INTRODUCTORY

The City Council of the City of Columbia, Missouri met for a regular meeting at 7:00 p.m. on Monday, October 1, 2012, in the Council Chamber of the City of Columbia, Missouri. The recitation of the Pledge of Allegiance was lead by Boy Scout Troop 4 of Trinity Presbyterian Church. The roll was taken with the following results: Council Members DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, TRAPP and KESPOHL were present. The City Manager, City Counselor, City Clerk and various Department Heads were also present.

APPROVAL OF THE MINUTES

The minutes of the regular meeting of September 17, 2012 were approved unanimously by voice vote on a motion by Mr. Dudley and a second by Mr. Trapp.

APPROVAL AND ADJUSTMENT OF AGENDA INCLUDING CONSENT AGENDA

Mayor McDavid made a motion to remove B279-12, B280-12 and B284-12 from the introduction and first reading section of the agenda. The motion was seconded by Mr. Kespohl and approved unanimously by voice vote.

The agenda, as amended, was approved unanimously by voice vote on a motion by Mr. Dudley and a second by Ms. Hoppe.

SPECIAL ITEMS

R174-12 Approving the design concepts proposed by artists Norleen Nosri and Joel Sager for interior Percent for Art projects on the Fourth and Fifth Floors of the new addition of the City Hall Building.

The resolution was read by the Clerk.

Yolanda Ciolli, 600 North Denninghoff Road, stated she was the Chair of the Standing Committee on Public Art and a member of the Commission on Cultural Affairs, and explained the Council had approved contracts with Ms. Nosri and Mr. Sager at its March 5, 2012 meeting. She described the proposed artwork and noted the Standing Committee on Public Art and the Commission on Cultural Affairs had unanimously approved the design concepts of the two artists. They were now before Council for its consideration and approval.

Mayor McDavid understood both were local artists. Ms. Ciolli stated that was correct. Mayor McDavid stated he liked the designs.

Ms. Anthony commented that she was excited about these concepts and appreciated the opportunity to view it before it was done.

Ms. Hoppe thanked the Committee and Commission for its work. She noted it was nice to have talented, young, local artists and the ability to keep this money in the community.

Mr. Stevens pointed out all four floors of the interior of City Hall would be completed by local artists.
The vote on R174-12 was recorded as follows: VOTING YES: DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, TRAPP, KESPOHL. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:

R175-12 Authorizing an Artist’s Contract with Beth Nybeck for the Short Street Parking Garage Percent for Art project; approving the design concept.

The resolution was read by the Clerk.

Yolanda Ciolli, 600 North Denninghoff Road, stated she was the Chair of the Standing Committee on Public Art and a member of the Commission on Cultural Affairs, and explained the Short Street Parking Garage had been designated as a Percent for Art project by the City Council in October, 2011. She described the process for selecting the artist and the design concept, which was different than it had been in the past, and noted three artists or teams of artists had been selected to submit design concepts. Public comment was solicited and the Committee unanimously voted to recommend Beth Nybeck and her design after reviewing all three design concepts and the public comment received. The Commission also unanimously approved recommending Beth Nybeck and her design. She described the design and pointed out the artwork consisted of separate units so people could walk in between it. She explained the artist had indicated to the Commission that she had experience in designing artwork that was kid-friendly and that the high points of the project would be engineered so it was impossible to climb and the lower parts would be engineered to support kids if they were to climb on it. If Council were to endorse the recommendation of the Committee and Commission, the City would enter into contract with Ms. Nybeck and she would then have 60 days to submit a final design based on feedback received by the Commission.

Mayor McDavid understood the maximum height would be 18 feet, but the lower swales would be about 6-8 feet high, and hoped the artist would figure out a way to keep children from climbing at those heights as well. Ms. Ciolli agreed the design would be inviting to young children, but pointed out Ms. Nybeck had assured the Commission she had worked on several other sculptural projects in the Kansas City area that were kid-friendly.

Ms. Hoppe asked if Ms. Nybeck had done sculptures that were kid-interactive before. Ms. Ciolli replied yes. Ms. Hoppe stated she was concerned about the heat factor with kids potentially playing on the sculpture in the middle of the summer. Ms. Ciolli commented that she thought kids would likely learn to not touch it if it was hot after touching it once.

Mayor McDavid stated kids would climb on the artwork so they needed to ensure safety was addressed even on the lower swales. Mr. Stevens explained Ms. Nybeck had a lot of experience and was conscious of the fact that this needed to be kid-friendly. He understood she had her own set of engineers she worked with specifically for issues like this.

Ms. Hoppe understood there was an insurance and indemnification clause in the contract, which indicated Ms. Nybeck had to continue to carry insurance on the artwork even after the contract expired.

Mr. Stevens pointed out the Council would see a final design that would include details of how it would be installed, the lighting, etc., so any issues could be addressed at that time.

Mr. Schmidt commented that it appeared as though the sculpture was taking up the entire public space. Mr. Stevens explained Ms. Nybeck had indicated her drawings might be
a bit out of proportion and that she would shorten the length of the artwork while keeping the height.

Mr. Schmidt understood the Council was being asked to vote on a contract without seeing the final product. Mr. Stevens explained the design shown would be the general design, and after signing the contract, Ms. Nybeck would have 60 days to submit a final design, which would include exact dimensions, how it was lighted, the materials to be used, etc., so they would know how it would fit in the space then. Mr. Schmidt understood it would come back to Council for approval. Mr. Stevens stated that was correct. Ms. Ciolli explained Ms. Nybeck had provided three models of different sizes to show how versatile she could be with the final design. She noted the Committee and Commission could also provide feedback and request changes to the final design. Ms. Hoppe commented that she recalled there had been a lot of interaction with the artist by the Committee in terms of the artwork outside of City Hall in order to work out details. Ms. Ciolli explained they would have the same opportunity with this artist.

Mr. Schmidt stated he was concerned the sculpture would take up a lot of the public space as he believed the point of the setback was to provide a public space. He wanted to know how large the space was and noted he was more concerned about the width than the length. Mayor McDavid pointed out it was to be designed so people could walk through it. Mr. Stevens explained the steel beams would be 3-4 feet apart so people could walk in between them and under them. He stated he did not have the dimensions of the space. Mr. Schmidt thought someone could provide the distance from the building to curb since the building had already been designed.

Mayor McDavid commented that he would be interested in knowing if the artist felt there should be a security camera installed to determine who might be climbing on the sculpture. Mr. Stevens stated he did not know if any security cameras were planned for the Short Street parking garage. Mr. Matthes explained security cameras were planned to be in the garage. He noted staff would also provide Mr. Schmidt the exact dimensions of the space.

Ms. Anthony stated she thought the artwork was beautiful and liked the fact it was a stand alone design next to the building. She believed this was a perfect sculpture for the arts district.

Mr. Trapp thought it was a great design and liked the fact it was interactive in terms of touching it, climbing on it and sitting on it.

Ms. Hoppe commented that she believe it was a dynamic piece that would go well in the area and liked the interactive feature as she envisioned adults and children sitting on or around it. She pointed out the other finalists were great artists too, and she hoped they would apply for future Percent for Art projects. Mr. Stevens agreed. He noted that although they had an overwhelming response for Ms. Nybeck’s work, all of the artists had received positive feedback.

The vote on R175-12 was recorded as follows: VOTING YES: DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, TRAPP, KESPOHL. VOTING NO: NO ONE. Resolution declared adopted, reading as follows:
APPOINTMENTS TO BOARDS AND COMMISSIONS

None.

SCHEDULED PUBLIC COMMENT

John Clark - Airline revenue guarantee, funding for airport improvements and the creation of a regional airport authority.

John Clark, 403 North Ninth Street, stated he saw great opportunities with the airline revenue guarantee if it was properly structured. He thought it should be structured so there was no risk to the City, especially in terms of the general fund and funds from the transportation sales tax. In terms of the revenue guarantee, he believed the City should condition its continuing participation by requiring the escrow agreement to allow payment of premiums for an indemnity policy as it would indemnify the City against any loss and protect the general fund and transportation sales tax fund. He felt this would also send a clear message that the City wanted to create a Central Missouri Regional Airport Authority to own and operate a regional airport. He thought the City should be willing to trade total control of the airport for sufficient control, and it would then no longer have to bear the full cost of the airport. If the other participants did not share in the cost, he thought the City should let them handle the guarantees. He commented that the City had done an excellent job of getting the appropriate legislation passed, researching needs and getting interested parties together. He suggested asking all of the escrow partners to agree that all interest revenue in excess of that needed to pay for the indemnity policy stay with the fund to help fund the organizational work and planning required to create a regional authority and improvements to the airport. He believed a Central Missouri Regional Airport Authority Advisory Committee, composed of and appointed by representatives of the escrow partners, should be created to make recommendations for the use of any of those excess escrow earnings and for renaming the Columbia Regional Airport to the Central Missouri Regional Airport. He reiterated the need to insist the revenue from the escrow be used to pay for an indemnity policy, build upon the collaboration already fostered and structure the guarantee as he suggested as it would protect the general fund.

Justin Thomas – Offices of Neighborhood Services code enforcement.

Justin Thomas, 202 West Sexton Road, commented that he had been before the Council before to complain about the issuance of nuisance notices by the Office of Neighborhood Services because he did not believe it was a good use of resources to tell someone the grass was too tall, especially when they were given the run around when asking about other properties in the neighborhood that appeared to be neglected and nuisances. He believed continued attention to the revitalization of central city neighborhood associations was critical for the development of the community as a whole. Last year, there was an exerted effort by many to re-animate neighborhood associations, but without continued support from staff, those efforts would be wasted. He felt an emphasis on code enforcement might deter broader attention of goals for community development. The policy of complaint driven action with the onus being placed on neighborhood residents would not improve communication or enhance community. The protocol for surveillance, reporting and
enforcement might have its place, but when applied to the development of their neighborhood, it tended to undermine direct and open communication and trust in the community. When a formal complaint was made, he felt cooperation between City departments was needed, and provided an example of a complaint involving the Business License Office in which he was not provided clear rules and regulations relevant to the matter or a time frame in which the complaint would be investigated. In addition, he wondered why someone, who at the time was occupied with a federal investigation, was the person by whom his complaint was addressed. He believed the adoption of a policy in favor of proactive code enforcement was a step in the right direction, but did not feel it went far enough. He thought the City would be better served by an extended effort to support the neighborhood association structure and build capacity among residents to address development needs before valuable resources were spent seeking more violations and addressing more complaints.

PUBLIC HEARINGS

B260-12 Authorizing replacement of the augur system at the Walter Leroy Anderson Salt Storage Facility located at 1101 Big Bear Boulevard; calling for bids through the Purchasing Division.

The bill was given second reading by the Clerk.
Mr. Glascock provided a staff report.
Mayor McDavid opened the public hearing.
There being no comment, Mayor McDavid closed the public hearing.
Mr. Schmidt stated he was in favor of not dumping salt on the ground.
Mr. Dudley commented that the area was essentially a wetland and there was a lot of standing water on the street, so he thought it was a good plan. Mr. Glascock pointed out the wetland was there to catch runoff.
Mr. Kespoohl asked if this would eliminate any chance of salt pollution in Bear Creek. Mr. Glascock replied they hoped it would.

B260-12 was given third reading with the vote recorded as follows: VOTING YES: DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, TRAPP, KESPOHL. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B262-12 Authorizing construction of a new restroom building and connecting 6-foot and 12-foot walkways at Albert-Oakland Park; calling for bids through the Purchasing Division.

The bill was given second reading by the Clerk.
Mr. Hood provided a staff report.
Ms. Hoppe understood the 12 foot asphalt sidewalk would be replaced by a 12 foot concrete sidewalk, and asked if it could be replaced with a 10 foot sidewalk as 12 feet seemed excessive and 10 feet might reduce the cost. Mr. Griggs replied the asphalt sidewalk was actually a road the maintenance trucks utilized to get to and from each side of the Park, and he described the trash pick up and clean up route. In addition, he thought it was helpful as there was a lot of congestion when ball games ended due to teams coming
and going at the same time. Ms. Hoppe understood the sidewalk would be built to withstand vehicle use. Mr. Hood stated it also served as the main entrance and exit for users.

Mr. Kespohl understood the restrooms were pre-cast concrete and delivered. Mr. Hood stated that was correct, and noted it was similar to the ones installed along the trails. They had proved to be of good quality and were well accepted by the users. Mr. Kespohl understood they essentially just set them on a foundation. Mr. Hood stated that was correct.

Mayor McDavid opened the public hearing.

There being no comment, Mayor McDavid closed the public hearing.

Ms. Hoppe stated it appeared to be a good plan. She understood there had been concern a few years ago regarding the lack of improvements at Albert-Oakland Park, so it was nice to see improvements were being made.

B262-12 was given third reading with the vote recorded as follows: VOTING YES: DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, TRAPP, KESPOHL. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B263-12 Authorizing construction of improvements to the baseball/softball fields at Albert-Oakland Park; calling for bids through the Purchasing Division.

The bill was given second reading by the Clerk.

Mr. Hood provided a staff report.

Mayor McDavid opened the public hearing.

There being no comment, Mayor McDavid closed the public hearing.

B263-12 was given third reading with the vote recorded as follows: VOTING YES: DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, TRAPP, KESPOHL. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

B264-12 Authorizing construction of improvements to the Little Mates Cove and the dog park at Twin Lakes Recreation Area; calling for bids through the Purchasing Division.

The bill was given second reading by the Clerk.

Mr. Hood provided a staff report.

Mr. Dudley commented that generally everyone he had communicated with was excited about the improvements, but understood some were concerned about the amount of mud that would be in the detention pond. Mr. Hood replied they needed an area to catch runoff from stormwater due to the lay of the land. They hoped to keep the water level stable so it would not create a lot of mud. Mr. Griggs pointed out a lot of the area was a former sand beach, so he thought it would be less muddy than what they had around the shoreline of the bigger lake. He believed it would be a better facility for the smaller dogs. Mr. Hood understood there had been concern regarding the amount of sand in the area, and part of this project involved removing some of the sand to create a turf surface where the former sand beach was located.

Ms. Anthony asked if the entrance to the small dog park was located near the dog washing station. Mr. Hood replied the entrance to the small dog park was just past the dog washing station. This allowed both small and large dogs to use the washing station.

Mayor McDavid opened the public hearing.
There being no comment, Mayor McDavid closed the public hearing.

Ms. Hoppe stated this was a very popular area and would be more useful to dog owners and their dogs.

B264-12 was given third reading with the vote recorded as follows: VOTING YES: DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, TRAPP, KESPOHL. VOTING NO: NO ONE. Bill declared enacted, reading as follows:

OLD BUSINESS

B255-12 Rezoning property located on the southwest corner of Grindstone Parkway and Rock Quarry Road from A-1 to C-P; approving the Grindstone & Rock Quarry Break Time C-P Plan.

The bill was given second reading by the Clerk.

Mr. Matthes and Mr. Teddy provided a staff report.

Mayor McDavid explained a protest petition had been filed and rendered complete and valid, but this had been disputed, and the City Attorney, today, ruled the protest petition was not valid. He did not believe the Council wanted this to be decided due to a technicality. He asked a representative of the neighbors that submitted the protest petition if they preferred the Council table this issue for two weeks to allow them to submit another protest petition.

Jan Pritchard, 3505 Rock Quarry Road, commented that the neighbors on Sun Court had asked her to speak on their behalf, and explained in light of the fact the neighbors had gone through the effort of submitting what they thought was a valid petition and were not informed until it was too late to file what might still be a valid petition, they suggested this rezoning request be tabled for two weeks. This would allow them time to file a new petition.

Mayor McDavid made a motion to table B255-12 to the October 15, 2012 Council Meeting. The motion was seconded by Mr. Schmidt and approved unanimously by voice vote.

B267-12 Amending Chapters 9 and 16 of the City Code as it relates to possession of fireworks.

The bill was given second reading by the Clerk.

Captain Richenberger provided a staff report.

Mayor McDavid asked if a potato gun was considered fireworks. Captain Richenberger replied it was not considered fireworks, but pointed out he thought the issue of a potato gun was covered by federal law.

Mayor McDavid asked if there was any evidence indicating the discharge of fireworks would be altered by an ordinance prohibiting possession since the discharge was already prohibited. Mr. Matthes replied the research he had done suggested it would not change human behavior, but it would make it easier for staff to enforce the ordinance already in place. Currently, staff had to try to catch individuals in the act, which was difficult. Mayor McDavid asked how this would be enforced. Captain Richenberger stated he agreed with the comments of Mr. Matthes. Since January, 2007, the Police Department had received 4,524 calls related to fireworks, but only 58 summonses had been issued. The reason was that when they responded, they were not finding anyone shooting off fireworks and few people admitted to doing it, so it was difficult to enforce the ordinance.
Ms. Anthony understood with this ordinance change, the police could issue a summons for possession if they did not find someone discharging fireworks. Captain Richenberger stated that was correct as they routinely came across people who were in possession of fireworks. He explained they received these calls throughout the year, but more complaints tended to come in June and July.

Mayor McDavid understood if this ordinance passed, a person who purchased fireworks ten miles east of town and was driving through Columbia would be in violation of the ordinance even if they did not know they were in violation. Captain Richenberger stated that was correct, but pointed out from a practical standpoint, they were not looking for people passing through Columbia in possession of fireworks. Mayor McDavid understood it would be possible, under this ordinance, for a police officer to sit near the City limits and see who might be getting into a car with fireworks and driving to the City. He explained constituents with these types of concerns had contacted him. Captain Richenberger stated he understood that someone might have that fear, but he assured the Council police officers had better things to do with their time.

Captain Richenberger explained he had previously been a lieutenant, and one of the areas under his command had been East Campus, which generated most of the complaints regarding the discharge of fireworks, and by the time the police arrived, there was not a lot they could do as the current ordinance was written. Ms. Hoppe understood more citations could be issued if possession was prohibited. She commented that they had worked to try to resolve this issue for at least 6-7 years, and she had been told this ordinance change might get results. Captain Richenberger stated he was not certain it would change behavior, but it would provide police a better enforcement tool than what they currently had. Ms. Hoppe believed it could change behavior if people were prosecuted.

Ms. Hoppe understood the Fire Department supported this ordinance change as well. Captain Richenberger stated that was his understanding. Ms. Hoppe asked for the reasons for their support. Mr. Matthes replied it was a public safety and fire issue for the Fire Department. They believed it would help limit fires as fireworks tended to start fires in dry areas. In addition, injuries were caused by fireworks.

Mr. Matthes reiterated enforcement would be more effective with the ordinance change, but he did not believe it would reduce the number of discharges of fireworks significantly, although it was possible with heavy enforcement.

Mr. Dudley commented that this would impact the sale of fireworks at stands located outside but around the City limits as people within the City could not purchase fireworks a few days prior to the Fourth of July even if they intended to shoot them off outside of the City limits. Ms. Hoppe understood people within the City could still purchase fireworks in the County. They just could not bring them into the City. They would need to provide them to friends in the County.

Mayor McDavid understood he would violate the City ordinance if he purchased fireworks on July 2nd, and stored them in his garage prior to taking them to the County on July 4th to shoot them off. Mr. Matthes pointed out that was already a violation of City ordinance as storage of fireworks was already prohibited.
Mr. Schmidt asked if the Police Department would have guidelines with regard to when they would stop and search someone for fireworks possession. Captain Richenberger replied the Police Department followed the Fourth Amendment for searches so they would have to have reasonable suspicion or probable cause in any situation, and as a result, he did not believe guidelines were necessary specific to fireworks.

Mr. Schmidt understood someone who had purchased fireworks on July 2nd for use on July 4th in the County and had not given police a reason to search would not be approached. Captain Richenberger stated he thought those people could be rest assured the police would not come after them. He pointed out officer discretion would be involved. If someone was minding their own business and had not brought anything to the attention of a police officer indicating a violation of the ordinance, he did not believe that person had anything to worry about.

Mr. Dudley stated they should expect a lot of people to violate the ordinance. Mr. Matthes pointed out a lot of people violated the ordinance today.

Mr. Kespohl understood no area was exempt from this problem although East Campus appeared to be the area with the most problems. Captain Richenberger stated the highest number of calls came from the East Campus area. Mr. Kespohl asked if the Police Department stepped up patrol in East Campus during the times of the highest complaints. Captain Richenberger replied the Police Department placed additional officers in the East Campus area during the peak times and peak months.

Ms. Hoppe asked Captain Richenberger if there had been incidents of houses, couches, porches, etc. catching on fire from fireworks in the past. Captain Richenberger replied he did not recall any, but thought the Fire Department would likely have those statistics.

Ms. Hoppe understood Austin, Texas, Cleveland, Ohio and Lawrence, Kansas all banned possession of fireworks. In addition, whole states and counties also banned possession of fireworks, and people tended to drive through those areas without being detained.

Mr. Kespohl asked for the number of instances of grass fires due to fireworks this past year. Mr. Matthes replied grass fires were the most common type of fires nationwide, but he did not have specific numbers for Columbia.

Ms. Hoppe explained she wanted to exclude the possession of sparklers from the prohibition of the possession of fireworks.

Ms. Hoppe made a motion to amend B267-12 by changing Section 16-234(a) so it read “…Roman candles or any other firecrackers or fireworks other than a sparkler within the city shall be deemed guilty of a misdemeanor….” The motion was seconded by Mr. Schmidt.

Mr. Dudley thought more people were injured by sparklers than firecrackers, so he would vote against the motion. Mayor McDavid noted sparklers burned things as well.

Captain Richenberger stated he did not think any of the prior arrests had involved sparklers.

The motion made by Ms. Hoppe and seconded by Mr. Schmidt to amend B267-12 by changing Section 16-234(a) so it read “…Roman candles or any other firecrackers or
fireworks other than a sparkler within the city shall be deemed guilty of a misdemeanor...."
was approved by voice vote with only Mr. Dudley and Mayor McDavid voting against it.

Bob Gerau stated he was the owner of Bob’s Fireworks, the biggest retailer of fireworks in the Columbia area, and he had personally shot fireworks for sixty-five years and still had his eyes and all of his fingers. He did not believe any other community had an ordinance such as this and pointed out Joplin, Republic and Centralia, Missouri, all allowed fireworks to be sold, bought and discharged over the fireworks season. He noted he belonged to several fireworks organizations, and five states, Arizona, Illinois, Michigan, Kentucky and Minnesota, which had previously banned fireworks, had recently decided to allow them. He explained the laws in Missouri allowed fireworks to be purchased year round and shot fireworks year round with certain conditions, and he wondered why the City would restrict it. He noted he had a fireworks stand in the County within 100 feet of the City limits, and was concerned police would either arrest people based upon this ordinance or people would be concerned about being arrested, and he believed it would hurt his business.

Sarah Smith, 1619 University Avenue, stated she was a long time resident of East Campus and a relatively recent homeowner there. She was a young professional swim coach and was usually up by 5:30 a.m. for practice, and the discharge of fireworks occurred year round at about 2:15 a.m. and 4:00 a.m., so they were awakened multiple times, which made it hard to have a functional day the following day. She felt the Police Department was doing what it could, but their hands were tied unless they actually saw the lighting of the fuse. She commented that she was frustrated they did not have the necessary tools to assist the residents as this affected their quality of life. She believed the proposed ordinance would provide the police another tool to help them make arrests. She explained she lived in a house near an empty lot with a driveway, which was a launching pad for fireworks, and showed the Council a plastic bag of fireworks debris she picked up from the area. She noted it was only about a third of the debris there and pointed out the debris, which was sometimes still glowing, fell on her property, which was scary. She reiterated she contacted dispatch and was up all night on a regular basis, and it impacted her quality of life.

Pat Fowler, 606 North Sixth Street, commented that a lot of young people would soon reside in her neighborhood, and they already had problems when bars closed with only 80 additional young people at this time. She believed the proposed ordinance was a proactive measure that would help a problem that was already incubating in the North Central Columbia neighborhood. She explained she had resided in the County for eight years, and had taken a bag filled with fireworks debris to the County Commission because she had been tired of not getting any sleep for six weeks every year during June and July. She noted the City provided a fabulous fireworks display on the Fourth of July and asked the Council to pass the proposed the ordinance to address the problem.

Debbie Strid stated she was the Inn Keeper for The Gathering Place Bed and Breakfast operated by the University of Missouri and noted she and her guests were awakened by fireworks anywhere from 1:30 a.m. to 4:00 a.m., and it was not just during the Fourth of July holiday. The fireworks being shot tended to be of commercial grade and sometimes sounded like gun shots. She asked the Council to provide the police the tools they needed to help the residents of the neighborhood.
Bonnie Bourn, 1503 University Avenue, commented that Columbia was somewhat unique and could not be compared with other cities that did not have a high student population. She explained she had lived in East Campus for thirty-two years, and although they had always had problems with fireworks, she believed it had gotten much worse. She felt the proposed ordinance would provide the police a better tool. She understood not everyone shooting off fireworks would be arrested, but believed word would spread after one person was arrested and there would be some redemptive value in increased arrests. She noted the lack of sleep affected her mood as well as her productivity. She urged Council to pass the proposed ordinance.

John Clark, 403 North Ninth Street, stated he understood the proposed ordinance would substitute possession as a proxy for witnessing ignition, and believed that was reasonable. He asked if the police caught people in possession of fireworks when responding to complaints. Captain Richenberger replied historically yes. Mr. Clark thought the concept made sense and should be tried assuming the ordinance was well drafted.

Jeff Akers, 1411 Anthony, explained he lived in the East Campus Neighborhood and noted he had spoken with Ms. Hoppe and the Police Department regarding the issue of fireworks on numerous occasions. He stated he had been deprived of sleep to the point it made him chase those shooting off fireworks in the neighborhood. He pointed out he saw people lighting fireworks all of the time, but could not identify a particular person since it was dark and he was not provided names. He noted the problem was steadily getting worse and the abuse of fireworks needed to stop as it was creating a hardship for the neighbors. He asked the Council to provide the tools necessary for the police to make the situation better.

Ms. Hoppe asked Mr. Akers if he had children. Mr. Akers replied he had a young daughter that frequently ended up in he and his wife’s bed due to the large artillery that was being used. He needed her to sleep well so she succeeded in school, and he and his wife needed to sleep well so they could function as well.

Mr. Kespohl asked Mr. Akers how a police officer would have a better chance of catching those discharging fireworks than he did. Mr. Akers replied he saw people discharging fireworks and could tell the police exactly which houses they walked into, but he could not identify the particular individual. Debris, fresh fireworks, etc. were able to be seen. He had regularly seen people carrying large volumes of fireworks from one home to the next, and thought the police would be able to see that as well.

Kathleen Weinschenk, 1504 Sylvan Lane, stated she did not live in the East Campus neighborhood, but she always heard fireworks around the Fourth of July all night long, which kept her and her dogs awake.

Eugene Elkin, 3406 Range Line Street, commented that he lived north of I-70 had heard fireworks often as well. He asked if possession of any fireworks other than sparkers would be in violation of the ordinance. Mayor McDavid replied yes. Mr. Elkin understood anyone holding a bag of fireworks would be guilty. Mayor McDavid stated that was correct.

Larry Bossaller, 909 West Prairie View Drive, commented that he did not live close to East Campus as he lived in the northwest edge of town, but fireworks had kept him awake in the past as well. He pointed out they were not as loud as the blasting and explosions at Boone Quarry at 7:30 a.m. and throughout the day, but they did cause disturbances. He
stated he was concerned about the allowance of sparklers psychologically because he thought kids might think they could discharge fireworks as well since they were able to use sparklers.

Don Love, 1623 University Avenue, stated his pet was a member of his family and was sensitive to loud noises, and during an incident in which bottle rockets landed in their back yard, she jumped the fence and had been missing for some time. A student found her and called the number on her collar so they could be reunited. The students were a real asset to the community, but those with reckless behavior caused problems. Fireworks had proven to create a major problem for the neighborhood over the years, so he felt it was necessary for some sort of restraint. He asked the Council to pass the proposed ordinance.

Karl Skala, 5201 Gasconade Drive, understood the ordinance already provided a prohibition for storage of fireworks in addition to the discharge of fireworks, but not for possession. He wondered if storage could be possession as well depending on the definition. Mr. Matthes stated he understood storage was harder to prove given land ownership scenarios. Captain Richenberger felt storage implied keeping them in one’s home, etc. Mr. Skala asked if it said that in the existing ordinance. Mr. Boeckmann explained this ordinance would adopt the provisions of the International Fire Code as “possession” had been removed from the Code passed by the City. He commented that he believed possession was a more general term than storage as storage implied the fireworks were stored together in the basement or garage. If one had the fireworks outside of the home, it would not necessarily be considered storage, but would be considered possession. Mr. Skala stated he thought if the definition of storage implied possession, it might obviate the need for a change in the ordinance.

Jeremy Brant, 2812 Butterfield Court, stated he resided just off of Green Meadows and noted he was a frequenter of the East Campus neighborhood since his cousin and many friends resided in the area. He did not believe possession of fireworks should be a means for an arrest or fine, and asked the Council to vote against the proposed ordinance.

Mr. Gerau suggested the Council establish some City parks for the discharge of fireworks whereby police officers and firefighters could monitor the activities for the week of the Fourth of July. He also noted he had not been aware of the problems in the East Campus neighborhood as he did not believe he had sold fireworks to anyone there. He hoped the Council would consider alternatives to the proposed ordinance.

Mayor McDavid commented that he planned to oppose this ordinance. He explained he did not want to be awakened by fireworks and found the discharge of them the inconsiderate, but pointed out they already had an ordinance against the discharge of fireworks, which did not prevent students from discharging them. The proposed ordinance involved the possession of fireworks, which he would be in violation of if he purchased them and drove through town to discharge them in the County. He did not believe this ordinance would change behavior, but he hoped it would if it was to pass. He reiterated he would not support the ordinance as he believed it was unenforceable.

Mr. Dudley noted the City already had a law that prohibited the discharge of fireworks within the City limits, which was unenforceable, and instead of only a few people being criminals, this proposed ordinance would make thousands of people in Columbia criminals.
He did not believe he or others should be prevented from buying fireworks to shoot outside of the City limits and stated he would not support the proposed ordinance.

Ms. Anthony thanked the Police Department for its responsiveness and for being proactive in an effort to help the residents of East Campus solve this problem. She pointed out the police would not arrest everyone driving across the City with fireworks even though it was a violation of the ordinance. This would be another tool for them to use to assist the residents of East Campus if they happened to arrive after the fireworks had already been discharged. She believed the police would use this tool appropriately.

Ms. Hoppe pointed out this was a needed tool for not only the East Campus area, but for the entire City as this was becoming an increasing problem. They had worked with the Police Department in trying to find other ways of catching those that were discharging fireworks, but had not been successful. She noted this was a problem year round, and not just around the Fourth of July. The discharge of fireworks was disturbing to children, people recovering from heart attacks, dogs, other students, etc., and was a big problem. The Police Department had indicated this would provide them another tool to assist with the problem and other communities did not allow the possession of fireworks. She commented that after the nuisance party ordinance had been passed, there had been a significant improvement in the issues addressed by it, so she believed enforcement would affect behavior. She explained she lived a distance away from East Campus so she did not receive the brunt of the noise, but noted there were times she was awakened and wondered if she had heard a gun shot, which required investigation. She did not believe the citizens wanted to live in fear or be awakened to the point they could not work or do well in school. She pointed out this was affecting businesses in the area, such as the bed and breakfast, and thought they wanted to be a community that attracted visitors versus one that discouraged them. She stated the police had a lot to do, and unless they were investigating the discharge of fireworks, she did not believe they would search out people with fireworks, especially those driving with them in their cars. She pointed out the police had to have probable cause to search a home or car. She commented that citizens had the option to purchase fireworks outside of the City limits and to take those fireworks to the location they planned to discharge them, which was also outside of the City limits. She explained this was a fire issue as well in term of grass fires and sparks causing damage to roofs, homes, etc., and the proposed ordinance had the support of the Fire Department. The discharge of fireworks was a safety and livability issue as well, and this ordinance change would provide an extra tool for the police.

Mr. Trapp commented that the City already had an unenforceable fireworks ordinance and the addition of possession would increase the chance of enforcement. He believed this was a reasonable step, and noted they had decriminalized the use of sparklers.

Mr. Schmidt stated he agreed with Mr. Trapp in that this would be a better unenforceable ordinance, and noted the dangers of firecrackers as it had destroyed an entire downtown in the community his grandparents had resided.

B267-12, as amended, was given third reading with the vote recorded as follows: VOTING YES: ANTHONY, HOPPE, SCHMIDT, TRAPP. VOTING NO: DUDLEY, MCDavid, KESPOHL. Bill declared enacted, reading as follows:
CONSENT AGENDA

The following bills were given second reading and the resolutions were read by the Clerk.

B256-12 Approving the Final Plat of Tower Industrial Park – Plat 3 located on the northeast corner of Prathersville Road and Tower Drive; authorizing a performance contract.

B257-12 Approving the Final Plat of The Village at Wyndham Ridge, Plat No. 3 located northeast of the intersection of Route KK and Scott Boulevard; authorizing a performance contract.

B258-12 Amending Chapter 29 of the City Code as it relates to nonconforming uses.

B259-12 Appropriating funds for construction of a 10-foot high wildlife deterrent fence at the Columbia Regional Airport.

B261-12 Accepting conveyances for utility purposes.

B265-12 Authorizing an agreement with The Curators of the University of Missouri to allow use of University property for the annual Halloween event.

B266-12 Amending Chapter 2 of the City Code to eliminate the Commission on Community Cooperation, the Career Awareness and Related Experience (C.A.R.E.) Advisory Board, the Internet Citizens Advisory Group, the Armory Board and the Special Business District Board; amending Chapter 10 of the City Code to eliminate the Public Communications Resource Advisory Committee; abolishing the GetAbout Columbia: Non-Motorized Transportation Pilot Project Advisory Committee.

R164-12 Setting a public hearing: consider an application by Columbia Party Bus, LLC to operate a motor bus to carry passengers for hire within the City of Columbia.

R165-12 Setting a public hearing: consider an amendment to the FY 2012 Annual Action Plan for CDBG and HOME funds.

R166-12 Setting a public hearing: consider the FY 2013 Action Plan for CDBG and HOME funds and changes to the City’s CDBG and HOME Administrative Guidelines.

R167-12 Authorizing a memorandum of understanding with the Missouri Department of Health and Senior Services for the issuance of birth and death certificates.

R168-12 Authorizing Amendment No. 2 to the program services contract with the Missouri Department of Health and Senior Services for the Missouri Community-Based Home Visiting Program.

R169-12 Authorizing agreements with various cultural organizations.

R170-12 Accepting the FY 2012 Emergency Management Performance Grant from the Missouri State Emergency Management Agency.

R171-12 Adopting the revised City of Columbia Drug or Alcohol Use and Testing Policy as part of the administrative rule for City employees.

R172-12 Authorizing a comprehensive classification and compensation plan review agreement with CBIZ Benefits & Insurance Services, Inc.
R173-12 Authorizing an agreement with Tele-Works Incorporated for implementation of multi-channel billing, payment and automation solution for utility billing and payment via the internet or telephone.

The bills were given third reading and the resolutions were read with the vote recorded as follows: VOTING YES: DUDLEY, ANTHONY, HOPPE, MCDAViD, SCHMIDT, TRAPP, KESPOHL. VOTING NO: NO ONE. Bills declared enacted and resolutions declared adopted, reading as follows:

NEW BUSINESS

None.

INTRODUCTION AND FIRST READING

The following bills were introduced by the Mayor unless otherwise indicated, and all were given first reading.

B268-12 Granting a waiver from the requirements of the City Code for sidewalk construction along portions of the north side of Roosevelt Road, the east side of Lenoir Street and the south side of New Haven Road, adjacent to the Lenoir Woods Retirement Center; setting forth a condition for approval.

B269-12 Approving an extension of the PUD development plan of Hidden Creek Condominiums.

B270-12 Vacating excess sanitary sewer easements located east of State Farm Parkway and south of Nifong Boulevard acquired as part of the Clear Creek Pump Station Force Main Improvement Project.

B271-12 Vacating excess sanitary sewer easements located west of Sunflower Street and south of Granite Creek Drive acquired as part of the Valley View Interceptor Sewer Project.

B272-12 Amending Chapter 12A of the City Code as it relates to stormwater rules and regulations.

B273-12 Amending Chapter 2 of the City Code to eliminate the Stormwater Advisory Commission.

B274-12 Amending Chapter 14 of the City Code to establish front-in angle parking and to remove back-in angle parking on a portion of the south side of Ash Street between Seventh Street and Ninth Street.

B275-12 Authorizing a right of use permit with Western Oil, Inc. to allow construction, operation and maintenance of a private drive approach and landscaping within a portion of the Buckner Street right-of-way.

B276-12 Authorizing and accepting a conveyance for a Trash Compactor, and Underground Electric, Telephone, Cable TV Utility Facilities; accepting a conveyance for access to storm water facilities.

B277-12 Accepting Stormwater Management/BMP Facilities Covenants.

B278-12 Authorizing a cooperative agreement with the Greenbelt Land Trust of Mid-Missouri for development of an open space/green infrastructure plan.

B281-12 Amending Chapter 19 of the City Code as it relates to health club membership salary advances and emergency medical consultation for City employees.
B282-12  
**Amending Chapter 19 of the City Code as it relates to the Personnel Advisory Board.**

B283-12  
**Establishing a moratorium on illuminated window signs that have electronic changeable copy.**

REPORTS AND PETITIONS

REP152-12  
**Additional Federal Grant Funding for the Non-Motorized Transportation Project (GetAbout).**

Mayor McDavid explained this item had been discussed during the Pre-Council Meeting and noted the Grindstone to Maguire Bridge trail had substantial opposition, particularly in the East Pointe neighborhood, and if they did not move forward that project, they would have $4.2 million to fund other needed projects in areas of the City in which there was not opposition.

Mr. Matthes thought there was enough money to fund projects through No. 14. Mr. Glascock pointed out they had enough to fund through No. 13 for sure, but wanted an extra project selected in case another fails.

Mr. Dudley commented that No. 19 could be removed from the list.

Mr. Kespohl stated No. 14 involved Clark Lane from Paris Road to Eastwood, and with the new development planned for the area, he believed it needed to be moved up to ensure a sidewalk was constructed before that development was completed.

Ms. Hoppe understood No. 11 could be delayed as there might be some development issues and suggested No. 14 be moved up to No. 11. Mr. Kespohl thought it should be moved up higher than No. 11.

Ms. Hoppe noted they had discussed TDD funds assisting with the construction cost of No. 9. Mr. Glascock stated he would have to check with the TDD to determine if this was included as an item the TDD could potentially fund.

Mayor McDavid understood the projects through No. 14 could be funded if they removed Grindstone to Maguire from consideration. Mr. Glascock agreed and pointed out he needed to know of any priorities in case they did not have the funds for all of them. Mr. Schmidt asked if they could provide feedback later. Mr. Glascock replied they could.

Mr. Schmidt noted No. 17 was only $45,000 so he thought it would be easy to complete if they had that much in surplus when they were done with all of the other projects.

Mr. Trapp asked if the repairs of the shoulders of Providence Road would be finished so the striping could be done. Mr. Glascock replied it would probably be done in the spring.

Mayor McDavid asked if a public hearing was required for each of these. He wondered if they needed to hold a public hearing on the Grindstone to Maguire Bridge project as the project would change. Mr. Glascock replied yes.

Mr. Hood explained the intent had been to have commissions review the proposed alternatives for the Grindstone trail and to then come to the Council for a public hearing, but they could go ahead and schedule a public hearing. He thought the question was whether it was worth continuing with the public review process. It was scheduled to go before four different commissions.
Mr. Schmidt suggested they allow the commissions to review the options without the Maguire connection to determine if they agree. Mayor McDavid asked if they could have the commissions review and provide feedback on Nos. 6-14 with the deferral of the Grindstone from Maguire Bridge trail. Mr. Glascock pointed out they had time because staff was already working on five projects.

Mr. Kesphol asked if County House Trail Phase II West and County House Trail Phase II East were the same trail with two different routes. Mr. Dudley replied no. Mr. Kesphol understood neighbors were opposed to the East trail. Mr. Dudley stated that was correct.

Mayor McDavid asked if staff had enough guidance from Council. Mr. Glascock replied he thought they had enough guidance. Mayor McDavid asked staff to run these ideas by the commissions and to provide comments back to Council.


Mr. Matthes provided a staff report and noted the report had been provided for informational purposes.

REP154-12 Update on FastCAT Route.

Mayor McDavid asked that future reports to be structured like this report. He understood the market penetration rate was about 35 percent in terms of the beds captured, and stated he wanted to see that increase with the goal being 100 percent of those beds being a part of FastCAT. For the FastCAT itself, he wanted to see the 100 percent number to be the number of student passes required for the system to fund itself. Mr. Glascock stated they had sold 345 passes to date, which did not include the passes within the contract with the Odles.

Mr. Kesphol asked if they could be provided with the number of hours a bus ran annually on that route. Mr. Glascock replied yes. Mr. Kesphol stated he wanted the information by bus.

Ms. Hoppe commented that it did not appear as though anyone used the bus on Sunday before noon or after 10:30 p.m. so she wondered if they should eliminated service at that time to save money. Mr. Kesphol did not believe the bus ran prior to noon on Sunday or after 10:30 p.m. on Sunday. Mr. Glascock stated that was correct and noted staff would review the contract and ridership information for efficiency.

Mr. Schmidt understood there was a 20 minute headway instead of a 15 minute headway due to traffic, etc. Mr. Glascock stated they were keeping a 15 minute headway until the students showed up because it was impossible to get through Rollins and Hitt due to the number of people on it. Mr. Schmidt thought they might want the denominator to be something beyond what they were currently funding to get to the 10 or 15 minute headway. He wondered why they would stop at 100 percent. Mr. Glascock replied they did not plan to stop there. Mayor McDavid explained this presented a workable goal. Mr. Schmidt agreed.

Mr. Kesphol asked if the FastCAT buses could see where the other was located. Mr. Glascock replied yes, and explained when they were off in terms of timing, one bus would stop at Williams to allow the other to spread it back out. Mr. Kesphol asked if the buses could
run a 15 minute headway during low volume times. Mr. Glascock replied they could look into it. Mayor McDavid thought it would be easier after a good GPS system was in place. Mr. Kespohl wondered if the bus could keep moving so people did not just sit there when it stopped at Williams and Walnut. If he were a passenger, he would not be happy if the bus was not moving.

Mayor McDavid suggested staff consider another free marketing week by selling passes at a proportional rate for the remainder of the semester. Mr. Matthes explained staff was actively analyzing all options.

Mr. Schmidt congratulated staff for trying to make public transportation better as opposed to looking at cuts during this difficult economic time.


Mayor McDavid commented that the quarterly numbers were not particularly helpful to him, but he believed an annual comparison would be helpful, and asked that all future reports include an annual comparison.

Mr. Trapp stated he thought the content of this report was excellent as it provided him a good view of what was happening.

Mr. Kespohl stated he liked the fact that there were only four complaints pending for 2011.

Mayor McDavid commented that this provided them a sense of how difficult the job of a police officer was as they could see the number of arrests made, the number of times physical contact was involved, the number of times people were handcuffed, how few times they discharged their weapons, etc.

REP156-12 Intra-Departmental Transfer of Funds Request.

Mayor McDavid understood this report had been provided for informational purposes.

Mr. Kespohl stated he liked the new form as it provided more detail.

COMMENTS BY PUBLIC, COUNCIL AND STAFF

John Clark, 403 North Ninth Street, stated he was an attorney and commented that the issue of abuse had not been addressed in the discussion of the fireworks ordinance. He noted he would volunteer his services to help the Police Department re-draft the ordinance so that could be addressed. He suggested they try the idea of discharging fireworks in parks even though this was a year long problem. He also thought the ordinance should be abated from June 30 – July 6 annually as it would allow the law abiding citizens the abilities to possess fireworks around the Fourth of July. He suggested the Council instruct the Police Department to complete meticulously detailed reports so all firework possessions were identified. He believed the Police Department should think carefully about enforcement in terms of when to provide a warning versus a citation and fine. He also thought enforcement should be harsher if fireworks were found when the police was responding to the nuisance abatement and party nuisance ordinances. He reiterated he would be happy to assist in drafting an ordinance that could be effectively and appropriately used.
Sean Mattiger, 208A North William Street, commented that there was a loose screw on one of the panels in which wires were located at the intersection of Broadway and Providence. In addition, the mats at the intersection of Broadway and Providence were not level, and were a cause for concern for people in wheelchairs. He understood the City was no longer using mats and was now sculpting the concrete to be similar to a mat, and suggested that be done in these locations as they were hazardous. He thought this might be a problem throughout the City, and not just this intersection. He stated he understood the police had been sent to a home on Windsor last year due to fireworks, and they had received a hefty fine of about $5,000. He thought fireworks should be expected on the Fourth of July. He asked that power be supplied to the outlets outside of City Hall for use by those involved in the occupy movement.

Eugene Elkin, 3406 Range Line Street, understood the fireworks ordinance had passed. Ms. Anthony stated that was correct. He commended the City Council for democracy at work as people were allowed to speak and the Council did not vote in the same manner. With regard to bus transportation, he commented that an orbiter was needed for the University campus as FastCAT seemed to be dysfunctional.

Justin Thomas, 202 West Sexton Road, commented that he had questions regarding the report staff had prepared involving the sewer and stormwater issues at the 200 block of West Sexton. He understood the inflow and infiltration study had not been completed, but work had been completed in three areas of Flat Branch, and of those three areas, there appeared to be more lines replaced in two of those areas, and he wondered why that was the case. He also understood that once the work was completed, the City would flow monitor the basin to determine if the rehabilitation lowered the peak and wondered if the area was already being monitored and how it was being done. He also wanted the data and information regarding the water table.

Mayor McDavid suggested Mr. Thomas e-mail him and Mr. Schmidt as they could refer his specific questions and concerns to staff for a detailed response as they had the expertise. Mr. Schmidt thanked Mr. Thomas for bringing this issue up as he thought it needed to be addressed.

Mr. Schmidt thanked Mr. Thomas for his comments earlier and for helping with the revival of the Douglass Park Neighborhood Association.

Ms. Hoppe commented that the Council had been provided a copy of the development agreement for the Grindstone-Walmart development on September 18, 2012, and there were a variety of things the developer was supposed to do that had not been done, and asked what staff was doing to ensure what was required was done. Mr. Matthes stated staff could provide a detailed report and noted they had made initial contact with the developer.

Ms. Anthony thought they had asked for a specific list of deviations from the development agreement, and asked that it be provided as well. This needed to be used as an example of how the development agreements were being written but not enforced or monitored. She asked for a detailed analysis.
Ms. Hoppe asked for the report to also include the systematic process the City had to follow up on development agreements to ensure compliance.

Ms. Hoppe asked staff to provide a report in about 3-4 months regarding the number of calls the Police Department received related to fireworks and whether the new ordinance had helped with enforcement.

Mr. Kespolh stated he had received a call regarding a lady who had been told by her doctor to call 911 immediately as the doctor suspected she was having a heart attack. She called but ended up being on hold for ten minutes. An ambulance was eventually dispatched and the lady was having a heart attack. He asked for information regarding 911 as he wanted to know why service had been delayed.

Mr. Kespolh commented that he had been contacted by a resident who was complaining about empty mobile homes and sheds at the Elm Grove Trailer Court and suggested the Office of Neighborhood Services investigate the mobile home park to determine if there was a problem. The resident felt it was a health hazard to have all of those empty trailers and for the doors of the sheds to be open.

Mr. Trapp followed up on the comments of a previous speaker and noted he believed the mat at the northeast corner of the intersection of Broadway and Providence was torn and could be a safety hazard.

Mr. Trapp asked for staff to provide a report regarding a status on finding a location for the Room at the Inn and what the contingency plan was if they were unable to locate a private site. He stated he did not want a situation where they did not have a cold weather homelessness shelter. He wanted the report to create discussion to determine if more strenuous steps needed to be taken to address the issue as he did not want cold weather to catch them ill prepared in terms of providing basic protections to the homeless.

Mr. Dudley made a motion for the City Council of the City of Columbia, Missouri, to hold a closed meeting in Conference Room 1A/1B of City Hall, 701 E. Broadway, Columbia, Missouri, on Monday, October 15, 2012 at 6:00 p.m. to discuss contracts under negotiation and personnel matters pursuant to the provisions of Sections 610.021 (3), (12) and (13) RSMo. The motion was seconded by Mr. Trapp and the vote was recorded as follows: VOTING YES: DUDLEY, ANTHONY, HOPPE, MCDAVID, SCHMIDT, TRAPP, KESPOHL. VOTING NO: NO ONE.

The meeting adjourned at 9:38 p.m.

Respectfully submitted,

Sheela Amin
City Clerk