

**CITY COUNCIL
CITY OF RICHMOND HEIGHTS,
MISSOURI**

REGULAR MEETING, November 17, 2008

A regular meeting of the City Council of the City of Richmond Heights, Missouri was held on Monday, November 17, 2008 at 7:35 P.M. in the Council Chambers at City Hall. Present were Mayor James J. Beck, Council Members Ed Notter, Mike Jones, Tim Gallagher, Connie Williams, Camille Greenwald, Jim Thomson and Gina Mitten. Paul Lore was necessarily absent. Also present was Amy Hamilton, City Manager and City Attorney, Ken Heinz. Special guests were former Mayor Betty Humphrey, her son, Bill Humphrey and grandson, Will Humphrey.

ANNOUNCEMENTS

Mayor Beck asked the Deputy City Clerk to read the results of the November 4, 2008 election for Proposition T.

**Proposition T
November 8, 2008
Consider amending truck parking ordinance**

Ms. Villmer reported the unofficial election results for the City's Proposition T ballot issue which presented the question to voters as to whether the Council should consider legislation that would allow a light duty passenger truck with no commercial designation to park on the City of Richmond Heights streets while continuing to not allow commercial trucks to do so. Voters responded with a Yes vote of 3,121(63.36%) and a NO vote of 1,805 (36.64%). Mayor Beck thanked the voters for casting their opinion.

Mr. Thomson stated a straw vote had taken place among drivers in the MRH and Brentwood High Schools-they voted 38 Yes votes and 28 No votes.

Mayor Beck read a Proclamation honoring veterans and the past Veteran's Day holiday on November 11. Mayor Beck stated that veterans were the "heroes of our hometown" and asked that all citizens reflect on the service men and women who have served and continue to serve our Country.

Mayor Beck stated that on tonight's agenda for a second reading was Bill No. 5233, the Seventh Amendment to the Redevelopment Agreement with Michelson for the Hadley Redevelopment Project.

Mayor Beck stated that negotiations had been ongoing since the first reading of that Bill on November 3, and amendments would be proposed to Bill 5233 tonight. Mayor Beck explained that the developer had agreed to increase his payment to the owner-occupied owners of property to \$1500, paid by the end of December 2008 in exchange for a one year extension to close on properties in the development area. Mayor Beck stated the increased amount was different than the original amendment amount of \$500 by December 31, 2008 and another payment in June of 2009.

Mayor Beck stated that there was also another amendment likely to be proposed tonight which would have the developer paying to the owner-occupied owners of property, \$3,000-in payments of \$1500 in December, 2008 and another payment of \$3,000 in June, 2009. Mayor Beck stated the developer, Michelson, had not agreed to that and was very unlikely to do so.

Mayor Beck stated that should amendments be made tonight to Bill No. 5233, the City Charter states that any substantial changes to a Bill would require the Bill to be laid over for another reading. Due to time constraints with the current interim extension, that meeting would likely be held next week, possibly November 24.

CITIZEN COMMENTS NO. 1

Kevin McReynolds-7907 W. Bruno Ave.-explained he had purchased his home in the development area but was moved to Nebraska for his ministerial practicum. Mr. McReynolds stated he was in favor of an extension to the developer and felt the Council should keep the project alive. Mr. McReynolds stated he thought the \$1500 payment was less than he wanted for the delay, but noted that if it that was their final offer, he agreed it should be pursued.

Mr. Gallagher asked Mr. McReynolds if he did not say in his survey response that he wanted much more compensation.

Mr. McReynolds said of course he wanted more, but would not want to gamble and would take the \$1500 that Michelson is now offering for the extension for one year.

Reggie Finney-7920 Hicks-encouraged his neighbors at the meeting to speak out with their opinions on the proposal for an extension to the Hadley agreement. Mr. Finney stated that in his opinion, he thought that \$5000 was a more appropriate compensation amount, but felt that with the \$1500 offered, it was better than stipulating a larger offer ultimately being turned down by the Developer. Mr. Finney asked the Council not to kill the process but try for another year to move the project forward. Mr. Finney reminded the Council that at least 90% of respondents to the survey said they wished the Council would grant Michelson an extension.

Erma Nevels-1627 Berkley-stated she was concerned about the deterioration of the neighborhood and wanted to know how much time would be given to the residents to fix up their homes to code should the project not go through. Ms. Nevels said she was also concerned that a clause in the Seventh Amendment stated the City could buy up the houses in the redevelopment area and was concerned that homes would be condemned and bought by the City.

Mayor Beck said there were no current plans to buy homes in that area, and the City did not have the financial means to do that anyway. Mayor Beck stated he did think the City would be reasonable about property and code issues but that was not presently the concern as the City hoped the project would go forward as planned.

Don Droege-commercial property owner – stated he wanted to see an extension granted, felt it promises to be a wonderful project and supports the guaranteed \$1500 payment to the residents vs. the possibility of the developer walking away because of demand for more money from the Council. Mr. Droege also reminded the Council of the residents’ vote to allow the extension and that they voted that way without any mention of additional money.

APPROVAL OF MINUTES

**Regular Meeting
November 3, 2008**

Mr. Gallagher moved, Ms. Mitten seconded, a motion for the approval of the minutes of the Regular Meeting of November 3, 2008. Carried unanimously.

CITY MANAGER’S REPORT

Ms. Hamilton gave a brief explanation of the possible amendments that may be proposed to Bill No. 5233, noting that Michelson had increased its payment amount to the owner-occupied residents to \$1500, up from the two payments of \$500 each over the next year. Ms. Hamilton stated that Mr. Berry was here tonight if the Council had any questions.

Mr. Gallagher asked if the City had tried to negotiate for more than the \$1500 which amounts to only about \$72,000 for approximately 48 property owners.

Ms. Hamilton stated the City had started negotiations at \$5,000, but those issues were rejected by the Developer. Ms. Hamilton stated that the amendment also allows that if the Developer does not provide its notice to close to all owners of occupied property in the residential area by June 30, 2009, the City may explore other redevelopment opportunities. Ms. Hamilton

stated the Notice to Close, with this extension, would be due October 29, 2009.

Mr. Gallagher asked about the possibility of the City exploring a "Plan B" if by June 30 of next year the Developer has not gotten financing, could the City could explore other options.

Ms. Hamilton stated that was correct, under the amendment as written, that the City could go forward with a new blighting analysis and draft a new request for proposals.

Mr. Gallagher asked about property currently owned by Michelson in the redevelopment area, that in case they cannot close and have to walk away, would the City have the right of first refusal.

Ms. Hamilton stated that there is only one property that Michelson has required through the eminent domain process, the others were purchased by them outright. Ms. Hamilton stated that yes, for about six properties, the City would have to option to buy them first if they decide to sell those properties.

CITY ATTORNEY'S REPORT

Mr. Heinz reviewed the possible amendments for the Council's consideration to Bill No. 5233, stating the \$1500 payment would be over and above the agreed contract price and noted that the alternative amendment from Mr. Lore which was for two payments of \$1500 each (\$3,000) would not be in addition to the purchase price but be deducted from the contract price. Mr. Heinz stated the amendment to Bill 5233 read previously was for two payments of \$500 and he said he understood that amount was probably not what the Council was comfortable with.

Mr. Heinz stated that both these amendments also carried a change in language in Paragraph No. 9 regarding the indemnification for the City's protection and is stronger than the previous version.

Mr. Heinz stated the changes to the Bill would be considered substantial so the Bill, if amended tonight would require it being held over for at least seven days, with a possible meeting scheduled for November 24, 2008. Mr. Heinz stated there would also need to be a motion to cancel the December 1 meeting if that is the Council's choice.

Mr. Gallagher asked if the MRH school district's concerns had been addressed, regarding the release of funds and asked if this issue was part of the negotiations. Mr. Gallagher stated he thought the School District would be harmed and the Council should address this.

Mr. Heinz stated that release of funds could not be done without the developer's consent, that it is not the City's decision as the developer has an interest in those funds to secure their cost.

Ms. Hamilton stated the TIF clock began in July 2006.

Mr. Heinz said the TIF clock (time period) is not being extended so there will not be an additional two years added and the District may gain a large sum in the last two years of the TIF.

Ms. Mitten stated she thought it did not kick in until the Notice to Close was given and says she thinks since this one year extension will impact the District on how it runs its finances during the interceding year.

Mr. Heinz says the City cannot unilaterally give away funds that had been contractually agreed to be the source of the repayment of the funds used to remove the blighted conditions in the area.

Mayor Beck stated there is a contract between Michelson and the School District currently in effect and they would need to work on this issue if they can.

Jim Mello, attorney for Michelson, stated that the School District had not come to them with this issue and the stated the original negotiations for the contract were by direction of the City. Mr. Mello stated that re-negotiations were accomplished last summer, and terms agreed upon and stated he is puzzled why a request on this issue had gone to the City and not directly to Michelson. Mr. Mello stated the School District will benefit if the project proceeds. the TIF clock will run out sooner and the improvements will be in place and the increment from those improvements received in less time. Mr. Mello stated that if the project does not go forward, State law dictates that we have to give them their money.

Steve Finley stated that their legal representation had given them the information that the statute in question actually stated the School Board was to deal with the City on this issue. Mr. Finley stated he did not think this issue would affect the contract the District and Michelson had together.

Mayor Beck stated he recalled telling Mr. Finley at the last Council meeting that our attorney was of the opinion that the School District had to deal with Michelson on this issue.

Mr. Mello stated he would be happy to discuss this with the District's counsel on this issue.

BILLS PREVIOUSLY INTRODUCED

Bill No. 5232; second reading
Approves the delivery of Certificates of Participation
COPS, for City of Richmond Heights, Lessee, Series 2008
for the purpose of providing funds to prepay certain
outstanding lease obligations of the city; and authorizing
and approving certain documents in connection
with the delivery of the certificates.

Mr. Gallagher moved, Ms. Mitten seconded, a motion for the second reading of Bill No. 5232. Carried unanimously. Bill No. 5232 was presented and read.

AN ORDINANCE APPROVING THE DELIVERY OF CERTIFICATES OF PARTICIPATION (CITY OF RICHMOND HEIGHTS, MISSOURI, LESSEE), SERIES 2008, FOR THE PURPOSE OF PROVIDING FUNDS TO PREPAY CERTAIN OUTSTANDING LEASE OBLIGATIONS OF THE CITY; AND AUTHORIZING AND APPROVING CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION WITH THE DELIVERY OF THE CERTIFICATES.

Mayor Beck asked for a vote of approval of Bill No. 5233. AYES: Ms. Williams, Mr. Thomson, Ms. Greenwald, Mr. Jones, Ms. Mitten, Mr. Notter, Mr. Gallagher, and Mayor Beck. NAYS: None.

Mayor Beck declared Bill No. 5233, approved.

Bill No. 5233; second reading
An Ordinance authorizing the execution
Of a Seventh Amendment to the Redevelopment
Agreement with Michelson-Hadley Heights Development LLC.

Mr. Lore moved, Ms. Williams seconded, a motion for the second reading of Bill No. 5233. 7 AYES, 1 NAY (Mr. Gallagher).

Motion to Amend Bill 5233
\$3000 payment

Ms. Greenwald moved, Ms. Mitten seconded, a motion to amend Bill No. 5233, which states the Developer would pay the residents two \$1500 payments if an extension is granted for one year.

Ms. Greenwald stated she thought the effect of extending the project another year was clearly stressful and wanted to see the residents get a maximum amount.

Mayor Beck stated he wanted everyone to know that should this amendment with its terms be approved, there was a very strong chance it would be a final blow to the project.

Mr. Notter stated that as he understood it, that due to the Developer's position on it, (the dollar amount) this amendment for the \$3000 would mean all deals are off.

Mayor Beck said that would apparently be the case.

Mr. Thomson stated that at the recent monthly meetings of District Two residents, the Hadley development was discussed in depth and while they all wanted to see more compensation, they did recognize the Developer had come up from two payments of \$250 to two payments of \$500 and now to \$1500. Mr. Thomson stated he had met with the Developer last Tuesday and noted Mr. Berry was firm on any further compromise. Mr. Thomson said the residents, as he heard from them, were willing to take this offer rather than walk away totally.

Ms. Mitten stated her reasons for the amendment with the \$3000 amount was due to the fact it would be a sign of good faith that the Developer was serious about finding financing and going through with the project. Ms. Mitten stated she was unhappy that the Developer would let this go for just an additional \$72,000. Ms. Mitten said she felt Council had a commitment to the community as a whole.

Mr. Gallagher stated he did not feel the economic market would turn around in just six months and the situation would more than likely prohibit Michelson from getting financing. Mr. Gallagher stated he was frustrated with the delays, felt that the project was now not the plan he voted for. Mr. Gallagher cited the reduction in the residential component and the possibility that the project may end up all commercial to make it work financially was also a concern for him.

Ms. Williams stated she did have serious reservations of the outcome of the Hadley project, but that she recognized the overwhelming vote by residents to see an extension granted, and would have to go along with the extension proposal would be what the residents would want.

**Motion to Amend Bill No. 5233
One \$1500 payment**

Mayor Beck asked for motion of approval of the amendment to Bill No. 5233, which would allow for a \$1500 payment made to owner-occupied residents made in December and a \$1500 payment made in June, 2009. Mayor Beck stated that if this passes, this will be the amendment to have its first reading

tonight. Mayor Beck stated this amendment with these conditions is not what the Developer had agreed to. AYES: Ms. Greenwald, Ms. Mitten, Mr. Gallagher. NAYS: Mr. Thomson, Mr. Jones, Mr. Notter, Ms. Williams, and Mayor Beck. The motion to amend Bill No. 5233, allowing the \$3000 total payment, failed-3 AYES, 5 NAYS.

Mr. Jones moved, Mr. Notter seconded, a motion to amend Bill No. 5233, which states the Developer would pay the residents a \$1500 payment before December 31, 2008, if an extension is granted for one year. Mayor Beck called for a vote to amend Bill No. 5233 as proposed. AYES: Ms. Williams, Mr. Thomson, Mr. Jones, Mr. Notter, and Mayor Beck. NAYS: Ms. Greenwald, Ms. Mitten, Mr. Gallagher. The motion to amend Bill No. 5233, allowing the \$1500 payment, payable by December 31, 2008, passed- 5 AYES-3 NAYS.

Mayor Beck asked for a reading of Bill No. 5233, as amended. Bill No. 5233, as amended was presented and read.

AN ORDINANCE OF THE CITY OF RICHMOND HEIGHTS, MISSOURI APPROVING A SEVENTH AMENDMENT TO REDEVELOPMENT AGREEMENT BY AND BETWEEN MICHELSON-HADLEY HEIGHTS DEVELOPMENT, L.L.C. AND THE CITY OF RICHMOND HEIGHTS, MISSOURI, FOR THE HADLEY TOWNSHIP REDEVELOPMENT AREA.

Bill No. 5233, as amended, was laid over to the next reading.

Mayor Beck announced there would be a Special Council Meeting scheduled on November 24, 2008 at 7:30 p.m. at the City Hall Council Chambers. Ms. Greenwald stated she would not be available that week. Mayor Beck stated that due to the time constraints for getting Bill 5233 through to passage before the current extension runs out, the meeting would be held on November 24.

The Council decided to wait to see if a December 1 regular council meeting would still be necessary.

CITIZEN COMMENTS NO. 2

Barbara Burton-7921 W. Bruno-stated she did not think Michelson had "showered" the residents with money during the delay, she had made repairs necessary to her home, but would like the extension granted as she would like to see the project have a chance to go forward.

Donna Garcia-1751 Laclede Station Road-stated she was concerned about the year-timeline of the extension, and wondered if the Council should reconsider and make it a 6-month timeline should the economy not turn

around as hoped. Ms. Garcia said she wished government had more control over this rather than the Developer.

MISCELLANEOUS BUSINESS

Mayor Beck presented to the City, the official portrait of former Mayor Betty J. Humphrey, 2000-2008, stating it was an honor to be placing the portrait of the City's first woman mayor among her male predecessors. Mayor Beck stated Mayor Humphrey's dedication to civic business was evident in her 20 years on the Council and two terms as Mayor and felt the City was lucky to have her great leadership during that time.

Ms. Humphrey stated she felt it an honor to serve the City for the past twenty years and was truly gratified to see the many things the City was able to accomplish during that time. Ms. Humphrey thanked the City Manager, Council, Staff and family for their support.

At approximately 8:50 p.m., with no further business to come before the meeting, Ms. Mitten moved, Mr. Gallagher seconded, a motion to adjourn. Carried unanimously.

PATRICIA S. VILLMER
DEPUTY CITY CLERK

APPROVED