councilmember Klein posed the following questions to Mr. Alpaslan:

Q. Is my understanding that the difference between the non-structural portion of this plan is somewhere around \$24 million and \$9 million, correct?

A. If the City decided to go with the TSP as presented, the total cost would be approximately \$35 million; \$10 million for the detention basin, and \$25 million for the non-structural solicitation.

Q. So, the Commission's thinking is that the \$25 million can be whittled down and funded from the sources you've just mentioned?

A. Yes. Based on the data and study results, the Commission feels it can be done more economically and equitably.

Councilmember Cusick moved to adopt the Stormwater Commission's recommendation, it was seconded by Councilmember Klein, and the motion carried unanimously.

2. Liquor License – In Da Loop (6665 Delmar Blvd. Suite 100B)

Mr. Rose stated staff is recommending consideration of a Liquor License for Asset Services, LLC, d/b/a In Da Loop. Questions on this item should be directed to Keith Cole, Director of Finance.

Councilmember Cusick moved to approve, it was seconded by Councilmember Hales, and the motion carried unanimously.

L. UNFINISHED BUSINESS

**M. NEW BUSINESS
RESOLUTIONS**

Mayor Crow asked Mr. Mulligan if he would provide Council with the background for Bill Number 9451.

Mr. Mulligan stated this is a Compensation Bill, and while the various tables for this new compensation schedule were included in Council's packet, three pages related to overtime longevity and the regular rate of pay were omitted. Those three pages were approved by Council last month in Ordinance Number 7168, and Bill Number 9451 is seeking to add them.

BILLS

Introduced by Councilmember McMahon

- 1. Bill 9451** – AN ORDINANCE FIXING THE COMPENSATION TO BE PAID TO CITY OFFICIALS AND EMPLOYEES AS ENUMERATED HEREIN FROM AND AFTER ITS PASSAGE, AND REPEALING ORDINANCE NO. 7168. Bill Number 9451 was read for the first time.

N. COUNCIL REPORTS/BUSINESS

1. Boards and Commission appointments needed
2. Council liaison reports on Boards and Commissions
3. Boards, Commissions, and Task Force minutes
4. Other Discussions/Business

O. CITIZEN PARTICIPATION (continued if needed)

P. COUNCIL COMMENTS

Councilmember Hales thanked all of the first responders who played a part in evacuating tenants at the Parkview Park Apartments impacted by a water main break that flooded their homes. He stated he would also like to recognize his neighbor, Larry Zolevich, who took the time to send a very nice email praising the job performance of these first responders. Councilmember Hales asked Ms. Reese if his email could be included with the record of this meeting.

Mayor Crow expressed his appreciation for the hard work that made these evacuation and relocation efforts as painless as possible.

Councilmember Smotherson stated something he forgot to ask during the Study Session was how the estimated cost of renovating the Police Station would be paid for?

Mr. Rose stated, for the most part, the City is in a healthy financial position, so what he is likely to recommend is utilizing internal funds like Certificates of Participation as a part of the budget process.

Q. EXECUTIVE SESSION

Motion to go into a Closed Session according to Missouri Revised Statutes 610.021 (1) Legal actions, causes of action, or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives or attorneys.

Councilmember Hales moved to close the Regular Session and go into a Closed Session, it was seconded by Councilmember Cusick.

Roll Call Vote Was:

Ayes: Councilmember Cusick, Councilmember Smotherson, Councilmember Clay, Councilmember Klein, Councilmember McMahan, Councilmember Hales, and Mayor Crow.

Nays: None.

R. ADJOURNMENT

Mayor Crow thanked everyone for their participation and closed the regular City Council meeting at 6:58 p.m. to go into a Closed Session on the second floor. The Closed Session reconvened in an Open Session at 7:33 p.m. and adjourned at 7:33 p.m.

LaRette Reese,
City Clerk

LaRette Reese

From: David Harris <djharris11@sbcglobal.net>
Sent: Sunday, January 23, 2022 4:42 PM
To: Council Comments Shared
Subject: For Council Meeting 1-24-22 - Proposed Sales Tax Increase (now Proposition F) - Answering Questions

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

This comment follows up my comments and questions from the December 13, 2021 and January 10, 2022 Council meetings about the proposed sales tax increase (now Proposition F) that are now part of the Citizen Participation section of the minutes of those meetings.

On January 10, Council voted 6-1 to hire Creative Entourage Agency, LLC for a "public information and communications campaign" for Proposition F, including to answer questions.

Based on the discussion and then the vote to hire Creative Entourage, it is obvious that questions about the sales tax are not going to be answered by anyone until after Creative Entourage is engaged and advises about answering. If I am wrong, I hope someone will say so, and then demonstrate by answering questions that have been asked.

It also appears Council and City Manager are imposing unreasonable restrictions and standards on whether questions about the sales tax will even be answered by waiting until after a survey, and then only for "frequently asked questions," "if . . . there is significant interest," and from a "majority of residents." See Footnote 1 for details.

I hope unreasonable restrictions and standards are not being imposed and that Council and City Manager will be forthcoming with answers to questions. Moreover, I disagree with Mayor Crow's opinion that residents don't know now what questions to ask about the sales tax. I and other residents do know questions to ask, and we have asked them. The questions just have not been answered.

Additionally, Councilmember Clay made some good points about concerns regarding the differences between information and advocacy. Those concerns do not go away if the Missouri Supreme Court issues a ruling on the case currently being considered. See Footnote 2 for details. Even if the Missouri Supreme Court declares unconstitutional the part of the statute being challenged, it remains your choice whether to expend public funds to advocate for the sales tax.

David J. Harris
8039 Gannon Avenue
University City, MO 63130

Footnote 1. City Manager Rose acknowledged (at 33:40 on the broadcast of the January 10 meeting), "We know there are some questions. You received as a part of the public comments a series of questions from a resident within University City about the tax [note those were my questions] but there are very likely many other questions. Our desire would be if this is approved to create a Frequently Asked Questions brochure and to distribute that information to our residents so that we are informing them as best as we can about the pros and cons of the tax and providing them with facts about the tax as well."

At 40:20, City Manager Rose said, "I will look to gauge the need but will start out with the survey to determine the number of questions and determine if there is a need. My goal will be to reduce the cost of this agreement as much as possible but to have the flexibility if we start seeing there is significant interest and desire to gain information about this tax in the community."

At 42:50, Mayor Crow agreed, "I think the idea of having a survey to find out what the concerns and questions are is probably a good idea because again we've kind of got the inside the beltway knowledge if you will of what is going on and our residents don't. I don't think they even know necessarily right now what questions to ask."

Lastly, responding to a citizen's email on January 13, 2022 at 3:33pm, City Manager Rose wrote, "With our limited resources, we want to ensure that we respond to those specific questions on the minds of the majority of our residents." I hope City Manager Rose mis-wrote, because it is unlikely you will hear the same question from a "majority of residents." Moreover, Council and City Manager have been very selective in answering questions, for instance about the

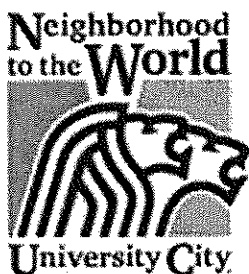
Olive-170 Project and the related TIF. City Manager Rose once replied to me that he cannot answer all questions asked by a citizen because he has 35,000 constituents who might ask questions. All the foregoing makes me wonder how many residents need to ask a question before it is deemed worthy of an answer?

Footnote 2. Councilmember Clay's observations are at 34:50 and 38:50. For your information, and for the information of anyone else reading these comments, the case mentioned by City Attorney Mulligan at 36:00 about the constitutionality of the statute is City of Maryland Heights, et al. v. State of Missouri, SC99098. The statute is Section 115.646 of the Revised Statutes of Missouri. The case was argued on November 2, 2021. You can read the briefs and hear the arguments at www.courts.mo.gov under the Pending Cases & Decisions tab, click on Dockets and Oral Arguments, and Search docket by keyword SC99098. The case may be more about the potential liability and responsibility of an individual "officer, employee or agent of any political subdivision" than about a political subdivision like a municipality spending public funds on advocacy, but we will see what is decided.

Subject: FW: City Council Comments, January 24, 2022

From: Tom Sullivan <tsullivan@sullivanadvco.com>
Sent: Monday, January 24, 2022 11:44 AM
To: Council Comments Shared <councilcomments@ucitymo.org>
Subject: City Council Comments, January 24, 2022

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COMMENTS TO THE CITY COUNCIL
FROM TOM SULLIVAN, 751 SYRACUSE, UCITY, MO 63130
JANUARY 24, 2022

I have several things to mention.

There is some more progress being made on the streetlights that have been out but some unlit lights still remain.

- ▶ A streetlight at Eastgate and North Drive is flickering, almost like a strobe light. There is also a streetlight out on North Drive. I reported this before.
- ▶ There is a streetlight out on Ferguson, just south of Bartmer. I reported this a couple of months ago.
- ▶ There are still numerous "streetscape" lights out on Olive -- especially at Hanley and at North & South.
- ▶ I counted 7 sidewalk lights out in the walkways that go through Parking Lot No. 4. There is still a telephone wire hanging down from the overhead wires in the alley behind 750 Kingsland and 758 Kingsland. This was reported months ago.

It seems the city is getting ready to unlawfully spend public funds to promote Proposition F and I would urge you to go very carefully. This time around I am going to federal prosecutors. I think you should be prosecuted for corrupting an election. I will also be going after law licenses.

The City has previously violated the law, same as the University City School District and the University City Public Library. It is a shame that University City residents have such dishonest public officials. It didn't use to be that way.

Also, I will want to have the amounts spent to be reimbursed. I have been able to have this done before -- the St. Louis Fire Chief was ordered to do so by the St. Louis Circuit attorney when the fire department spent money to promote a bond issue.

Do not tell me anything about informational and educational efforts being legal. It isn't true.

Thank you for considering my comments.

PAID FOR BY TOM SULLIVAN, 751 SYRACUSE, UNIVERSITY CITY, MO 63130

