

PLANNING AND ZONING COMMISSION

September 1, 2009

7:30 p.m.

Council Chambers

STUDY SESSION

7:00 p.m.

Planning and Development Conference Room

For its agenda, the Study Session will provide an overview of all matters to be taken up in today's 7:30 p.m. meeting of the Planning and Zoning Commission.

SPECIAL ANNOUNCEMENTS

PUBLIC COMMENTS

CONSENT

1. **Roll Call.**

Commissioners Present: Best, Butler, Davis, Loyd, Woolery, Vice-Chairperson Romine and Chairperson Harris.

Commissioners Absent: Boyce, Hartley and Wescott.

Staff Present:

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| Jim Lawson | Director of Planning and Development |
| William Duston | Assistant City Attorney |
| Tara Norback | City Forester |
| David Miller | City Engineer |
| Kendall Powell | Public Works Plans Reviewer |
| Sonja Paden | Office Assistant II |

2. **Approve Agenda.**

Recommended Action: Approval of the agenda for the August 4, 2009 Planning and Zoning Commission meeting.

MOTION:

Motion by Commissioner Butler and seconded by Vice-Chairperson Romine, and unanimously carried to approve the format of the September 1, 2009 agenda as amended with the withdrawal of original item no. 4, Project No. 09-1.7, and the postponement for thirty (30) days of original item no. 10, Project No. 09-6.2, at the request of the applicants. The remaining agenda items were renumbered accordingly.

3. Approve Minutes.

A. August 4, 2009.

Recommended Action: Approve the minutes of the August 4, 2009 Planning and Zoning Commission meeting.

MOTION:

Motion by Vice-Chairperson Romine and seconded by Commissioner Best, and unanimously carried to approve the minutes of the August 4, 2009 meeting.

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| OLD BUSINESS |
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4. Request For Recommendation Of Approval Of A Special Use Permit For Millennium Plaza Dinner Theatre For Properties Located At 3307 W. Highway 76 Branson, Missouri. Project No. 09-1.13 (09-00100013).
Applicant: Millennium Plaza LLC.

Tara Norback, City Forester, presented the staff report as filed with the Planning Division.

Jim Lawson, Director of Planning and Development, said, when this item had been discussed in the past, there were two (2) tracts of property owned by the same person and the tract to the west was where the helicopter business was located. He said, when they had first proposed the dinner theater, it was not clear how they were going to provide the parking. He said they found out they were going to having parking on the same tract of ground, the grassy area, to the north of the helicopter pad. One of the big issues he had was that the SUP (Special Use Permit) for the helicopter operation showed no parking lot there. He said there had been discussion that the helicopter people had not leased the entire tract of ground; however, the SUP did not show a parking lot there. From his point of view, the only way they would be able to put a parking lot there would be to have both of the SUPs, the helicopter SUP and the dinner theater SUP, involved in it. He said he would raise a serious issue on safety and on the fact that they were trying to put too many uses on one piece of property. It was one thing to have a dinner theater; it was another thing to have a helicopter operation. Trying to put two (2) SUPs on one piece of property for uses that really did not work together very well he thought would be a mistake. He said staff recommended denial of the request.

Chairperson Harris said special use permits applied to the use of the property, not necessarily to activities that occurred; Mr. Lawson said that was correct. Chairperson Harris said the special use permit that went with the helicopter applied legally to all of the property; Mr. Lawson said that was correct.

Chairperson Harris asked if the commissioners had any other questions or comments of staff; there was no response. He asked if the applicant or applicant's representative was available to speak to this particular item; there was no response. He said again that this had been brought before them last month and postponed at that time.

Mark Weisz stepped to the podium and introduced himself. He stated he was not there to represent the owner in this transaction, but he wanted to mention a couple of things for the record. He said he was involved in the helicopter lease and at that time they had leased one and a half (1½) acres of the three (3) acres. During the special use hearing for it, Bob Huels could be heard saying that the other half would be used for a parking lot. Mr. Weisz said it should not be a surprise today to this commission that there was going to be a parking lot on approximately one half (½) of the property. The other thing about the agreement between the parties, which he believed was also discussed at the special use hearing, was that there was a 60-foot area between the hangar for the helicopter and the helicopter pad on the west side of the building. He said that would be the path the helicopters would utilize because nobody wanted them flying over parking lots and knocking the hats off the ladies and messing up someone's hair when they were going to the theater. He said this was certainly well-known not only to this commission, but to the parties involved in the transaction. He also commented for the record that they would find in cities helicopter pads that were on top of buildings, not just over parking lots. He referred to where the helicopters land at Skaggs Hospital and how close it was to that building and that parking lot. He said this could be done right with professionals. He said there had been a mistake and that he understood the first time this had come in they had sent over a plat that showed the whole property being developed with a parking lot. He said their architect had made a mistake, but he believed that had been corrected. He had not seen it, but it may be in the commissioners' packets.

Chairperson Harris asked there was anyone else there who wished to comment either positively or negatively; there was no response. He said all the special use permits they had included the legal description of the property. His concern was that they had talked about parts of it having been leased, but asked if the legal description of the special use permit they granted for the helicopter business for the whole property. Mr. Lawson said yes, it was. He said one of the key elements of an SUP was the site plan. He said during the meeting it may have been mentioned that there was going to be some parking. If he had heard that, it would have meant to him that they may be coming back later to amend it. The SUP was a site plan plus any other requirements that had been specified and voted on by the planning commission. He said he thought that the whole piece of property had always been used for the helicopter and that that was the understanding. He had worked with the helicopter operation because one of the questions had been whether or not they could just fly straight in and straight out, since they had had some noise issues, and was told no, they could not go straight up and straight down because of the wind and other issues. He said he had sat and watched them fly and use the whole strip to go in and out of the area.

Chairperson Harris asked if the applicant had provided a site plan for the parking because he did not have one in his packet. He asked if one had been brought in at the very last minute. Ms. Norback said the new updated one that showed the 60-foot strip had been brought in on August 21st. She said there had been some miscommunication with the engineer, so the 60-foot strip was now shown on the site plan. Mr. Lawson said that was not adequate. It was a small space for helicopters to fly in with the wind as a factor.

Chairperson Harris recognized Mr. Weisz.

Mr. Weisz said he did not know what was adequate as he was not a pilot, but he believed that a professional helicopter pilot could probably follow a 60-foot strip and that they did every day. He said they had been given permission to utilize that grassy area. He said they did not know if this particular owner was going to be building his parking lot this year or next year. Even though it had not been leased, they had been given permission to utilize it, which was why they would see them flying over it today because there was no parking lot there. He said he and the owner of the property and Mr. Huels walked that property and the owner told them he could keep within that 60-foot area without issue. There were two (2) helicopter pads there. One was on his leased property and one was not. They gave him permission to utilize the one to the east today, but it would not be there once the parking lot was built. There was a difference between watching them fly over the grass today and when the parking lot was built because they knew they would not be flying over the parking lot once it had been built.

Chairperson Harris recognized Vice-Chairperson Romine.

Vice-Chairperson Romine asked if this was the same property that might have been a bingo parlor as well because they could not decide which property to use. In previous months, it was property for a bingo parlor or a dinner theater. Chairperson Harris said that had all changed then postponed back to perhaps a dinner theater again. Vice-Chairperson Romine said it would be difficult to know what the intended use of the parking lot would be, as it depended upon what was going to be put in there. Chairperson Harris said the way he understood it was the special use permit was for the dinner theater only. Vice-Chairperson Romine said in previous applications, though, it had been for a bingo parlor. Chairperson Harris said that was right. He said he still had concerns about finding the original special use permit. If it stated it was for the whole property, stacking one on top of another was not a good idea. He said they had not done that before. He was not saying this could not go, but it seemed to have a lot of little parts to it that they needed to spend some time on to get it right. Mr. Lawson said because they did not have the helicopter SUP before them, he would not give them a permit to build a parking lot on that piece of property. Even if this was approved tonight, they could not build a parking lot on that property because the SUP that had previously been approved by the commission did not show that parking lot. He said this was his contention from the last meeting that they had to bring both applications in so they could work with both of them simultaneously.

Chairperson Harris recognized Commissioner Best.

Commissioner Best asked if that had been communicated to them about the need to have both applications available for review. Mr. Lawson said he had informed them. Chairperson Harris said they would both need to work together to make sure their special use permits somehow cooperated. Commissioner Best asked if they were willing to do that. Chairperson Harris asked Mr. Lawson if he had gotten any feedback from the applicants. He asked if the helicopter people were willing to get together and work out a mutual agreement. Mr. Lawson said there were a lot of different people involved in this, including real estate agents, landowners and lessees, and he never got a sense that they would all be able to work it out.

Chairperson Harris asked if anyone else had any questions of staff; there was no response. He asked if there was anyone else who wished to speak in regard to this item; there was no response. He said he would entertain a motion.

MOTION:

Motion by Commissioner Davis and seconded by Commissioner Butler, and unanimously carried to deny Resolution 09-1.13.

Chairperson Harris asked if there were any further questions; there was no response.

AYES: Commissioners Best, Butler, Davis, Loyd, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioners Boyce, Hartley and Westcott.

Motion to deny Resolution 09-1.13 carried with a 7-0 vote.

5. Request For Recommendation Of Approval Of A Municipal Code Amendment To Section 70-4 Pertaining To Temporary Sign Exemptions. Project No. 09-12.2 (09-01200002).

Applicant: Planning & Development

Tara Norback, City Forester, presented the staff report as filed with the Planning Division.

Chairperson Harris said they had dealt with the issue of using sandwich boards before as a means of pedestrian notification of specials at a restaurant or other types of advertisement close to the road. They had spent some time on this last month then staff went back and made some changes on where the location would be allowed. He asked Mr. Lawson to help them out with what the specifics were for it.

Mr. Lawson said there had been an issue with temporary signs and their ordinance was very important, but these were particularly useful, so they had it set up to allow them in the downtown area and other commercial areas under the restriction of not blocking the sidewalk and a certain distance from the street. He said there was also a size limit for them and they would be required to be taken in each night. Even though they were technically a temporary signs, they were different than the hand-painted signs that were up around town. He said they felt comfortable that, under this particular ordinance amendment, they would be able to control these signs and that they would have a value for the merchants in the area.

Chairperson Harris said he had been to several communities where they allowed these. He said we had pedestrian traffic and people could see what the specialty was or sale or some type of notification. Removing the signs at the end of the business day so they were not blown all over the street or something like that was probably a good idea.

Chairperson Harris recognized Commissioner Loyd.

Commissioner Loyd asked if Branson Landing was in the downtown district. Ms. Norback said no; it was a PD (planned development). Commissioner Loyd asked, out of these two (2) options, what the businesses at the Landing would do with their sandwich boards, according to this. Mr. Lawson said they had their own restrictions and their own standards. In the walkway in the middle, they had a very detailed code. This would not affect that area at all one way or the other. He said these signs would be for properties that were not under a planned development. These would be our standard requirements. As they were saying before, the signs would be four feet in height and two feet in width (4' x 2') and they would need to be fifty feet (50') from the roadway in the standard area. In the downtown area, they would be allowed to have them as long as they did not interfere with the sidewalk, so they would almost have to have an alcove where the sign could be located.

Chairperson Harris asked if there were any other questions by the commissioners; there was no response. He asked if anyone there wished to speak in regard to this item. He said it was a recommended approval for a change for what the call adding sandwich signs for businesses; there was no response. He asked if there were any other questions or discussion by the commission; there was no response. He said he would entertain a motion for this item.

MOTION:

Motion by Commissioner Woolery and seconded by Vice-Chairperson Romine, and unanimously carried to approve Resolution 09-12.2.

Chairperson Harris recognized Commissioner Butler.

Commissioner Butler offered the following amendment:

1. At the end of the third line of Exhibit 'A' (13), strike the word "a" before "public" and strike the word "sidewalk" after the word "public" then insert the words "property nor right-of-way" after the word "public" and before the word "and."

Commissioner Butler said that section would then read in its entirety:

(13) A business in the downtown business district is entitled to one (1), sandwich board no greater than 4 feet in height and 2 feet in width, placed on the ground no greater than 5 feet from the entrance to the business advertised on the sign and not placed on public property nor right-of-way and the sign must be taken down at the close of the business day.

Chairperson Harris asked if there was any discussion on this amendment for a municipal code amendment; there was no response.

MOTION:

Motion by Commissioner Butler and seconded by Commissioner Davis, and unanimously carried to amend Resolution 09-12.2.

AYES: Commissioners Best, Butler, Davis, Loyd, Woolery, Vice-Chairperson Romine and Chairperson Harris.
NOES: None.
ABSTAIN: None.
ABSENT: Commissioners Boyce, Hartley and Westcott.

Motion to amend Resolution 09-12.2 carried with a 7-0 vote.

Chairperson Harris asked if there were any further questions on the item as amended; there was no response.

AYES: Commissioners Best, Butler, Davis, Loyd, Woolery, Vice-Chairperson Romine and Chairperson Harris.
NOES: None.
ABSTAIN: None.
ABSENT: Commissioners Boyce, Hartley and Westcott.

Motion to approve Resolution 09-12.2 as amended carried with a 7-0 vote.

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| PUBLIC HEARINGS |
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6. Request For Recommendation Of Approval Of A Municipal Code Amendment To Section 66-217 Of The Branson Municipal Code Pertaining To Requirements For Areas Outside City Receiving City Services And Voluntarily Annexed Areas. Project No. 09-12.3 (09-01200003).
Applicant: Planning & Development

Tara Norback, City Forester, presented the staff report as filed with the Planning Division.

Mr. Lawson said this particular requirement was already part of the city's sewer annexation agreements into which the city enters. The way they were set up now, if someone went to annex and they were going to get sewer and water from the city, they would have to meet all the building codes and landscaping codes. He said this was put in here to re-emphasize that it also included the landscaping requirements. Chairperson Harris asked if those items were always put into the sewer contracts anyway; Mr. Lawson said yes.

Chairperson Harris asked if there were any questions of the staff by the commission; there was no response. He asked if anyone was there who wished to speak in regard to this item; there was no response. He asked if there was any other discussion by the commission about the recommendation; there was no response. He said he would entertain a motion.

MOTION:

Motion by Commissioner Best and seconded by Vice-Chairperson Romine, and unanimously carried to approve Resolution 09-12.3.

Chairperson Harris asked if there were any further questions; there was no response.

AYES: Commissioners Best, Butler, Davis, Loyd, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioners Boyce, Hartley and Westcott.

Motion to approve Resolution 09-12.3 carried with a 7-0 vote.

Mr. Lawson asked if they could take a five minute break to allow time to get the computer presentation up and running.

7. Request For Recommendation Of Approval Of A Municipal Code Amendment To Section 66-219 Of The Branson Municipal Code Pertaining To Single Family And Duplex Home Thresholds And Exemptions, Payment For Trees Being Removed And Unauthorized Tree Removal. Project No. 09-12.4 (09-01200004).

Applicant: Planning & Development

Tara Norback, City Forester, presented the staff report as filed with the Planning Division. She used a PowerPoint presentation to help describe this item. She displayed the Landscape Ordinance Timeline slide on the overhead screen.

Mr. Lawson said he would like to give them some background on this request. He said they were planning on redoing the sign ordinance, as well as the zoning code. He said Commissioner Butler and Commissioner Davis, who had been involved in the sign code in the past and the landscaping portion of it, volunteered to start looking at this to help the staff begin to look at some issues they could perhaps pull out and deal with now, instead of having to wait until the whole code came up for revision. He said they had picked out a couple of issues that they wanted to bring forward and discuss. He was glad to see everyone here because they were at that public input juncture now.

Commissioner Davis said, in his role as council representative to the planning and zoning and in a good number of city council work study sessions over the last year or so, the council and public concern regarding the failed aspects of the landscape code and the ramifications had been apparent in several development activities. One with which he thought most of them were familiar was the development across from the old Wal-Mart on Forsythe Boulevard. He said that particular development was one from which a couple of these changes stemmed. In addition, Alderman Stephen Marshall had an ongoing concern regarding some of the tree replacement issues. Rather than continuing to put these issues off, they thought it best to press forward on it and that was his request to the planning department.

Mr. Lawson said, as part of the first item they were going to discuss, they were asked to look at the history and he asked Ms. Norback to provide this information. Utilizing a PowerPoint presentation, Ms. Norback cited the background information provided on the slides. She said it

was originally established in 1991. An amendment came through in 1992, which included the one hundred forty-seven dollar (\$147) fee in lieu of replanting. In 1994, a new amendment came through that replaced both the 1991 and the 1992 codes with a more detailed ordinance that included a fifty dollar (\$50) tree deposit, which replaced the one hundred forty-seven dollar (\$147) fee.

Ms. Norback stated there were three (3) subsections within Section 66-219. The first one was C. *Payment for trees being removed*. This would increase the tree deposit to two hundred fifty dollars (\$250). The size of tree would remain the same at six inches (6”) in diameter at four-and-a-half feet (4½’) above ground level. The reasoning behind these changes was explained in the second paragraph. Instead of all fees being combined on a project, they would be separated out for each phase of a large project. The increase in fees was the approximate cost for an average 2-inch caliper tree. She found quotes from three (3) separate contractors for a 2-inch sugar maple tree, which included the purchase cost and the labor to plant it. The quotes ranged from two hundred thirty dollars to two hundred fifty dollars (\$230-\$250). The increase was meant as a deterrent from indiscriminate clearing. As is currently the case, this fee would also be refundable on a tree-by-tree basis and any non-refunded fees would go into the tree account. A detailed plan and explanation for the use of the fees would be created in the near future. She said all non-refunded fees would be used only on public property related to maintenance and planting of trees and vegetation and would not be used towards any salaries, plantings on private property or construction cost towards any city project.

Ms. Norback next addressed subsection E. *Unauthorized removal of trees*. She said this part currently stated that the fees could be attached to building permits only. Instead of just the building permit, it would now encompass all of the permits, including building, landscaping, land disturbance, tree removal request or infrastructure permits. She said there was also an issue of people not paying the fees if they were not attached to a permit, so the possibility of putting a lien on the property had been included, if such fees were not paid. To improve the ability to collect these fees, the city was willing to work with the citizens to figure out the best way to do this. Payments would even be an option because the city would prefer not to lien the property if they could avoid it, so again they would be willing to work with the citizens to work out a plan for payment.

Ms. Norback said the last subsection was G. *Exemption for single-family homes and duplex homes*. She stated “and duplex homes” had been added to this subsection. Currently, all owners of single-family homes were required to contact her, as the forester, for permission and a tree removal request form to remove any tree on their property. This change would allow up to four (4) trees to be removed per calendar year without written permission or fees. Beyond those initial four (4) trees, a fifty dollar (\$50) deposit was being proposed. There would still be no fee to remove any dead, dying or hazardous trees. Mr. Lawson said the intent of the landscaping code was to have an excellent canopy and forest in Branson. On a lot of codes he had seen, and on some he had written, on a single-family home, there was a threshold. Right now there was no threshold. If someone wanted to cut a single tree down, they would have to go through this process whereby they would have to put down a fifty dollar (\$50) deposit, but if they planted another tree, their fifty dollar (\$50) deposit would be returned to them. He said

there was some concern that there were trees that did get overcrowded from time to time and needed to be removed. He said they settled on four (4) trees as the number, but it could be a different amount that created the threshold. He said they also might want to consider a percentage of the total number of trees because if someone had only four (4) trees on their property and they wanted to cut down all of them then the city would not have done what it had intended. He knew a lot of times when a new house was built, trees were spaced quite a bit apart, but over a period of years they could grow and get too close to each other and compete for the nutrients, so from time to time people needed to thin them out in order to produce a better tree canopy. As the forester on staff now, one of the things Ms. Norback could do was work with neighborhoods and the residents to advise them on how to deal with any issues of this nature they may have. Ms. Norback said staff recommended further discussion of this request.

Chairperson Harris asked Ms. Norback to take them through a typical tree removal process, how someone would get their deposit refunded to them and what a typical timeline would be.

Ms. Norback said there were two (2) different processes. One was for when a new house was being built and the other was for when there was already a house there. If someone currently owned a home and wanted to remove a tree because they did not like it anymore, they would call her; she would go out and take a look at it; she would look to see if there was a different spot where they could plant another tree. The fifty dollar (\$50) deposit would still be required. If it was dead, dying or a hazard, such as getting into the sewer lines or breaking up a sidewalk or foundation, then there would be no charge for removing that tree. They would still get a permit marked “no charge.” If their permit was marked “charge” then it would include to whom the deposit would be refunded. She then kept a record of the transaction. Once a new tree had been planted, she would get a call and go out to check to make sure the tree was planted and at that point would go through the refund process for an existing property. For a new single family home property, they would be required to provide a limit of disturbance of how far back they were going to go. If they wanted to clear underbrush, the code allowed them to do that at any time. As long as she was provided with a limit of disturbance for single family, that was all the code currently stated they needed to do.

Chairperson Harris recognized Commissioner Butler.

Commissioner Butler said Ms. Norback had gone through the current process and asked her to go through the process based on the changes requested tonight. Ms. Norback said for an existing property with this proposed ordinance, the owner would be allowed to remove four (4) trees without a permit, without any fees, so it would be much easier for them. She said she knew a couple of people whose code currently did not allow for wooded lots, for taking down a tree and replacing it. If there were already a lot of trees on the property, it would be rather inconvenient because you might not be able to find a spot to plant a tree. This proposed code would allow some flexibility for single-family and duplex homeowners, whether it would be to take out four (4) or a different number of trees that the commission might recommend. The same process would then apply to new construction, but they could keep that, as long as it stated new construction not related to contractors because they were trying to help out the

regular mom and pop who were building a new home. She said they may need to alter what they were proposing to allow a little more flexibility when they were building a new house.

Mr. Lawson referred to subsection G. *Exemption for single-family homes and duplex homes*. He said the current draft included that they would track the tree removals. Even if the owner had not reached the maximum number of trees, staff would still keep track of every time they cut down a tree. He thought that might be difficult for them to do and it might be counterproductive to what he was trying to do, which was make it easier for a single-family homeowner to remove a tree, if they needed to do so. Instead of tracking all of that, he recommended at this point that they would monitor it and said people would keep them aware of how many trees they had removed. Instead of trying to keep track of every tree in Branson, he thought it would be better to leave it open.

Chairperson Harris thought by increasing the education of the community about having a forester. Not many communities have a forester available and a lot of people probably did not know that Ms. Norback was available to call and to get some advice of what types of trees to plant, how many trees to plant, nutrients for the trees, or watering schedules, so that and educating the public played a big role in it. Mr. Lawson said that was one of the things they would be doing in the next year, as they worked in the city's neighborhoods. They had started with the Cliff Drive area and would be working with other neighborhoods in the future. A canopy, vegetation, and drainage were the types of issues on which they would concentrate.

Chairperson Harris recognized Commissioner Davis.

Commissioner Davis asked Ms. Norback about the fifty dollar (\$50) fee per tree after the threshold had been met. He asked if there was some reason why that should not be the same as it would be for tree replacements for other instances in the city in that they were calculating back to what it really cost now for a tree replacement. Ms. Norback said, for the fifty dollar (\$50) fee, she was thinking of those people who were on fixed incomes and who might not be able to afford the two hundred fifty dollars (\$250) per tree because most of them would probably replant anyway, most of the people she talked to did. Mr. Lawson said that was clearly a policy decision made by the Board of Aldermen and not by staff.

Commissioner Butler asked them to go back to the end of paragraph C. where they had referred to multiple phases. He asked if the last two (2) sentences on that slide did not really state what staff wanted to do and they wanted to strike them; Ms. Norback said correct. Commissioner Butler said so they could do their phasing as they saw fit; Ms. Norback said right. She added that the fees would be separate per phase.

Chairperson Harris recognized Commissioner Loyd.

Commissioner Loyd asked to have the same example of what was happening now with commercial property and what would happen with this new proposal, so everyone in the audience would know how it would affect them. Ms. Norback said in general, for tree removals, it would be two hundred fifty dollars (\$250) per tree based on this proposal. For

existing developments or future developments, anything six inches (6") in diameter and over would be two hundred fifty dollars (\$250). She said the fees would be separate for each phase. They still had the option for a buy-out based on new development at forty (40) trees per acre, which was what they had now, but it would be based on two hundred fifty dollars (\$250) per tree rather than fifty dollars (\$50) per tree. For unauthorized tree removals, all the fees would be attached to any permit that was issued through the city. This would only apply if trees were taken down without going through the proper channels. Commissioner Butler said one other difference was that right now, if someone were to complete a project in phases, they would have to pay for it all up front. Ms. Norback said that was correct. Commissioner Butler said with the changes staff had made, though, the developer would have the option of either paying it in phases or paying it all up front. Ms. Norback concurred. Commissioner Butler said he would pay it in phases because he would not want his money tied up that way. Ms. Norback agreed.

Commissioner Butler said to William Duston, Assistant City Attorney, in the original ordinance, it stated this tree fee would be based on cost. He asked if the current ordinance also stated that. He said there was a basis for the one forty-seven (\$147), that that amount was not chosen arbitrarily, but it had been rewritten twice. He asked if it still stated that that was the basis for it. Mr. Duston said not as far as he knew. Mr. Lawson said he thought the phrase was 'payment to the city in the amount of fifty dollars (\$50) per tree shall be made prior to issuance.' He said there was no rationale for where that fifty dollars (\$50) came from. Commissioner Butler said he thought that rationale needed to be in there. He said it did not sound like they were going to make any amendments to the ordinance tonight, but that needed to be back in there because it had been put in there for a purpose and it made no sense to him to have removed it.

Chairperson Harris recognized Commissioner Loyd.

Commissioner Loyd asked Mr. Lawson what percentage he would recommend for how many trees could be taken away from a residential property. Mr. Lawson said he would like to hear public comment tonight and go from there. He had not thought too much about it. He said he did not know if he had seen that done before, but he would do some research to see what other cities had used in their ordinances. Most of the time, one or two (1 or 2) trees were not going to make a difference, but it could if someone had only a couple of trees. Most of the property in Branson, though, had quite a few trees on it. Chairperson Harris said there was probably some language out there that created a safety net. Mr. Lawson said he would think so. He said landscape codes were very common throughout the U.S. now.

Chairperson Harris asked if there was anyone who would like to speak in regard to this particular item.

Tim Davis walked down to the podium and introduced himself. He stated that he was speaking at the request of a significant number of developers and realtors in the city who came to him last week. He said he was free to address this issue, as he had nothing to do with writing this particular ordinance, so he was not faced with any conflict that would preclude him from

taking a position adverse to a former client. He said the fundamental problem with the tree fee was that it was illegal and unconstitutional. He said semantics using the word 'deposit' did not transform the fee into something other than a tax or fee, which was expressly prohibited by the Hancock Amendment. The portions of the Hancock Amendment that pertained to cities such as Branson arose in article 10, sections 22 and 23 of the Missouri Constitution. If the city wanted to impose a two hundred fifty dollar (\$250) tax per tree cut, the procedure to implement it would be to submit the question of the tax to the voters of the city. If a majority of them voted for it then it could be put into effect. Procedurally, he said it could not legally be put into effect simply by a vote of a planning and zoning commission or by a simple vote of the aldermen. He said if the tax was put into effect by a vote of the aldermen, as the existing tree fee had been, any taxpayer in the city could challenge it, assuming the statute of limitations had not been exceeded. He said Missouri was probably different from other states in that it did not have very good means, such as monetary penalties or taxes, to control land development. The city was limited to fining people a maximum of five hundred dollars (\$500) at a time. In terms of taxes, the city had no taxing ability unless the question was put to the voters and they approved it. To give a broader scope of the effect of having landscaping ordinances or environmental regulations in general, land use control set in motion involved unintended consequences. He had studied the housing crisis recently and discovered it was not a national problem, but it was in fact localized within particular counties in four (4) states. A common denominator among these counties was that they each had very strict land use controls. In some counties, as much as sixty percent (60%) of the property was off limits to development. The effect it had was to artificially create land scarcity, which resulted in driving up the prices of the remaining plots of land. The goal to provide affordable housing to citizens would thus run up against the desire to also have land use controls that protected green space. He said he had no suggestions, though, of how to reconcile those competing goals.

Chairperson Harris asked if anyone else was there who wished to speak in regard to this.

David Akers came to the podium and introduced himself as the general counsel with Grand Crowne Resorts. He said from a practical standpoint this was a five hundred percent (500%) increase over the present fee. An estimated amount it would cost the developer was almost ten thousand dollars (\$10,000) an acre on an unimproved lot with lots of trees. Another issue he had was that the city was trying to catch the people who were just mowing the trees down then not doing anything with the property. He said he represented a developer who had been here for a period of time, as were many of the developers in attendance tonight, and they were being penalized for those people the city was trying to catch at this point. He said they had done the things the city had asked them to do and now it was trying to increase the fee five hundred percent (500%). They would either have to get a bond or put up the cash, which would be money they could not then use for other things. He asked the commission to consider his comments.

Chairperson Harris asked if anyone else was there who wished to speak in regard to this item.

Bob Huels stepped to the podium and introduced himself. Reading from a document he had brought with him, he asked what it was that the fifty dollar (\$50) per tree now or the two

hundred fifty dollar (\$250) per tree later was paying for. He asked what the person who gave the city that money received in return for that payment. Realizing the commission did not have to answer his questions, he said he would assume he had a few ideas from the slides. If they got a receipt for the deposit, unfortunately it was almost impossible for a development property to receive full refund on all of the deposit. The very nature of the fact that he would put a building in the middle the property gave him less property on which to put the trees. He would have no room to do it. He said he would be asked to replant all those trees on a property after it was developed into the type of property the city's master plan, the city's zoning commission, and the city council, all determined it was to be used. He asked what happened to the amount not refunded, to the money his clients could not possibly put back onto the land. If he put four (4) acres worth of building on a 5-acre piece of ground and, because the parking restrictions and requirements were extremely exorbitant compared to other parts of the country, he also had to put a bigger asphalt parking lot down, this would give him even less room to replant trees. Because some of the land was within a certain distance from single-family homes, he was required to have a vegetative, non-disturbed buffer. He could not plant trees in it because he would have to disturb it to plant the trees in it. He said he was slowly losing any place to replant those trees, which in effect did make it not a deposit, but a tax, and he got nothing for it except a permit. Whenever he asked for a plan review through the building department, he paid a fee, or a tax, but he got a report back from every department pertinent to the construction that stated the feasibility or legal position of each department. When he paid for a building permit, or he paid that tax, he got inspections as the project proceeded; whether he wanted them or not, he got them. When he got a tree permit, though, he got nothing more than the right to cut down his own trees, a right that, until 1991, he had and he did not have to give anybody any money for or even ask permission. Now after several years of collecting a high fee from all the citizens and landowners, the city suddenly felt it was not fair to collect quite as much from one class of citizen or landowner as it was to collect from another class of citizen or landowner. He said the city had decided to charge the guy it thought could develop it and raise the money and had more money to spend and that was not fair. He said they were absolutely correct to do away with the fees to the single-family homeowner. Those people ought to be able to cut down a tree if they wanted, but so should a gentleman who owned one (1) acre of full woods. He understood what a few people had done and what had caused this, but five (5) times the original, and in his opinion illegal, tax was not the way to solve the problem.

Chairperson Harris asked if anyone else wished to speak in regard to this item.

Mark Ruda went down to the podium and introduced himself. He said from his perspective the notice for the process of this revision was quite short for the public. He said at least as of mid-Friday afternoon, this was not even on the agenda on the website that he could find and he thought the item was not linked to the actual proposed revisions until sometime on Monday. To someone who had not read the full text, the description almost implied it was only for single-family and duplex homes and was not very descriptive in his opinion to describe what this was. To take it one step further, he said if he wanted to get a special use permit or a variance, he was required to notify all the surrounding property owners with letters and post it in newspapers. Here they were talking about imposing a deposit, a fee, a tax, some significant

financial constraint on a bunch of landowners and they were given almost no notice, although the public was required to do it. It was his understanding this administration was planning to be more open and up front about what was going on, but he did not feel this application was treated in that manner very well. He said he had an issue with the proposed use of the funds. From what he understood from the presentation, the fees someone paid and forfeited could be used to plant new trees or could be used for vegetation. If that was good enough for the city, he asked why it was not good enough for the developer. If he paid a two hundred fifty dollar (\$250) deposit and the city could use it to plant grass somewhere, he asked why he could not use it to plant grass somewhere. If the purpose was to establish more trees, he said make it to establish more trees from everyone. He did not think it was a legitimate issue. If their issue was green space or canopy, make it used for green space or canopy. He said the city could be arbitrary, but the citizen could not and that did not seem rational to him. He asked if two hundred fifty dollar (\$250) was based on the cost to replace a tree, what made a commercial property's tree less valuable or more valuable than a tree on residential property. He asked what allowed a homeowner to be able to remove four (4) trees when a commercial property owner could not remove any. If they started with a traditional residential lot and looked at the city requirements, those lots could be quite small to begin with and might have only ten (10) trees on there. If a piece of residential property had ten (10) acres, the city would tell the homeowner he could cut down four (4) out of all the trees there; if it was commercial property, there might be a hundred thousand (100,000) trees, but they could not cut down any. The cost of administering this specifically for residential properties came up in the work session. He said if the city wanted to make the rules then he believed it had to administer it for everyone. He thought it was not right for the city to state it cost more to administer it in one area than it was worth, so it would not administrate this rule. He said that did not make sense. He said it was almost like saying they were going to have a speed limit, but they were not going to enforce it down Main Street because it was too expensive. With the current economic conditions of which he was sure everybody was aware, even if the money was refunded, specifically for a commercial development, it was a significant amount of funds that was unavailable for their use and essentially being used by the city for some period of time. With the economic conditions they were in, he asked if that was really the position the city wanted to take, to further restrict, further discourage economic activity in this environment. From a development perspective, if they looked at the permits that were issued in 2006 and 2007 and 2008, the development had slowed dramatically already in 2009. This would make it slow down just that much more. He mentioned this before, but asked again why there was a different value of trees or services for residential and different rules for residential. On a residential property with the option of removing four (4) trees a year, it could go from a treed lot to zero trees on the lot in a relatively short amount of time. This did not seem very equitable to him. Mr. Ruda said he was one of the principals of Thousand Hills Golf Course. He said the planted about two hundred (200) trees a year on the golf course and had for the last ten (10) plus years. He asked if he got credit for those trees he planted somewhere else. If he was going to do a development, he asked why he could not decide where he wanted to replant trees, why the city got to decide. If he was already doing that, he asked if he could do it on another piece of property he owned, could he get some credit for it. If he was going to build a condominium development, he had to build something that the customer demanded. If the customer demanded trees then he was going to put trees on there because that was what it took

to get a project that was feasible. If he could not sell any condominiums then he could not afford to be in that business. He said capitalism and the economy would take care of this to some degree. It was going to give the people what the people wanted. He said if they believed people came to Branson to see a canopied environment, people would probably not buy a condominium if they were on a lot that had zero trees on it. He believed part of this would already take care of itself regardless of these ordinances. He called a few property owners today and proceeded to read an email response from a gentleman in Olathe, Kansas. It stated: 'Let me say for the record that we are owners of BCP Land Company, LLC, who own the land commonly known as Branson Commerce Park. We are not supportive of the city's plans to increase or even impose a tree removal fee. We do not understand how the city, or anyone for that matter, can impose a fee on something that they do not own, do not pay tax on or are not named in the deed of trust.' This was from Phil Lopez, the managing member of BCP Land. A project like this had a relatively large parcel, three hundred (300) acres. He said they had spent a significant amount of money developing property in this for a process that was at least arguably a very good thing for Branson, meaning it had the potential to provide some economic diversity. He asked if they would not give someone like this a chance to look at this before it happened. This was a person in Olathe, Kansas who would not have known anything about this had Mr. Ruda not called him today. He estimated there were fifty (50) parcels of property in Branson that were ten (10) or more acres. If you used the default removal of forty (40) trees per acre at two hundred fifty dollars (\$250) per tree, that came up to ten thousand dollars (\$10,000) per acre. For any one of those properties, this was a hundred thousand dollar (\$100,000) impact that the owner would at least temporarily have to sustain for either all or part of that money and very little would have been done to notify those folks that the city was going to impact their property. He said there were plenty pieces of property in the Branson area that were not on West Highway 76 or a main road or did not have any infrastructure that were worth less than ten thousand dollars (\$10,000) an acre as they sat today. He asked what impact they had now on those pieces of property. He asked if they would they say sorry, the property used to be worth eight thousand dollars (\$8,000) an acre and now it was worth zero. Somebody had to pay that price and, in order for that property to sell, the buyer would have to consider these new costs of development. At the very least, he strongly believed that this needed to be postponed and there needed to be discussion and notification for folks because this had a significant impact on people and notification was questionable.

Chairperson Harris asked if anyone else wished to make a comment.

Bill Yung stepped down to the podium and introduced himself. He began by distributing a letter to the commission that had been forwarded to him today by one of his clients after he had found out about the possible amendment to the landscape ordinance (see attached copy). Mr. Yung said he was more disappointed that the city was taking this action. He said their timing could not be worse, what with the country and the community struggling in a downturned economy, whether it was justified or not. With all the creative minds they had, he thought they could be more creative than to come up with a penalty system. He thought they could look for ways to create incentives to persuade developers to provide better landscaping, better projects and better looking developments for the community rather than penalize them. Firstly, it would make everybody mad if they did that and they would be less

apt to do a good job. If the city gave the developers an opportunity to work with them in creating better standards and better developments, he thought the majority of the developers would be willing to do that with them. He said the PDs were an excellent opportunity to accomplish that goal. He said some had added considerably more landscaping than what the code required. He would like to see those kinds of incentive programs used rather than penalty programs. When those kinds of restrictions were imposed on development, it would slow down the project. He said maybe that was the intent; maybe they were looking to find a simple way to put a moratorium on growth. If that was the case, they ought to just come out and say that because it would save a lot of people a lot of expense. When a city began to decline, it stagnated and that would be sensed not only by the community itself, but outside the community as well. The next thing you know, it would affect the tourists and there would be fewer people coming to town because Branson would be going nowhere; it would be a town that had died. If the city did not constantly refresh its venues and create a more exciting opportunity for tourists, it would get real boring. When any piece of property was developed in town, he said those trees were very sensitive. If you drove around them, you were going to kill them; if you blasted near them; you were going to kill them. You could not really save them unless you stayed clear out of the area. If that was what they were trying to do then that would shut down development and would give them the scenario he had described. He said they needed to figure out ways to replant and to talk developers, homeowners and business owners into doing a better job of planting, maintaining and coming up with creative design standards that made our community better and not stop with just new development. If they wanted to something really ugly, drive the strip sometime. He said Branson had probably the most unsightly strip because there was very little landscaping on it. Nobody really paid a lot of attention to it. They put out a few little baskets and bushes with flowers in them, but no one had made a concerted effort for any kind of beautification to the downtown core or to the strip. If they really wanted to make people sit up and take notice of this town, he said to start with its core; do not just beat up everybody on the fringes. If they were going to do this, he suggested they expand it and talk about a beautification study. He said to look at more than just a penalty and look at some positive ways to create a better image for the community and solve some of the problems the city was trying to achieve. He said they should do it in a positive way rather than a negative way. He said all they were doing was making people mad and that was not the way to get business done.

Craig Gangloff came down to the podium and introduced himself as the CFO for Summerwinds Resorts doing business as Stormy Point Village. He said they were currently in Stone County, but looking at parcels to develop in the Branson region. As a CFO, he had to budget that additional fee or deposit or tax. To be honest with them, he did not want to do it and this would deter him as a developer from wanting to do it. He did not plant as many trees as they did at Thousand Hills, but they just planted fifteen (15) pear trees a day, fifteen (15) white pines and fifteen (15) spruces because he approved them to be planted. He said they did like having some type of fee or tax for a tree, but not the dollar amount that the city was proposing. To go from fifty dollars (\$50) to two fifty (\$250), especially when it was very difficult for him to get a loan for a development project, would really hurt the smaller type developer. He said there would not be the smaller developers; there would not be the larger developers. He wanted to state for the record that, when they looked at this type of process, he wanted to get a

star for planting trees. Nobody came to him and said here was fifty dollars (\$50) for every tree he planted. His pear trees cost a hundred eighty dollars (\$180), which included installation, mulch and a 4-foot stake. He thought the cost was a little high that people may give to the city versus a developer who did buy a lot of trees. The process he would like to see was if someone had a certain number of trees at the start of a project and they planted that many or had close to that many when they finished, whether it was on that parcel or another parcel because he may have to have a retention pond that he could plant thirty (30) or forty (40) trees around to make it a green space or walkway, he thought they would get a lot more support from developers rather than coming at them with the increase from fifty dollars (\$50) to two hundred fifty dollars (\$250). He said his company just heard about this ordinance today, which was why he was there tonight. He thought they ought to table it; he thought they needed to look at it; he thought they needed to be a little more creative on how it was going to affect cash flow. He said the most important thing was cash flow and obtaining loans because you did not get a loan for a hundred percent of what you needed, you had to put some cash up front for a development project. His company employed about three hundred sixty-five (365) people, so they had approximately two hundred fifty (250) families in the Branson area. He said they generated a lot of income with people they brought into the Branson area. They wanted to grow. They did not want to go to another state and do a project. They wanted to stay here in Branson, which was why they had secured to put under option an couple of projects in the region that was controlled by this ordinance. He said Mr. Yung had an excellent idea – give him a bonus; give him something for planting more trees. He said what if he put back twice as many trees than what he took down. He said their goal was to keep Branson beautiful. He said when they were out on the lake it was beautiful, but West Highway 76 was like International Drive of the north. He said he was from the Orlando area. He also said he had developed on Hilton Head Island. He understood very strict requirements, even down to color codes on buildings. He said the city should take a step back, realize it was getting some opposition and concerns and listen to what people had to say. He said he and Mr. Yung would be more than happy to come down and give them some ideas on how to give some give-and-take. He said there had to be a fee. If you took a tree down, there had to be a fee, especially on the developer's side, but if he put three (3) back, he asked what he would get.

Chairperson Harris said they were great comments and asked if there was anyone else who wanted to speak.

Jim Strafuss stepped to the podium and introduced himself as a county commissioner. He said as fees increased people would start looking to develop in the county, which was adjoining to the incorporated areas. As they all knew, there was property in what people would call 'Branson proper' that was really still in the county. With the county's lax planning and zoning, which they were working on changing, they did not want to encourage the stripping of lots and developments only to be annexed at a later date. He did not think it solved the problem. As Branson worked towards an ordinance like this, he said to keep in mind the valuation. He believed that potentially adding ten thousand dollars (\$10,000) per acre for tree clearing would affect the valuation of the property in the Branson city limits. He was not saying the assessment process would change, but that would have to be taken into consideration.

Although he believed they needed to be frugal with the removal of trees, he asked that the commission consider those items.

Chairperson Harris asked if anyone wished to speak.

Mark Weisz returned to the podium and introduced himself again. He said it had been a long night and he would not repeat all the things that had said before him, but he did say he agreed with them. While he knew it was not the intent, the result would still be a devaluation of property. He said they were potentially lowering the value of everyone's property by about ten thousand dollars (\$10,000) an acre. One year ago this ordinance came up, in June of 2008, and it was a similar ordinance only then it would have gone from the fifty dollar (\$50) fee to two fifty (\$250) and there was also the option of a buy-out of five thousand dollars (\$5,000) per acre; this ordinance had brought it up to ten thousand (\$10,000). The Tri-Lakes Board of Realtors looked at that ordinance and the legislative committee recommended opposition to the board of directors, which unanimously approved opposing that ordinance. Since Branson had a new planning director, he said he would read a short letter into the record that was written June 13, 2008 and signed by Janetta Cole (see attached copy). Mr. Weisz pointed out that this opposition was to a different ordinance, not this one. He said they did not have time to deal with this one, but since the fees were going up a bit more, they could probably safely assume that the 600-member organization, Tri-Lakes Board of Realtors, would take that same position. Rather than postpone this, he asked that they simply deny it. Tonight they had heard it was an unconstitutional tax and fee increase. Should they pass it on to the Board of Aldermen and they passed it, they would be putting our city at risk of having an unconstitutional ordinance that could cost it quite a bit of money and frankly could lead to the return of the funds that were there. He further asked that the commission direct staff to look at the current ordinance and remove all unconstitutional items then follow Mr. Yung's suggestion to bring people in to figure out how we could beautify our city.

Chairperson Harris asked if anyone wished to speak.

Cris Bohinc came to the podium and introduced herself. Alderwoman Bohinc began by stating she did not know she would speak tonight, but said to please know they had all been heard. She said it was hard sometimes if you were a tree hugger to really think about everybody's different opinions. Even though she thought they needed to make some changes, she was not sure what those changes would be. She definitely liked Mr. Weisz's idea about using money for vegetation and other things, not just trees. She liked Mr. Yung's idea a lot; in fact, she would like to get him on a committee for beautification with them. She thought they should take a bigger look at this and see what the legal issues were because there were things she did not think any of them knew that had been brought up tonight. She wanted people to know they had been heard. It did not mean she agreed with everything, but she agreed with a lot of what they had said. She said minds could be changed when they were open and she appreciated everyone coming.

Chairperson Harris asked if anyone else wished to make a comment.

Dave Edie stepped down to the podium and introduced himself. He said it was good to see some of the old faces there tonight. He said he did not have a dog in this fight, but he was a concerned citizen. He had listened to the opinions of those individuals there and they were entitled to them. From his viewpoint, the fifty dollar (\$50) fee would not replant a tree and it was no incentive for anybody to plant a tree if it was going to cost them only fifty dollars (\$50). He thought the fee ought to be what it cost to replant a tree. If that was two hundred fifty dollars (\$250), that was what it ought to be.

Chairperson Harris asked if anyone else wished to speak.

David Cushman came down to the podium and introduced himself. He asked if it was feasible to ask the commission a question, and if it could be answered, about what the objective was with this ordinance. Chairperson Harris said staff had brought it to them and he asked Mr. Lawson to review anything he thought he had not covered before on it. Mr. Lawson said he was not sure there was anything new at this point. This was just an updating process of the code. Mr. Cushman said it looked more like a penalty for development rather than an incentive for beautification, as Mr. Yung had requested. He asked that this commission proceed with caution. A number of people on this board had developed outside the city limits and said he was sure it was for reasons having to do with current ordinances, including the tree ordinance. It prohibited development within the city limits. He said he had three hundred (300) acres on the west side of Branson and he just wrote a three million dollar (\$3,000,000) check tonight, if they passed this ordinance. He said no one was going to do that. Development would basically be stifled and he hoped this commission would step back and take their time with it. If the objective was to truly beautify Branson then he suggested they require people to landscape their developments, but he said not to penalize people for it. He developed the Branson Financial Center and they had spent fifty thousand dollars (\$50,000) to landscape an acre and a quarter of property. He would put that property up against any property in town when it came to beautification and what it did for the area. He said they had gotten rid of a blighted building that had been sitting there. If the objective was to truly beautify the community, they should do that because the ordinance had historically been only a penalty when a check had to be written. He said they did not have to really go back and vegetate their properties. He thought that was a mistake.

Chairperson Harris asked if anyone else wished to comment; there was no response. He said he had taken lots of notes and said there were a lot of really good ideas, which was the purpose of this. He appreciated those who were very organized and had specific recommendations. He said they had taken a very positive role in coming up with some ideas. More minds working together made better decisions than only a few minds, so he appreciated all their input. He knew the commissioners had all taken notes as well. As Mr. Lawson and Ms. Norback had said, this was just the first step to get some ideas. He thought the idea of doing something positive with it was important, particularly the suggestion of incentives.

Chairperson Harris recognized Commissioner Best.

Commissioner Best said she echoed what Chairperson Harris had said and also what Alderwoman Bohinc had said. She thought any time people came forth and expressed ideas was a good idea. She said Mr. Ruda had talked to them about a lot of great ideas. She thought Mr. Yung's incentive program had a lot of merit and she would love to see something like that happen, and it was something for the staff to consider. She said a lot of times they did tend to penalize and they did not applaud good things. She said Mr. Gangloff had another great idea. She wanted to caution the commission about what Commissioner Strafuss had said about pushing the development into the county instead of into the city. She thanked everyone again for their comments. She had written as fast as she could and she noticed everyone else had, too, and she appreciated it.

Chairperson Harris asked if there were any other comments by the commission; there was no response. He thanked them all for their input. He said to Mr. Lawson they perhaps needed to spend a lot of time on this and go through all of those items of which he had a whole list. He would like to appoint a few commissioners to a subcommittee so they could get with some of the people here to go over these issues and hopefully come back with some positive solutions. With that, he asked Commissioners Best, Woolery, Butler and Alderman Davis to get together with staff and discuss the comments made here tonight then invite some people in to spend some time on it with them. Chairperson Harris said he was excited about the great potential for resolution on it. He had lived in this town for thirty-four (34) years and remembered what it was like a long time ago. He said he had seen some beautiful landscaping and that was the way it needed to be. There was nothing wrong with setting the bar a bit higher, in his opinion. It was just a matter of how to get to that point. He appreciated everyone coming here tonight and being so organized and thanked them for being forthright with all of them.

Because this was an agenda item, Mr. Lawson asked Chairperson Harris to make what he had just said into a motion, or have one of the commissioners do it. They would have on the record then that they were going to do further study on it.

Chairperson Harris asked for a motion to be made for the people he put on the subcommittee.

Commissioner Davis said he would move to postpone this indefinitely and would refer it to the workings of a Planning and Zoning Commission subcommittee as appointed by Chairperson Harris.

MOTION:

Motion by Commissioner Davis and seconded by Commissioner Best, and unanimously carried to postpone Resolution 09-12.4.

AYES: Commissioners Best, Butler, Davis, Loyd, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioners Boyce, Hartley and Westcott.

Motion to postpone Resolution 09-12.4 indefinitely carried with a 7-0 vote.

8. Recommendation Of Approval Of A Municipal Code Amendment To Section 66-221 Of The Branson Municipal Code Pertaining To Exemptions Of Right-Of-Ways and Utility Easements. Project No. 09-12.5 (09-01200005).
Applicant: Planning & Development

Tara Norback, City Forester, presented the staff report as filed with the Planning Division.

Mr. Lawson said he was not sure if everyone understood that these issues were tied together. He thought it would be better if they referred these issues to the committee to work on them. Chairperson Harris said this particular item also. Mr. Lawson said he thought so. He said it was somewhat of a standalone item, but it all blended in with the whole thing they were trying to do with the canopy, so he thought it was a vital piece of it.

Chairperson Harris asked if the commissioners had any comments about this. He asked if it would work well for everybody to refer this item to that same subcommittee for review. He said he needed someone to make a motion to that effect.

MOTION:

Motion by Commissioner Butler and seconded by Vice-Chairperson Romine, and unanimously carried to postpone Resolution 09-12.5.

Chairperson Harris asked if there was any other discussion on it; there was no response.

AYES: Commissioners Best, Butler, Davis, Loyd, Woolery, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioners Boyce, Hartley and Westcott.

Motion to postpone Resolution 09-12.5 indefinitely carried with a 7-0 vote.

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| OTHER BUSINESS |
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Chairperson Harris asked Ms. Norback if there was any other business. He said David Miller, City Engineer, was there to update them on the trail. He said he had walked on the connector part and, except for feeling like he might fall off of it a little bit, it went well.

David Miller, City Engineer, stepped to the podium and said the connector trail, the Cahill trail, underneath the Highway 65 overpass on the west side of Skaggs Hospital was basically done. They had some clean-up work to do and a few more days with the contract to get it worked out, so it was not completed yet, but it was getting really close. The plans for the facilities maintenance trail, which goes from Stockstill Park at the little pedestrian bridge west to the James F. Epps Road bridge, had been reviewed by MoDOT. He said they got the

comments back, so now they were tweaking them. Assuming funding would be available in next year's budget, they would be able to move forward with that. Lastly, they had been trying to work on the three (3) little trails – the one from Lakeside Forest out to West Highway 76, the one by the charcoal factory and then the one along the tennis courts at Stockstill Park – but they had been kind of busy on other issues the last two or three (2 or 3) weeks. He said the Waterfall Trail by the charcoal factory was open. In the next few weeks, Matt Filice, Assistant City Engineer, and Curtis Copeland, GIS Coordinator, were planning on going further up the trail and putting more of those little red markers on the trees to make it easier to follow it. He said they were waiting for tick season to pass.

Chairperson Harris recognized Commissioner Loyd.

Commissioner Loyd asked when the existing Owen Trail would have accessibility. Mr. Miller said it sort of did right now. He said they had put up a temporary sign and there was gravel and people could pull in there, but the contractor that had that big pile of dirt and debris would have it all moved out before the end of September. They could then put the permanent sign back up. He said they had been working with some suppliers to finish the parking lot and they had gotten a lot of the materials donated. At the end of the month, it should be looking pretty good, a lot better than it does today.

Chairperson Harris asked if any of the other commissioners had any questions or comments in regard to previous items or future items; there was no response.

ADVISORY RECOMMENDATIONS

None.

ADJOURNMENT

Motion by Chairperson Harris and unanimously carried to adjourn the meeting at 9:16 p.m.



Clark Harris, Chairperson

10-6-09

Date



Sonja Paden, Office Assistant II

10.06.09

Date