

MEETING OF THE CITY COUNCIL
CITY OF UNIVERSITY CITY
CITY HALL, Fifth Floor
6801 Delmar Blvd., University City, Missouri 63130
Monday, October 24, 2022
6:30 p.m.

AGENDA

A. MEETING CALLED TO ORDER

At the Regular Session of the City Council of University City held on Monday, October 24, 2022, Mayor Terry Crow called the meeting to order at 6:30 p.m.

B. ROLL CALL

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

Councilmember Stacy Clay
Councilmember Aleta Klein; (*excused*)
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.; Larry Chapman of Seneca; Battalion Chief Bill Hinson; Jason Nettles of Central County Dispatch, and Director of Planning & Zoning, Dr. John Wagner.

Mayor Crow stated the community is saddened by what occurred at Central Visual and Performing Arts High School today. And despite the great job that first responders and staff did to save many lives, everyone who was directly impacted will not be forced to live with the trauma of this event for many years to come. This is the 36th school shooting in 2022 that has resulted in injury or death, and as a result, children and their parents all live in fear of what will happen next. So, as I ask for a moment of silence for the individuals who lost their lives because of this act of violence, let us focus on what we, as a community can, and must do better to restore our schools to the safe havens they were intended to be.

Councilmember Clay stated he spent the better part of sixteen years working with St. Louis Public Schools as a teacher, Program Director, and Deputy Superintendent, where he frequented this school on numerous occasions. So, he would like to thank the Mayor for acknowledging this tragic event because it hits home on a very personal level.

C. APPROVAL OF AGENDA

Mr. Rose requested that Item J (2); Central County Dispatch Contract, be removed from the Consent Agenda and added to the City Manager's Report as K (6).

Mr. Mulligan stated he would like to recommend that the following changes be made to Bill Number 9489 and that they be included in tonight's introduction of this Bill:

1. That the intersection of "*Melrose and Mt. Vernon*" with a blank under "*stop*", be amended to read, "*Melrose and Mt. Vernon all way*".
2. That "*Stop Street*" be amended to read, "*Wellington and Mt. Vernon all way*".
3. That the second line in Section 2 which states "*to add the following line item*," be amended to read, "*to add the following line items*".

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

Councilmember Cusick moved to approve the Agenda as amended, it was seconded by Councilmember McMahan, and the motion was carried unanimously.

D. PROCLAMATIONS

1. A Proclamation honoring Qui Xiaolong as the recipient of the Arts and Letters Commission's Literary Excellence Award.
2. A Proclamation recognizing Scott Black for his many professional accomplishments, and a guest appearance at the Arts and Letters Commission's Returning Artists Series.

E. APPROVAL OF MINUTES

1. October 10, 2022, Study Session; (Housing and Third Ward Revitalization RFP), was moved by Councilmember Smotherson, it was seconded by Councilmember Cusick, and the motion was carried unanimously; with the exception of Councilmember Hales.
2. October 10, 2022, Regular Meeting Minutes were moved by Councilmember Smotherson, it was seconded by Councilmember McMahan, and the motion was carried unanimously.

F. APPOINTMENTS TO BOARDS AND COMMISSIONS

1. Suzanne Greenwald is nominated to the Commission on Senior Issues as a fill-in (2B vacant seat) by Councilmember Tim Cusick, seconded by Councilmember Hales and the motion was carried unanimously.

G. SWEARING IN TO BOARDS AND COMMISSIONS

None

H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)

Request to Address the Council Forms are located on the ledge just inside the entrance. Please complete and place the form in the basket at the front of the room.

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 whether your comment is on an agenda or a non-agenda item. If a name and address are not provided, the comment will not be recorded in the official record.

Tom Sullivan, 751 Syracuse, U City, MO

Mr. Sullivan stated he still thinks the Costco Development, which destroyed many nice neighborhoods and businesses, is the worst thing U City has ever done. This was a project that did not have the support of residents because they were lied to and completely shut out of the process. One of the biggest lies was that eminent domain would only be used for Public Storage, which can be verified by a May 1, 2018 article where the headline reads, *"U City Will Not Use Eminent Domain to Make Way for New Retail Apartments"*.

And please don't forget how Mayor Crow attacked a group of clergymen trying to promote a Community Benefits Agreement; which seems like it might have been a good idea given that the City's subsidies for Costco are continually increasing. Or how he encouraged City Hall groupies to turn the lectern around at a meeting and attack citizens.

He stated another embarrassment was when the City harassed a citizen for growing a garden that was not in compliance with its regulations. What wasn't mentioned in the Elliot Davis "You Paid For It" segment is that this was the wife of former Councilman Stephen Kraft, who just happened to be a contributor to the campaign against Proposition F.

So, while a big contributor of this tax is getting a multi-million-dollar subsidy from the City, someone contributing against Proposition F has a City inspector show up at his home.

Prop F failed with 68% voting against it in spite of the City illegally spending tens of thousands of dollars on this campaign. Just another example of how sleazy the U City government has become.

Mr. Sullivan said a lot of promises have also been made about improving the 3rd Ward with revenue from the Costco Project, but it remains to be seen if those promises will be kept.

Rita Clemons, 8012 Canton Avenue, U City, MO

Ms. Clemons stated there is a dead tree located on the easement in front of her property that has caused her sewer line to back up on several occasions, and most recently, on May 19, 2022, caused damage to her car when a limb fell on top of it. But although she has received several notes from the City indicating that the tree would either be pruned and/or removed, she was informed that there was no liability on the part of the City and her claim for damages was denied. So, she is appearing before Council tonight, appealing the insurance adjuster's determination and asking that her claim for damages be approved.

Ms. Clemons stated many of the tree limbs on her block are now extending across the north to the south side of her street and are in immediate need of the Forestry Department's attention.

I. PUBLIC HEARINGS

None

J. CONSENT AGENDA

1. Ratification of Emergency Purchases due to Flooding
2. Central County Dispatch Contract; (moved to City Manager's Report)
3. 2019 CDBG Contract Agreement
4. Tree Removal Contract

Councilmember Cusick moved to approve Items 1, 3, and 4 of the Consent Agenda, it was seconded by Councilmember McMahon, and the motion was carried unanimously.

K. CITY MANAGER'S REPORT *(vote required)*

1. Discussion of Fox 2 News Report – Creveling Drive. No Vote.

Mr. Rose stated he would like to play a video of a CNN Commercial that he believes accurately sums up the incident that occurred on Creveling Drive; that facts matter. He stated the way the Creveling case was presented in the media is rather concerning, so he would like to take a few minutes to put the facts on the record so that everyone understands the sequence of events.

During a routine patrol of the area on September 22, 2022, a code enforcement officer identified a home with violations, and a Notice informing the resident of these violations was sent to their home.

Mr. Rose stated the City sends out hundreds of notices each year and since this process is solely intended to achieve compliance, most residents simply would not deem them to be newsworthy. But on this rare occasion, Fox News reported that the officer had issued a citation for this resident's garden; and that was an incorrect statement. The Notice of Violation was the only document sent to the resident and it was for weeds and grass.

On September 27, 2022, the resident called to have the area re-inspected. The inspection occurred that same day wherein the officer confirmed that the weeds and grass had been abated. However, an incident occurred while the officer was still on the premises, which resulted in the officer contacting his supervisor for assistance. When the supervisor arrived he identified several tree branches that were in violation and a second Notice of Violation was sent to the resident on September 28th.

In a letter dated October 4, 2022, the resident requested to have the branches re-inspected and authorization to conduct that inspection was issued today.

Mr. Rose stated how something so simple; two Notices for violations related to grass, weeds, and tree limbs mushroomed into the City issuing a citation for a resident's garden happened, he has no idea. But he did believe it was important to put these facts on the record because, in the end, that's what really matters.

Councilmember McMahon posed the following questions to Mr. Rose:

Q. Are there photographs of these violations?

A. Yes. They demonstrate what the inspector saw and why they believed a notice was appropriate. *(Photographs of the yard were provided for Council's review)*

Q. Is it correct that the resident was never ticketed or asked to appear in Court?

A. That is correct, no tickets or citations were ever issued.

Q. Were any native plantings involved in this incident?

A. No native plantings were involved. In fact, staff has worked with U City in Bloom to better understand and recognize this species of plants, and as a result, has made some adjustments to its enforcement procedures to no longer issue notices on native plantings.

Q. Were any of the photographs provided to Council depicted in the Fox 2 report?

A. No. The only photographs depicted were those taken after the issue had been abated. And I would also like to note that the reporter was made aware that no citation had been issued and that the notices only pertained to weeds, grass, and the branches on a tree. So, he was aware of the facts and chose not to disclose them.

Councilmember McMahon stated he appreciated this update because now that the City has an active patrol more than likely residents will start to receive notices, and hopefully, this will help to educate them about the process. However, he believes Council would be willing to have a discussion should there ever be a concern that the City's Code is too stringent with its process for citing excessive weeds and grass.

Mr. Rose stated homeowners are also provided with an option to appeal a notice to the director of that department, the City Manager, Council, and the Court, so there are checks and balances within the process to ensure consistency and make sure that officers do not become overzealous.

Councilmember Hales stated on October 21st he pulled a public report from the City's website that provides a 30-day overview of the notices and letters issued by enforcement officers, and this is what he learned:

- The report consisted of 18 pages that identified over 300 properties;
- Fifteen of those notices were sent to residents living in the neighborhood of Creveling Drive;
- The vast majority of those violations were rectified; which includes the ones discussed tonight on Creveling Drive, and
- That there were 30 vehicle-related violations and 28 of those violations occurred in the 3rd Ward

Councilmember Hales stated there were also comments questioning why officers seemed to be focusing on a specific area, but according to this report, it's easy to see that their focus was on every ward. So, the notion that the Creveling Drive property was cited when there are so many other problems that exist is an unfair accusation because this report clearly indicates that officers are performing their job. So, he would just say thank you very much to everyone who received a notice and quickly abated the issue.

2. Market at Olive Update - (revised 10/24/22). No Vote.

Mr. Rose introduced Larry Chapman, the President of Seneca, to provide Council with an update on the Market at Olive.

Mr. Chapman stated he is also the Manager of U City, LLC, the developer of the Market at Olive Project. He then displayed an RS rendering depicting the site plan to assist in his explanation of this portion of his update.

- The last resident on the north side of Olive will be moving this week
- Site work on the north side of Olive will begin this year
- Site work on the south side of Olive will be completed within the next three to four months
- On the south side, Costco is Anchor A, Dierbergs is being proposed to be Anchor J, and Anchor B will be discussed in the not-so-distant future
- Several retail buildings, i.e., fast food and multi-tenant retail will align the front
- With a little bit of luck, Seneca will be able to talk about every building in the center and by the end of the year turn its attention to Mayflower Court to start advancing that part of the project.

Mr. Chapman stated as a public/private partnership everything is about competing for deals. And while they have been fortunate to have a lot of smaller restaurant users chasing after the traffic that Costco will bring, the big anchor stores are rather challenging to secure. He stated they have been talking to two anchors since December 2021. However, in the process of negotiations, there are always going to be some trade-offs which mean there is a need to establish priorities in order to come to a balanced conclusion. And in his opinion, the number one priority for both the City and the developer is paying the TIF off early.

Why Dierbergs?

Mr. Chapman stated that Dierbergs is a family-owned local business that has been hugely significant in the community. Second, only to Costco, they can generate the volume of sales and sales taxes that can pay off the TIF in a really meaningful way. They will help attract other high-end users and businesses for the rest of the community; they will be occupying two times the personal property of any other retailer; they have agreed to maintain two retail users on its front facade, and they are going to buy and own this store, which equates to a long-term commitment. So, in his opinion, Dierbergs represents the highest and best use for this location.

The Chapter 100 Tax Abatement

A grocery store of this caliber has super high sales volumes and super low margins, which means that they have to generate a lot of sales to cover those margins and overhead. Mr. Chapman stated in his experience, they are hyper-focused on their bottom line, and even though the sales taxes charged to their customers help the City, it has no impact on them. What does affect their bottom line are things like real estate taxes, personal property taxes, or the taxes they pay on construction materials. Chapter 100 helps to alleviate this gap and is what has allowed both parties to move forward. So, from an economic standpoint, it is the right thing to do.

Why Should the City Agree to a Chapter 100?

All of the future real estate taxes have been gobbled up by the TIF. And while the 2019 Redevelopment Plan contemplated a Chapter 353 which would have eliminated the commercial surcharge, it did not go forward even though it was approved in the original Ordinance.

Dierbergs is asking for a 50% discount on their property taxes, and Mr. Chapman stated his argument is that they are going to buy twice as much property and if the City gives them this discount the remaining 50% will be the same amount it would get from an alternative user. So, if you pretend that the original TIF and Redevelopment Plan did not exist, the commercial surcharge is about \$33,000 a year or a total of \$530,000, and the personal property tax savings Dierbergs would receive totals about \$370,000 or \$23,000 a year. However, the City will receive \$370,000 more than it is getting now. He stated the worst-case scenario is that the total cost of Chapter 100 would cost the City \$72,000, schools \$520,000, and all other taxing districts about \$900,000.

But here's the flip side of that coin; Dierbergs is going to generate so much in sales that its annual revenue going to pay off the TIF will increase by \$1,364,000 a year compared to the second alternative, which would increase revenue by a little under a million, and the third alternative by \$725,000. So, they are going to be better than either one of those alternatives by \$500,000 a year.

That's 8 million dollars over the sixteen years remaining in the TIF. And that should bring the average age of the TIF down by 1.7 years.

Mr. Chapman stated the one-year impact to all taxing jurisdictions would be \$1,441,000, compared to that \$7 or \$800,000 they would have in terms of cost. Therefore, the total overall cost benefit to U City ends up to the good, even after taking the full cost of Chapter 100; \$131,000 to the City; \$954,000 to schools, and \$1,645,000 for all other taxing jurisdictions. He stated that's how much better off these taxing jurisdictions will be with a Dierbergs and a Chapter 100 than they would be if there were no Dierbergs and the TIF did not exist.

Mr. Chapman stated there are also some other implications; tons of intangible benefits to the City and community; tons of intangible benefits to the development, and a similar impact as previously contemplated in the Chapter 353, which was a part of the original plan. Because even at a 50% personal property tax savings, or if the property tax and surcharge is a cost, they are outweighed by this new revenue. Dierbergs will still generate more than any alternative currently on their plate. So, all things considered, a Chapter 100 for Dierbergs is a huge net benefit to everyone.

He stated Seneca's goal is to secure large revenue-generating anchors and this type of incentive helps them reach that goal. He stated the City's focus should be on garnering the best in class, most impactful retailers, and any trade-offs should be about the net benefit. Dierbergs provides the greatest chance to pay the TIF off early. And an early payoff is a win for the City, schools, and the developer. Mr. Chapman advised Council of the need to find a way to go full speed ahead on this proposal because if they do, U City will have a Dierbergs opening in less than two years and get them into the TIF bond refinancing; which is a critical component, by next spring.

Councilmember Clay posed the following questions to Mr. Chapman:

Q. What is a Chapter 100?

A. It is a tax avoidance plan where the City leases a property back to the owner; Dierbergs, until the Chapter 100 goes away. So, it's kind of like tax abatement, but since the taxes have already been abated by the TIF, Chapter 100 keeps the baseline taxes from going any higher than they already are.

Q. Does it provide a benefit of not having sales taxes associated with the leasee's purchases?

A. Yes.

Q. Even if the things they need to buy for this project are not purchased in U City?

A. Correct. The only thing they would save any sales tax on is construction materials and if they are not located in U City they won't be taxed here. However, since U City is a pool city the taxes would go to the County. So, when it comes to any sales tax on construction materials the impact locally would be zero.

Q. Can you talk about the process being followed as it relates to minority participation?

A. We inherited this project from NOVUS, so the Phase I reports submitted to the City indicates that the participation was about 12 or 13%. However, now that they are in Phase II the workforce aspect of the project is being closely monitored and these reports should indicate that they are much closer to the 25% goal that was set.

Q. It seems like the folks in Mayflower Court have been in limbo for almost seven years. So, would moving this project along provide any benefit to their situation?

A. We took over this project in November of 2021 and met with as many people as possible to advise them that it would be a while before we could start on their phase of the project. We are there now and have sent them two letters within the last 30 days advising them of the status and including an offer for their property. We have started to meet with these owners and if they are all willing to sell, hope to have this portion of the project wrapped up by the end of the year.

Councilmember Smotherson stated he would like to commend Seneca on the quality of retailers they are attempting to secure for this location. He then asked Mr. Chapman whether the construction of the remaining buildings would be dependent on the completion of Dierbergs?

Mr. Chapman stated it would not be. In fact, all of the retailers in Buildings G, I, N, and O, anticipate being open before Dierbergs is completed. Raising Cane has committed to Building G, and the other buildings should be under construction and open by next summer. Buildings E and F, located directly across the street, are currently under construction and should be open in the fall.

Mayor Crow thanked Mr. Chapman for his presentation.

Citizen's Comments

Patrick Fox, 1309 Purdue, U City, MO

Mr. Fox stated although he is very pleased that the community is experiencing this new development he is a little concerned about the generous considerations being contemplated for some retailers interested in being a part of the Market at Olive.

Costco is anticipating that 10,000 people will visit their store when it opens tomorrow, so there is going to be an enormous amount of traffic. He stated he sees the potential and believes that even though Dierbergs might be the top contender today, the buzz for this location will start to build and garner the interest of other significant retailers. And as a U City taxpayer who pays his fair share, the idea of floating property taxes for a wealthy company like Dierbergs, who owns a bank and has the means to finance this construction, seems extremely generous. Mr. Fox stated he was not saying that they should not be afforded any considerations, just that they should pay their fair share. And unless he is mistaken, the purchase of construction materials made by Dierbergs under this agreement means that a pool city would be forgoing its proportional share of the taxes that would have been charged. He stated these are some of his concerns about the underlying assumption with this proposition and therefore, would urge Council to proceed cautiously.

3. Conditional Use Permit (CUP 22-09) Market at Olive – Phase II, Lot 9

Mr. Rose informed Council that Dr. Wagner would be presenting the information on Items 3 and 4.

Dr. Wagner stated this CUP is for the south side of the Phase II development located near the intersection of McKnight and Olive. Lot 9 is a four-store building and this CUP seeks to decrease the parking from 93 to 83 spaces.

Mayor Crow asked if this CUP had been reviewed by the Planning Commission? Dr. Wagner stated that it had.

Councilmember Clay moved to approve, it was seconded by Councilmember Smotherson, and the motion was carried unanimously.

4. Conditional Use Permit (CUP 22-10) Market at Olive – Phase II, Lot 10

Dr. Wagner stated this CUP is for the same location on the south side of Phase II and it seeks to decrease the number of parking from 47 to 41 spaces to accommodate the restaurant's drive-through service.

Councilmember Smotherson stated he does not recall seeing two drive-through lanes at any of Raising Cane's other locations. So, are they anticipating that more customers will frequent this location? Dr. Wagner indicated that the representative for Raising Cane was nodding his head yes. He stated these days Cane's has largely become a drive-through-oriented business and this is the site plan they came up with. Councilmember Smotherson questioned whether there would be a cashier standing outside of the second drive-through to take orders? Dr. Wagner stated while he anticipates that they will, that issue will be addressed when they come in to present their site plan.

Councilmember Smotherson moved to approve, it was seconded by Councilmember Clay, and the motion was carried unanimously.

5. OMCI Program – Participation for 2023 (River Des Peres and Deer Creek)

Mr. Rose stated staff is recommending that Council consider approving the participation and reimbursement for project funding through the Operations, Maintenance, and Construction Improvement Program (OMCI) administered by MSD to leverage funds from their taxing sub-districts for the U City branch of River Des Peres and Deer Creek.

Dr. Wagner stated the numbers are identical to last year's, so in anticipation of Council's approval, he asked Mr. Rose to sign this document so that it could be emailed back to MSD tomorrow.

Councilmember McMahon moved to approve, it was seconded by Councilmember Cusick.

Councilmember Cusick posed the following questions to Mr. Rose:

Q. Have these funds already been allocated, and if so, what are they being used for?

A. The intent is to use as much of these funds as possible for the Home Buyout Program that has been submitted to the State Emergency Management Agency (SEMA) and requires a 25% match.

Q. How much of the OMCI funds can be used towards the buyouts?

A. At this point, staff is unaware of whether there are any limitations on the funds for Deer Creek, but the intent is to recommend that as much of these funds as possible be used. Staff will be working with MSD to gain the answers to these questions before bringing this item back to Council.

Voice vote on Councilmember McMahon's motion carried unanimously.

6. Central County Dispatch Contract

Mr. Rose stated staff is recommending that Council consider a five-year contract with Central County Dispatch for Fire/EMS dispatching services. Mr. Rose asked Chief Hinson if he would provide an overview of the agreement being proposed.

Chief Hinson introduced Jason Nettles, Executive Director of Central County, who is in attendance to assist him with answering any questions the Council might have.

Councilmember Clay posed the following questions:

Q. Is my understanding correct, that there are two elements to this contract; enhanced staffing and access to technology that is currently not available within U City?

A. (Chief Hinson): That is correct.

Q. Does U City have the capacity to upgrade its current technology to match what is being offered by Central County?

A. (Chief Hinson): The City's current dispatching equipment is twenty years old; operated by the Police Department and requires a lot of manpower to generate a dispatch. Everything in this enhanced system is computerized with the ability to provide pertinent information to the dispatcher in a matter of minutes. It also has a GO System that can dispatch the closest truck to a scene.

Q. Will the Police Department maintain this current system if the contract is executed?

A. (Chief Hinson): The system currently being operated is strictly for fire and EMS. There are systems available that would match the technology being provided by Central County, but it is more expensive than this option. He stated the goal is to increase response times, and the viability of life and property.

Q. Is this contract renewable on an annual basis?

A. (Mr. Nettles): The initial contract is for five years, but that can be renewed at the same rate at the end of those five years.

Councilmember Hales posed the following questions to Mr. Nettles:

Q. Council received a video today that walked you through the process of a fire emergency. For the benefit of those in attendance today, could you walk them through that process?

A. Currently if you are within the boundaries of U City, a 911 call goes through to the Police Department which processes that call. And even though U City will still be the primary dispatch center receiving the initial call, under this contract, as soon as that caller says they need an ambulance or a Fire Department, the U City dispatcher will transfer it to Central's dispatch for immediate processing, utilizing standards established by the Emergency Medical Dispatch Program. That means that the basic information needed to get a CAD call entered and a unit dispatched should fall within a window of 15 to 20 seconds. The utilization of NFPA standards for call processing and unit dispatch times is a significant performance indicator that Central can help every similarly situated police department improve on.

Q. Is it correct, that many of U City's immediate neighbors have contracted with East Central, who has essentially done the same thing with separating police and fire?

A. Central County provides service for about 80% of the departments in St. Louis County, all the way to the Jefferson County line, and the Meramec Ambulance District in Franklin County. The only other two that provide any type of fire service are Kirkwood, which provides service for three departments, and East Central Dispatch, which provides service for seven departments.

Central's contract also provides location-based dispatch and some of the capital infrastructure for each primary apparatus, like a mobile CAD Unit valued at \$2,500, mounting equipment, a mobile router with automatic vehicle location technology, and a first net air card. That's how Central can literally see where all of its live apparatuses are located so that dispatchers can reroute units and make sure that the closest unit gets dispatched to the call. The contract also provides upgrades on a daily basis. So, if a higher acuity or life-threatening call comes in our dispatchers have the ability to divert units based on the urgency of that call.

Q. How many of our immediate neighbors are still operating without emergency medical dispatch for fire and EMS?

A. While there are none within St. Louis County, you can find a few in western and northern rural areas that do not use EMD.

Chief Hinson stated the ability to have an EMD dispatcher on the line in 30 seconds increases an individual's chance for survival and removes the issue of non-viability because a rapid response saves lives.

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

Mr. Rose stated he would like to recognize Mike Carlin, the City's Manager of Information Technology because this will be his last meeting. And for that reason, he would like to take this time to publically let him know how much the City has appreciated all of the work he has performed and is wishing him well in his next chapter.

Mayor Crow offered his congratulations and acknowledged that Mike would be dearly missed.

L. UNFINISHED BUSINESS

1. **Bill 9487**– AN ORDINANCE VACATING AND SURRENDERING A PUBLIC WALKWAY BETWEEN 511 and 519 WESTVIEW DRIVE. Bill Number 9487 was read for the second and third time.

Councilmember McMahon moved to approve, seconded by Councilmember Hales.

Roll Call Vote Was:

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

Nays: None.

2. **Bill 9488** – AN ORDINANCE APPROVING A FINAL DEVELOPMENT PLAN FOR PHASE II OF THE PROPOSED MARKET AT THE OLIVE DEVELOPMENT, LOCATED AT 8630 OLIVE BOULEVARD. Bill Number 9488 was read for the second and third time.

Councilmember Smotherson moved to approve, it was seconded by Councilmember Clay.

Councilmember Smotherson stated residents on Woodson are concerned about the traffic that is going to be generated. So, he would like to know if there are any plans to improve the east side of this development near McKnight or Woodson? Mr. Chapman stated there will be some widening and lane straightening on both Woodson and McKnight and when it's finished, there will be three lanes going south consisting of a left, a through, and a right-hand turn lane on Woodson, as well as a right turn only lane coming out of the development onto Woodson. He stated MoDOT has asked for some improvements from the west on Olive to 1-70, which should also help mitigate some of the traffic. But according to every traffic study that's been conducted all of the traffic will be going to and from the interstate, so traffic should pretty much be contained in that area.

Councilmember Smotherson questioned whether there was a way to stop Fed Ex from using Olive as one of its routes, or solicit their help in maintaining Woodson? Mr. Chapman stated he had no idea what could be done about Fed Ex other than discussing these concerns with Overland or enacting a heavy police presence to make sure their trucks are not committing any traffic violations.

Roll Call Vote Was:

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

Nays: None.

M. NEW BUSINESS

Resolutions (vote required) - none

Bills (Introduction and 1st reading - no vote required)

Introduced by Councilmember Cusick

1. **Bill 9489** – AN ORDINANCE AMENDING SCHEDULE VII OF THE TRAFFIC CODE, TO REVISE TRAFFIC REGULATION AS PROVIDED HEREIN. Bill Number 9489 was read for the first time.

Introduced by Councilmember Smotherson

2. **Bill 9490**—AN ORDINANCE AMENDING SECTION 400.070 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI, RELATING TO THE OFFICIAL ZONING MAP, BY AMENDING SAID MAP SO AS TO CHANGE THE CLASSIFICATION OF PROPERTY KNOWN AS LOT A AND COMMON GROUND 2 OF PLAT 4 OF THE MARKET AT OLIVE DEVELOPMENT, FROM “PD” PLANNED DEVELOPMENT COMMERCIAL DISTRICT, “GC” GENERAL COMMERCIAL AND “SR” SINGLE-FAMILY RESIDENTIAL DISTRICT TO “PD” PLANNED DEVELOPMENT COMMERCIAL DISTRICT (“PD-C”). Bill Number 9490 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) Aren Ginsberg, 430 West Point Court, U City, MO

Ms. Ginsberg stated in the past two weeks U City TNR volunteers have trapped, neutered, vaccinated, and returned seven cats from four municipal sites at no cost to U City taxpayers. Unfortunately, the use of cat food, water, and shelter, continues to spark misunderstandings between the volunteers and code enforcement. Therefore, on behalf of these volunteers, she would respectfully request that Section 210.130 of the Municipal Code be amended to add, *"providing food, water, and shelter"* to the list of permitted acts. Thanks for your service to our community.

Diane Bonds, 8665 Sloan Drive, U City, MO

Ms. Bonds stated that she is totally against the part of the Mayflower Development that will bring more renters into the area. Currently, renters are residing in The District, Delcrest, and all along Delmar, and new rentals are popping up from 1-70 to Price Road. She stated this development seems to be pushing the residents who live south of McKnight and Mayflower away, and she does not believe this part of the development is necessary.

Ms. Bonds stated she has also requested that the tree in front of her home be removed because dead branches are constantly falling during inclement weather. She stated staff has come out and pruned the tree, but the only thing they removed was the lower branches. And now she has three dents and several scratches on her car that she cannot get repaired until the tree is removed. So, she is here tonight to make another request to have this tree removed. Thank you for your time and service to the community.

P. COUNCIL COMMENTS

Councilmember Cusick stated he has received numerous questions from dog owners about when restorations would be made to the Dog Park and would like to get an update on its status. Mr. Rose stated the Dog Park, as well as Centennial Commons, and the Public Works yard was all damaged during the flood. And while staff has taken steps to clean up these areas, the restoration process will require FEMA's approval to receive federal dollars. So, at this point, all of the information has been provided to FEMA and staff is waiting on their approval to move forward.

Mayor Crow stated there will be a ribbon cutting for Costco at 7:45 a.m. tomorrow and he is hoping that there will be a nice crowd coming out to participate in this long-awaited celebration.

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 McMahon moved to close the Regular Session to go into a Closed Session, it was seconded by Councilmember Clay.

Roll Call Vote Was:

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

Nays: None.

R. ADJOURNMENT

Mayor Crow thanked everyone for their attendance and closed the Regular City Council meeting at 7:56 p.m. to go into a Closed Session on the Second floor. The Closed Session reconvened in an open session at 8:38 p.m.

LaRette Reese
City Clerk, MRCC

From: [David Harris](#)
To: [Council Comments Shared](#)
Subject: Agenda Items E.1 and K.2 for October 24, 2022 City Council Meeting
Date: Monday, October 24, 2022 11:21:00 AM

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

I have comments about Agenda Item E.1 (Approval of Minutes for October 10, 2022, Study Session, Housing and Third Ward Revitalization RFP). The comments relate to the news about the proposed sources of funds for the \$10 million for Ward 3, on page E-1-1.

I also have comments about Agenda Item K.2, the possible Dierbergs at the Market at Olive and the proposed Chapter 100 Program with abatement of 50% of personal property taxes, elimination of the commercial surcharge, and a CID assessment instead of PILOTs, as discussed on pages K-2-1 to K-2-28.

However, because the comments relate to the Market at Olive and Costco is opening tomorrow, and because the agenda items still appear to be more informational than decision-making at this time, I will make my comments at a future meeting.

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

From: [David Harris](#)
To: [Council Comments Shared](#)
Subject: Avenir Tax Exemptions – Responses to your reasons from September 27, 2022 meeting
Date: Monday, October 24, 2022 11:10:34 AM

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

For reasons in my September 12, 2022 comments, I disagree with and I am disappointed by your decision to provide the Avenir development a real property tax abatement of at least \$2,185,659 plus a sales tax exemption of at least \$1,041,976 and a use tax exemption of \$222,336 (subtotal \$1,264,312), resulting in a total tax exemption of at least \$3,449,971, by approving Bills 9486 and 9485, respectively, at the September 27, 2022 Council meeting.

At the September 27 meeting, four of you presented some reasons you voted to approve the real property tax abatement, the sales tax exemption, and the use tax exemption (sometimes I refer to the three together as “the tax exemptions” or “the exemptions”). However, you waited until after you voted to approve Bill 9485 and immediately before you voted to approve Bill 9486 to publicly describe those reasons.

Even though it is likely too late to change your minds or to change your approval, here are my responses to and comments about some of your reasons.

To Councilmember Jeffrey Hales

Councilmember Hales, you stated that you “could not find an instance where the process has been remotely as transparent as this one has” and then identified 6 Planning Commission meetings, 11 City Council meetings, and 3 Zoom meetings with residents.

I reviewed the available agendas, minutes, and some recordings for each of the Planning Commission (on the City website, “Plan Commission”) and City Council meetings. The exemptions have not been as “transparent” as you stated. Please correct me if I am wrong, but it appears that the following is a more accurate timeline.

(1) The Chapter 353 real property tax abatement was discussed at the August 26, 2020 Planning Commission meeting, at which the commission recommended, as you said, “a twenty-year tax abatement; the first ten years at 100% and the last ten years at 50%.” What you did not say was the recommendation vote was 4-3, indicative of the substantial opposition to the abatement.

(2) The City Council never publicly discussed or voted on the August 26, 2020 Planning Commission tax abatement recommendation. On September 29, 2020, the Consent Agenda item set a public hearing about the Chapter 353 redevelopment plan and tax abatement. On October 12, 2020, the public hearing was continued until October 26. On October 26, discussion of the abatement was delayed, at your request, until November 9. On November 9, the Council approved a Preliminary Development Plan, but did not discuss or approve the tax abatement. According to the meeting minutes, “approval of a Preliminary Development Plan is merely an authorization to proceed with the preparation of a Final Development Plan.”

(3) The June 14, 2021 City Council meeting, the December 15, 2021, January 26, 2022, and February 23, 2022 Planning Commission meetings, and the March 14 (not 13), 2022 and March 28, 2022 City Council meetings covered other aspects of Avenir, not the exemptions.

(4) The March 31, 2022 Planning Commission meeting was a continuation from a March 23 meeting agenda item with the request for five years of real property tax abatement. The commission voted against the abatement request by a vote of 4-1.

(5) The April 11, 2022 and April 25, 2022 City Council meetings covered other aspects of Avenir, not the exemptions.

(6) At the July 25, 2022 City Council meeting, the City Manager recommended remanding to the Planning Commission the March 31 recommendation against tax abatement and the Council agreed.

(7) At the July 27, 2022 Planning Commission meeting, the commission voted to recommend the abatement by the same split vote total of 4-3 as two years earlier on the twenty-year abatement.

(8) On September 12, 2022, the Chapter 353 tax abatement was on the City Council agenda for a first reading as Bill 9485. There was no discussion.

(9) At the September 27, 2022 meeting, the Council approved Bill 9485, with no discussion.

(10) The Chapter 100 Bond issue with the sales tax exemption and the use tax exemption was never publicly disclosed or discussed before the first reading on September 12 as Bill 9486.

(11) At the September 27, 2022 meeting, the Council approved Bill 9486, with no discussion other than the monologues referred to above.

(12) Much information related to the tax abatement, the sales tax exemption and the use tax exemption was contained in a report by Jonathan Ferry that was not made public until after the September 27, 2022 meeting.

From the foregoing timeline, it is obvious to me there were non-public discussions about the sales tax exemption and the use tax exemption before September 12 and possibly between September 12 and September 27.

From the foregoing timeline, it is likely there were non-public discussions about the tax abatement before September 12 and possibly between September 12 and September 27.

There was a time before you were on the City Council when indications of non-public discussions, undisclosed reports, and minimal or non-existent transparency would have made you question the integrity of a Council decision. What happened to you?

Additionally, you stated, "as it relates to the public comments . . . at the end of the day, the comments in opposition to this project were not even close to those that were in support, which totaled sixty-two." As with your statement about transparency, that observation was not really accurate. The number of comments for the September 27 meeting were more heavily in support (although there were 48 such comments, not 62, when you remove duplicates from the same person or from the same household) with 8 in opposition, the comments for the September 12 meeting were 18 in favor and 15 opposed. Moreover, the comments from the public hearing two years ago were overwhelmingly in opposition to tax abatement or expressed other concerns about the project, including a petition signed by 54 residents.

Does anything I am saying change your perspective about your approval of the exemptions?

To Councilmember Steve McMahan

Councilmember McMahan, to the extent that you agree with Councilmember Hales' presentation of the timeline and transparency, please read my comments above.

You then observed, "one might wonder if these residents actually believe the abatement is unnecessary or if they're hoping that the developer does need it, and the elimination of this abatement will stop the entire project." That was an ad hominem response, meaning you are attacking the residents' – your constituents' - character or motives instead of replying to the residents' – your constituents' - questions or

arguments. How do you feel when your character or your motives are questioned, instead of someone addressing the substance of your opinion? Although I should not need to say it, I will do so, that I believe the abatement is unnecessary for the many reasons explained. I do not know all the other residents who objected to the exemptions, but I will go out on a limb and say I think most if not all of them believe the same as me. Moreover, by trying to distract with an ad hominem response, you never answered or addressed why you think the exemptions are necessary.

To Councilmember Aletha Klein

Councilmember Klein, I was surprised to hear that the City and City Council don't "yet have a policy in place to determine what a reasonable abatement would be for this kind of development." That is concerning, because the City and Council are making decisions without policy guidance. Moreover, that means any developer can ask for anything the developer thinks the developer can get, something that already occurs too much, and is occurring again, for example, with the proposed Dierbergs at the Market at Olive project, a subject for another time.

You stated that "Some in the community believe that this abatement gets funding from the City's budget that could be used for other projects to help the developer offset some of his expenses. This is not the case. There is no fund that the City is taking from to give to the developer that could be used on floodplain buyouts or City services. The City is also not losing a tax revenue stream that it would otherwise have." I recognize, and I assume most of the other residents objecting to the exemptions recognize, that there are not current funds that are being given to the developer. Additionally, your statement does not address the concerns about the exemptions. There is future revenue that is being "lost" by giving it away, or giving it back, to the developer.

Regarding the figures you cited for tax revenue to the Library and the School District, the figures are over a period of five years. In other words, the Library and the School District currently receive \$5,175 and \$65,273 each year from the properties. Over the five years of the tax abatement (2025-2029), they will receive a total of \$25,784 and \$326,364.

After the tax abatement, as you said, "the Library will get \$128,677, and the School District will get 1.590 million dollars." However, that increased amount is over a five-year period, meaning each year, the Library will get \$25,735 and the School District will get \$318,000. Those are increases of \$20,560 and \$252,727 a year from the current amount (about four times more, not "five times" more), a welcome increase but hardly a "huge burst" or something that will result in "better services, improved schools, and more development opportunities." Your statement implies that you think the increase to \$128,677 and \$1,590,000 is every year. Did I misunderstand your statement? If not, does this clarification change your perspective about your approval of the exemptions?

To Councilmember Stacy Clay

Councilmember Clay, I generally understand when you advise "don't allow the perfect to be the enemy of the good." However, with the exemptions, it is not a choice of perfect versus good. It is a choice of whether the exemptions are necessary, particularly for a luxury rental project, or whether they are primarily a tax giveaway to increase a developer's profit. In other words, whether the exemptions are good for the City and its residents, not whether they are perfect.

Additionally, I am struck by the irony that the Avenir developer, Charles Deutsch, contributed to the campaign to increase the sales tax in U. City that everyone would have to pay (Proposition F in April) that was projected to generate \$575,000 per year, yet is seeking a sales tax exemption for himself of over \$1 million, equivalent to about two years of the projected Proposition F revenue, and a total tax exemption of almost \$3,450,000, equivalent to six years of the projected revenue.

Does anything I am saying change your perspective about your approval of the exemptions?

David J. Harris
8039 Gannon Avenue

