

CITY COUNCIL MEETING – COLUMBIA, TENNESSEE

May 7, 2009 – 6:30 p.m.

Mayor William E. Gentner called the Regular Meeting to order, pursuant to proper notice having been given. Assistant City Recorder Sue York called the roll. Present were Mayor William E. Gentner, Council Members Carl McCullen, Debbie Matthews, Christa Martin, Dean Dickey, and Sue Stephenson; City Manager Paul C. Boyer, Jr.; City Attorney Tim Tisher; Assistant City Recorder Sue York; and Liz Bermudez, Recording Secretary. City Recorder Betty Modrall was absent. Vice Mayor Kennedy was absent during roll call.

Brother Elmer Crosby of Allensville Baptist Church offered the invocation followed by the Pledge of Allegiance led by Council Member Martin. Vice Mayor Kennedy arrived for the Council meeting.

APPROVAL OF AGENDA:

City Manager Boyer asked to have Item 7.2, bid award for roofing at 800 Westover Drive – Police Department, removed from the Agenda. Mayor Gentner asked the City Manager to discuss Item 5.3 – Bullet #3 regarding CPWS's position on House Bill 1217/Senate Bill 841 designating a segment of the Duck River as a Class II Pastoral River. City Manager Boyer said on the General Assembly's website, the House Bill was taken off of notice on March 18th, which technically kills the bill for this session. It was also withdrawn from consideration from the Senate on April 27th, which effectively kills the bill for this session. Mayor Gentner recommended removing Item 5.3-Bullet #3 from the Agenda. Council Member Matthews moved to approve the Agenda as amended. Council Member Martin seconded the motion. Council Member Matthews asked Mr. Boyer to explain why Item 7.2 (Police Department roof repair) was being removed from the Agenda. City Manager Boyer advised that the City became aware of some potential issues under State law with a project this size not having engineering services performed and that staff did not have enough time to research the issue before the Council meeting. Mayor Gentner asked for the following format in regards to Item 5.3; he asked that Council use their protocols and at the end of thirty minutes there would need to be a motion to extend the time for perhaps another thirty minutes and so on. Mayor Gentner said if Council agreed to this process, then following the presentation from Mr. Clark he would like to start from his far left with the Vice Mayor for each member of Council to ask their most important

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question and then continue going around the table until the questions are exhausted. Mayor Gentner suggested when a motion is made after the presentation from Mr. Clark, that in that motion it is mentioned to have the Board of Public Utilities' Representative from Council, which is Council Member McCullen, be directed to take back whatever motion is recommended for passage. Mayor Gentner said this would keep Council within the appropriate chain. Council Member Matthews asked why the Mayor decided to start at one end of the row to question Mr. Clark instead of just going with who asks for the floor first. Mayor Gentner said he has no problem with doing that but he does not think it is fair to let one member of Council monopolize the time. Mayor Gentner said it would be fair to start at one end and let Council ask their most pressing question and to keep going around the table in that manner. All Council Members present voted aye.

PRESENTATION:

Item 5.1 – TENNESSEE EMERGENCY MANAGEMENT AGENCY (TEMA), TO EXPRESS GRATITUDE TO THE CITY OF COLUMBIA, KEN DONALDSON AND MARK BLACKWOOD FOR RESPONDING TO ASSIST ICE STORM VICTIMS IN KENTUCKY JANUARY 31 – FEBRUARY 8, 2009. Mr. Kelly Zadakis, Regional Director for the Middle Region of TEMA, said it is a great pleasure for him to be here to tell everyone how grateful the citizens of Kentucky are for our assistance. He said the assistance could not have happened if it hadn't been for the leadership of the City of Columbia authorizing Ken Donaldson and Mark Blackwood to leave their jurisdiction to help a neighboring State (Kentucky). Mr. Zadakis informed everyone that they made a measureable difference in the lives of the disaster victims. Mr. Zadakis said, "God bless you for your leadership and your kindness and you should be very proud of the people you have here representing you." Mr. Zadakis spoke about Mark Blackwood and Ken Donaldson being extremely professional leaders and he said they are recognized as leaders. Mr. Zadakis presented a plaque to Mark Blackwood and a plaque to Ken Donaldson for their outstanding professionalism in assisting ice storm victims in Kentucky from January 31-February 8, 2009. Mr. Zadakis said they are proud of both Ken and Mark.

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Item 5.2 – PRESENTATION OF A PROCLAMATION TO BILLY POTTS, RETIRING FROM TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT), COMPLETING 43 YEARS OF SERVICE. Mayor Gentner invited Mr. Billy Potts and his family to join him at the front of the room. Mayor Gentner said he met Mr. Potts twenty years ago and he has had the pleasure of working with him over the years. Mayor Gentner said it is commendable to have a State employee who has put in forty-three years of service. Mayor Gentner read the Proclamation, which spoke about many of the State projects Mr. Potts was involved in and proclaimed May 7, 2009 as Billy Potts Day in Columbia, Tennessee. Mr. Potts thanked the Mayor for making the Proclamation possible. Mr. Potts thanked the City Manager, City employees, City Council, his family and friends, and also Fire Chief Don Martin for allowing his son Joey to be at the meeting at this time. Mr. Potts thanked everyone for making his retirement a special occasion and he said it is an honor that he won't forget and appreciates. Mr. Potts advised it takes a special person to be a public servant and a public servant is a great person. Mr. Potts spoke about the Garden Street Project and how proud he is of the project and its outcome. Mr. Potts again thanked everyone for making his retirement from TDOT a special occasion by honoring him with the Proclamation.

Item 5.3 - PRESENTATION BY JIM CLARK, GENERAL MANAGER OF COLUMBIA POWER AND WATER SYSTEMS ON:

• THE PROPOSED SPRING HILL WATER CONTRACT;

Mayor Gentner advised Council will start with the first item in the presentation which is the proposed Spring Hill Water Contract. Mayor said Council will take thirty minutes of testimony from Mr. Clark and if they are not able to get everything done in the first thirty minutes then Council will vote on using another thirty minutes until such time to complete the initial process. Mr. Clark passed out three booklets for Council to look through. The Powerpoint presentation was the same as the first booklet that was passed out. Mr. Clark began his presentation by speaking about the history of Columbia Power and Water Systems (CPWS) selling water to Spring Hill. Mr. Clark said the earliest agreement he could find was from August 1969 and that agreement was a forty-year agreement. Mr. Clark told Council that at the peak, which was around 2001, Spring Hill purchased 15% of CPWS water sales which is 1.5 millions of gallons a day. Mr. Clark said that included sales to Hillsboro, Burwood & Thompson Station Utility District

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(HB&TS) earlier than 1982 and that the agreement was actually amended in 1982. He advised that under State law, CPWS had to expand their water treatment facility when they reached 85% of capacity. Mr. Clark said they reached that in about 1999 so CPWS did a 7.7 million dollar improvement plan. Mr. Clark said it is not all capacity but also quality. He went on to say that in August of 2003, Spring Hill began their own water treatment and that ended the relationship between Spring Hill and CPWS other than under emergency conditions or situations. Mr. Clark advised there is not a contract with Spring Hill right now and that it has only been discussed once by the Board of Public Utilities and that nothing has been signed. Mr. Clark said Spring Hill has every right to take the water out themselves or to have CPWS take it out. Spring Hill is permitted to take the water out. Mr. Clark spoke about Normandy Dam, which has made the flow of the Duck River much better. Mr. Clark said there is a gauge in the river that measures the flow of the river. Mr. Clark said there is always more water in the river in the winter and less water in the summer. He said since the 1920's the water flow in the River has pretty much stayed the same. The river has become wider and deeper since Normandy and the quality of life for the species in the river has improved. Mr. Clark informed everyone that mankind has not changed the water flow in the Duck River in Columbia. Mr. Clark said the rainfall in the area has stayed about the same and that is why mankind has not really changed the flow of the water. Mr. Clark spoke about the worst drought months in the worst years. Mr. Clark said looking in the future to the year 2030, we would be using 1% of the river which is about 22 million gallons a day. He said we won't really be using that much water from the river, not enough to change things or deprive anyone down river from receiving water. Mr. Clark spoke about the benefits of selling water to Spring Hill. He said selling the water generates \$675,000 a year in sales. Mr. Clark said the sale of water benefits CPWS customers by spreading fixed costs over a larger base, recovery of the investment of funds spent for the capacity increase and no infrastructure costs. Mr. Clark spoke about the gallons pumped versus the cost per gallon of water. Mr. Clark said there was quite a downturn in industrial sales which increases the cost per unit, which makes the customers' price go up. He said this is a win-win for both Spring Hill and CPWS and it can be a short term agreement. Mr. Clark also said CPWS' electric customers are also better served due to the sale of water to Spring Hill. Mr. Clark advised that CPWS is the largest taxpayer in the City of Columbia and that under the State formula, CPWS will pay

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\$871,206.77 to the City of Columbia in Fiscal Year 2009. Of that amount, approximately \$87,000 will be paid by customers in the Spring Hill area. He advised CPWS is a regional water system, they sell water to Mt. Pleasant and Spring Hill. Mr. Clark asked Attorney Daniel Murphy to assist him to discuss the actual agreement. Mr. Murphy advised that the agreement had only been presented to the Public Utilities Board one time, that Spring Hill has never seen the agreement unless someone has shown it to them, and that they have had no input as to terms or anything of that nature. Mr. Murphy said usually the term of a water sale is long, but this term is only a ten-year contract. At the end of ten years it becomes a year-to-year contract. Mr. Murphy read the following from the contract “In the event of an extended shortage of water, or the supply of water available to/from CPWS is diminished over an extended period of time CPWS shall have the right to curtail the water supply to Spring Hill the same extent that the supply is curtailed to other suburban residential customers of CPWS.” He explained that other suburban customers are those that live outside of the City in Maury County, which would include Maury County Water System and Mt. Pleasant if they are receiving water. If there is a water supply shortage, the Board tries to treat everyone equally. Mr. Murphy said Spring Hill has become a member of the Duck River Agency and that as a result of being a part of that Agency, they have adopted the Regional Drought Water Shortage Management Plan, which is the same plan CPWS has adopted. He advised that there is a resale restriction in the agreement. Mr. Murphy said Spring Hill did try to get out of the contract they have with HB&TS but was unable to. He did say HB&TS is trying to get water out of the Cumberland River so they can get out of their contract with Spring Hill. Mr. Murphy said the goal is to have Spring Hill not be able to sell water to any other customers that are wholesalers, but the contract does say “may” just in case there is an emergency situation or something to that effect to where someone may need water from Spring Hill. Mr. Murphy spoke about monitoring Spring Hill’s water sales by policing and making sure that they are asking for the reports on the water sales. Mr. Murphy did advise that CPWS is asking for more money from Spring Hill, an additional thirty cents per thousand gallons or a minimum of \$5,000.00 per month, since the term is for a short term. Mr. Murphy explained that there is no language in the **contract** regarding the Sewer Treatment Plant because it is monitored by TDEC. He said they are limited to the amount of water CPWS can take out if the water is at a certain level so that the Sewer Treatment Plant can

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continue operate properly. The first thirty minute time period expired. Council Member Matthews moved to extend discussion on this section for thirty minutes. Council Member Stephenson seconded the motion. All Council Members present voted aye to extend the discussion on the Spring Hill Water Contract for another thirty minutes. Mayor Gentner said Council Member Matthews brought up a good point earlier, so he would like to change how Council is going to ask their questions. Mayor Gentner said he would be the last one to ask a question each time they go around the table, but instead of always starting back with the Vice Mayor when the last person asks their question they will alternate on which end starts. The first time around the questions will begin with the Vice Mayor and the second time around the questions will begin with Council Member McCullen and so on until everyone has asked all their questions. Vice Mayor Kennedy asked if Spring Hill is guaranteed one million gallons of water a day. Mr. Clark said Spring Hill has requested a million gallons of water a day. Vice Mayor Kennedy asked if Spring Hill is guaranteed one million gallons of water a day without a contract. Mr. Clark advised no. Council Member Stephenson said on the first page of the contract it says the preceding contract term was from 1994 to 2004. Council Member Stephenson asked if there has been a contract since then. Mr. Clark advised there has not and that the only water sales have been under an emergency action during the last two summers when Spring Hill got into some problems from the production side. The Board allowed CPWS to sell the water on an emergency basis. Mr. Clark passed out some information about the sales under the emergency basis. Council Member Stephenson asked if part of the problem is because they have limited capacity with the treatment plant they built. Mr. Clark said he is not being critical of another engineer but they do have a small plant and it has capacity limitations due to the quality of the river. He said under peak conditions they cannot supply all the water they need and that is why they approached CPWS. Council Member Stephenson asked if this contract would be a new contract. Mr. Clark advised that this would be a new contract. Council Member Stephenson spoke about Mr. Murphy stating if the river goes below one hundred then the water can't be taken out. She said she didn't see that statement in the contract and asked if it is in the contract somewhere. Mr. Clark said that is covered within the contract where it addresses suburban customers and curtailing the supply. Council Member Dickey asked if all the information from CPWS is public information. Mr. Clark advised a lot of the information is on their website, he did pull some

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information from the United States Geological Survey (USGS) off the government site. Council Member Dickey asked if hard copies are available to those who request them. Mr. Clark said they can make copies for those who would like a copy of the information passed out to Council tonight. Council Member Dickey asked if right now CPWS supplies 90-95% of the water to Maury County citizens. Mr. Clark said it is more like 80-85% because Mt. Pleasant has its own system and Lewisburg comes into the County and supplies the Highway 50 Interchange. He also said there are two other utility districts that come in to the area. Council Member Martin said water is one of greatest resources we have and she would like to know how, within this contract, we protect the city customers and yet take advantage of the selling of water to suburban customers. Mr. Murphy said that million gallons are coming out no matter what and that either Spring Hill is taking it out of the Duck River or CPWS can take it out for them. Mr. Murphy said they don't have to treat city customers differently as long as they treat suburban customers equally. He said 50% of CPWS customers are outside of the City. Mr. Murphy said the goal is to not have people in the County be able to do things that people in the City can't do due to restrictions. Council Member Martin asked if that is State law. Mr. Murphy advised the language "suburban customer" comes from the City Ordinance. Mr. Clark said they think long and hard about curtailment because General Motors is a suburban customer and they need to make sure they keep the economy going during rough times. Council Member Matthews asked what the ramifications on the citizens of Columbia would be if every City upstream from the City of Columbia sold water to an outside City with water that could go into another water basin through the sewer department. Mr. Clark said that is very well regulated through the Interbasin Transfer Act and that they cannot do that without a permit from the State of Tennessee. Mr. Clark advised it is not against the law to sell water outside the basin, but it has to be permitted. There are seven permitted throughout the State of Tennessee and there are twenty-three grandfathered in. He said Spring Hill is grandfathered in to sell water to HB&TS and that CPWS was grandfathered to sell to HB&TS until 2003. Mr. Clark said he doesn't think it would be allowed and other cities are too far because there would need to be a really big pipeline. He said looking at the area regionally, CPWS is the only one that can get outside the basin of any magnitude because the other systems don't use as much as Columbia does, all together they don't use the amount Columbia does. Council Member Matthews said Spring Hill is not

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the same size city it was fifteen years ago, so if cities upstream from us put a “straw” in and sell it to someone else, it would have a ramification on us. Council Member Matthews asked if selling water north of here are we going to have a ramification south, are we looking at possibilities of ramifications of this sale if it continues and starts a precedent for others to sell water. Mr. Murphy said the water is coming out no matter what, whether CPWS sells it to Spring Hill or if they get it out themselves. Mr. Murphy said the permitting process is a very regulated and planned aspect. He said TDEC is becoming more involved with regional planning and more involved with the Duck River Agency. Mr. Murphy informed everyone that TDEC’s actual goal is to have less people taking water out of the river and have more regional water suppliers so they can regulate where and how much water comes out of the river. Council Member McCullen advised he is exposed to this already from being on the Public Utilities Board, so he will give his time up for questions to other members of Council. Mayor Gentner said the proposed contract’s caption says it is an agreement for emergency water services, Mayor Gentner said he doesn’t think there is a city in the nation that would not provide water to a city in need. Mayor Gentner said he fails to see why the contract is considered an emergency. Mr. Murphy said it is not an emergency and that wording should be changed because it was probably just left on there from a previous contract. Mr. Murphy said Mayor Gentner was the first one to notice that the contract title stated it was for an emergency. Council Member Matthews said she is concerned that this Mr. Clark has been scheduled to come before Council for a month. Council Member Matthews said the Council Members that did not attend the Special Called Meeting at CPWS are just now getting this contract to review. Council Member Matthews said at the Special Called Meeting they said that there are some oversights (especially for protection for the City of Columbia) to find out how much water was actually being sold to Hillsboro, Burwood and Thompson Station Utility District. Council Member Matthews said CPWS just made an oversight on this contract and they are seeing other oversights on there without having accountability. Council Member Matthews asked are there any other errors in the contract the City Council needs to know about. Mr. Murphy advised nothing has been changed in the contract from the study session because their Board has not met on it since then and they have not directed him to make any changes yet. The Board has met on the issue one time. Council Member Matthews directed her question to Mr. Murphy as an attorney and asked are there any

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other oversights in the contract. Mr. Murphy said he is sure there are some areas they are going to tighten up and there may be some changes that Spring Hill would like to make. Mr. Murphy said leaving the word emergency in the title of the contract is a typo and there might be other typos in the contract. Mr. Clark said the Board has only had one meeting on this and instead of taking all the time to go through each paragraph the Board wanted to hear what the public had to say about the contract. Mr. Clark said this is just the first draft of the contract. Council Member Martin asked if the sale of water from Columbia to Spring Hill would impede our ability to recruit new industry. Council Member Martin said she was asking from the standpoint if there is industry looking to move to Maury County, would Spring Hill be able to have a larger industry come inside their limits and locate there because we are selling them more water. Mr. Clark said CPWS has the capacity to serve an industry that would like to come to Columbia and that it is not going to put Spring Hill in a competitive market due to the sale of water. Mr. Clark said if an industry comes to Columbia, they will serve them. Council Member Dickey said it is stated in the handout that CPWS will pay \$871,206.77 to the City of Columbia in Fiscal Year 2009. Council Member Dickey asked how CPWS would see that changing if this agreement is approved. Mr. Clark said that is the electric sale which wouldn't, by itself, bring any more taxes in to the City, but that if the community there grows and more customers tie on to use their electricity then the tax amount that they pay the City will increase. Council Member Dickey stated this tax payment makes CPWS the largest taxpayer in the City. Mr. Clark said that is correct. Council Member Stephenson read the following from the contract under 7 on page 52 where it talks about the term of ten years states “ thereafter on a year-to-year basis unless canceled by either party by at least one year’s prior written notice.” Council Member Stephenson asked if in the event that Columbia is caught in a severe drought situation we would still be obligated to provide water to Spring Hill for an additional year once we gave them notice. Mr. Clark said no, his example was if at eight years or nine years we ran into a water situation we could give notice at the 9th year and there would be no extension. He said they would serve out the 10th year and that it will go to zero. Council Member Stephenson asked what if the drought happened in year two. Mr. Clark’s response was if it is year two then CPWS is stuck with an additional eight years of providing service. Mr. Clark said he has a long-term contract with Maury County Water Systems and with Mt. Pleasant. Mr. Clark said ten

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years is a short term for a water contract. Council Member Stephenson said in a drought, ten years is not a short amount of time. Mr. Murphy advised that is why the curtailment clause is written into the contract. Vice Mayor Kennedy asked if there is anything that stipulates what Spring Hill can do with the water once they get it. Mr. Clark said the clause where they sell to HB&TS is allowed but they cannot increase the amount to HB&TS or pick up a new reseller or City without CPWS permission. Mayor Gentner spoke about the Resolution of Dispute that is in the contract. Mayor Gentner asked why there has to be a Dispute Resolution Clause in the contract to the point if the Board wants to terminate the contract they can do that. Mr. Murphy said the reason for the language is for timing because courts take a long time to resolve issues. He said this is for arbitration and it sets forth timing on when arbitrators are to be named and how they are to be named and that they are actually trying to curtail the length of time court cases take. Council Member Stephenson spoke about page 52 of the contract. She said at the top of the page under 6 (A) it states “CPWS shall be responsible for and shall indemnify and save Spring Hill harmless” etc...and then under 6 (B) it states “Spring Hill shall be responsible for and shall indemnify and save CPWS harmless” etc...and at the bottom of the page under 8 it says “Neither party shall be liable for failure or depletion of CPWS’ water supply”. Council Member Stephenson asked who is liable or responsible since page 52 says no one is responsible. Mr. Clark said the top two paragraphs talks about the negligence of Spring Hill or the negligence of CPWS. Council Member Stephenson asked if 6 (A) and 6 (B) conflict. Mr. Murphy advised the bottom is really dealing with issues that are outside of each entity’s control. Council Member Stephenson said that is not what the contract says. Mr. Clark said the last paragraph is protecting CPWS, if for some reason they cannot deliver the water supply. Council Member Martin asked Mr. Clark if reasons had been given to him why Spring Hill does not want to draw the water out of the river themselves and, if so, what the reasons are. Mr. Clark advised he doesn’t know Spring Hill’s reasons, he can only assume it would be a better use of their funds since CPWS has ample capacity and will sell the water to them at a reasonable price, and it is better than them going to the Bond market or trying to borrow money from other sources. Mr. Clark said that is just speculation. Mayor Gentner advised Council that the additional thirty minutes has expired and asked if there is a motion to extend the discussion on this section and, if so, for how long. Council Member Matthews moved to extend the discussion on this section for another fifteen

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minutes. Council Member Stephenson seconded the motion. All Council Members present voted aye to extend the discussion for an additional fifteen minutes with the exception of Council Members Dickey, McCullen and Vice Mayor Kennedy who voted no. Motion to extend the discussion passed. Council Member Matthews said Mr. Clark said that Spring Hill is currently under contract with HB&TS to sell them 440,000 gallons of water a day. Mr. Clark said that was the contract in 2003 and that was the amount CPWS approved and that he doesn't know if that is the amount they are selling to HB&TS currently. Council Member Matthews said Spring Hill is asking Columbia to buy our water and taking 50% of what they are getting to turn around and sell it to HB&TS. Council Member Matthews asked Mr. Clark if he knew at what rate Spring Hill is selling the water to HB&TS. Mr. Clark said he doesn't have a contract, so he doesn't know the rate of the sale. Mayor Gentner said he personally has no problem selling water to Spring Hill and we already have a line going to Spring Hill. Mayor Gentner said his concern is what we faced with the recent drought that we had. Mayor Gentner asked why it isn't possible to have a contract for one year that is able to be extended on a yearly basis thus giving us flexibility of being able to provide water to them at whatever cost CPWS wants to sell it to them. Mayor Gentner said this would provide the City with the assurance that if something dramatic happens we can get out of the contract quickly and still be able to provide water to the residents of Maury County and the residents of Columbia. Mayor Gentner asked for an explanation as to why this type of contract is needed when a year-to-year contract seems more acceptable. Mr. Murphy said the permitting process is one reason. He said that TDEC permits are given every five years and there is a lot of planning that goes with water issues and a ten-year contract is very short. He said TDEC wants regional planning and that they like to know how long contracts are so they know where and how much water is being taken out. Mr. Murphy said the State likes long term planning. Council Member Matthews said she takes the verbiage in a contract very seriously even if it is a first draft. Council Member Matthews read the following from 10: General Conditions, Section 1, "Water supplied by CPWS to Spring Hill shall be solely used for service to end use customers by Spring Hill, except as hereinafter provided. The term "end use customers" shall mean customers that consume water for domestic, commercial or industrial purposes, and specifically excludes customers that resell water to other end use customers or to other distributors of water. It is understood that Spring Hill currently has a long-standing

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contract with Hillsboro, Burwood & Thompson Station Utility District (HB&TS) whereby Spring Hill may sell water to HB&TS. If Spring Hill increases the amount of water sold to HB&TS, or if it sells water to other non end use customers, then CPWS shall have the right to terminate this contract upon providing written notice to Spring Hill.” Council Member Matthews asked if she is correct in thinking that the entire section that she read is dealing with the one million gallons of water that CPWS is selling to Spring Hill. Mr. Murphy said no. It is dealing with water if Spring Hill starts selling water to other cities. Council Member Matthews said the way the contract reads she wants to make sure Spring Hill does not sell any water to other entities. Mr. Murphy said he believes the contract covers that but the language may be tightened if needed. Council Member Matthews said there are no guidelines to find out how many gallons are going to HB&TS unless we request the information. She said they are not required in the contract to provide the information to CPWS for audit purposes and there is no audit clause in any part of the contract to make sure this is done. Mr. Murphy said this topic has been brought up at the study session and it will be something they will look at in the contract and the Board has not acted on it since the study session. He said doesn’t have a problem putting the language in there. Mr. Murphy said the numbers are audited by the State frequently, it will be more of a policing thing that CPWS does. Council Member Matthews asked if there could be something in the contract that there is a policing that is reported to the City of Columbia on a yearly basis. Mr. Murphy said he is going to communicate everyone’s concern to the Board because they will direct him what to put in the contract. Mr. Clark said he believes auditing is a reasonable request. Council Member Martin asked what law gives the privilege and the right to CPWS to sell the water as opposed to the citizens voting to sell the water. Mr. Clark said the permits are in CPWS’ name and the water facility is operated under City Charter and State Law as the water provider in the community. Mr. Clark asked if he answered Council Member Martin’s questions. Council Member Martin responded no. Mr. Murphy advised he doesn’t know the Tennessee Code Annotated (TCA) citation off the top of his head but the rights of the Public Utilities Board are set up in the TCA and one of the rights is to contract. Mr. Boyer asked if the question had been answered. Council Member Stephenson said the section in TCA that they are talking about doesn’t say anything about CPWS having the ability to contract. Mr. Murphy said that section is probably the section that sets everything up, but there is another

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section that does allow the Board of Public Utilities to contract. Mr. Clark asked to let them look up the information and forward it to Council. Council Member Stephenson said they have been referencing the Interbasin Transfer Act and that the primary purpose of the Act is to allow regulation on the basis of the quantity of water in the river basins. Council Member Stephenson said twenty, forty years ago the growth and industry was not what it is today. Council Member Stephenson said this Act also states when proposing a new or increased withdrawal of water for purpose of transferring and/or diverting some or all of it out of a river basin either directly or through one or more intermediaries you have to first apply for and obtain a permit from the Commissioner of Environment and Conservation. Council Member Stephenson asked Mr. Clark if they have gone through the process to apply for the permit. Mr. Clark said that since there is no contract, he has nothing to show them. Mr. Clark said there is no right for them to move more water. Council Member Stephenson said she is referring to CPWS not having a contract since 2003, not to the Spring Hill /HB&TS contract. Mr. Clark said they were operating under the grandfather clause. Council Member Stephenson said we are no longer grandfathered in, so then CPWS would have to apply for a permit. Mr. Murphy advised that Spring Hill is in the Duck River Watershed, and CPWS is not selling water outside of the watershed. Council Member Stephenson said Spring Hill is acting as a intermediary for the water that is going to HB&TS. Mr. Clark advised she is assuming the water CPWS is selling to Spring Hill is going to HB&TS, but he hasn't given Council any information that the water would go there. Council Member Stephenson asked how that would be determined. Mr. Clark said you would think the amount they would sell to HB&TS would be from Spring Hill's facility since it has the capacity for the amount they sell to HB&TS and he would assume that the water CPWS sells to Spring Hill would first be distributed in the Neapolis area. Mr. Clark stated that you can't follow water because it gets mixed up in tanks. Mr. Clark said he can't track that water. Mr. Murphy said the State will not require an Interbasin Transfer Permit for this contract. Mayor Gentner advised since all of Council is done asking questions on this topic he will now accept a motion and to please keep in mind that the motion should include language that they will ask their representative to take back whatever their motion is going to be. Council Member Matthews moved to defer the matter. Council Member Stephenson seconded the motion. City Attorney Tisher advised the motion to defer is not necessary because they can direct Council to send information

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back at anytime. Mayor Gentner said he hopes to give some direction to the staff and to the Board. City Attorney Tisher said there is not a need for a motion. Council Member Matthews said she retracts her motion and makes a motion to table this for further discussion. City Attorney Tisher said if it is tabled there would have to be action to take it off the table. Vice Mayor Kennedy seconded the motion to table the item. Vice Mayor Kennedy clarified what Council was doing. Council Member Dickey asked why defer it when they are going to discuss it over and over and they are going to have to go to Spring Hill and the Board. Council Member Dickey said there is going to be a different version of the contract later after the parties involved review it. Council Member Stephenson said she is not prepared to give any direction and she has mixed feelings of the process, in terms of its efficiency, that they went through tonight and she doesn't mean that as a slight to anyone in particular. Council Member Stephenson said there is wordage that should be in contract that isn't and she has a great deal of concern about the document. Council Member Dickey advised the proposed contract is not up to date and it probably has some flaws in it, he mentioned that the contract would not be the same after the negotiation process begins. Vice Mayor Kennedy asked to withdraw his second due after listening to what Council Member Dickey had to say. Council Member Stephenson seconded the motion to table the item. Council Member Stephenson said she has concerns about whether they have the ability to withdraw a motion or second, she isn't sure if it follows Robert's Rule of Order. City Attorney Tisher advised if someone wants to withdraw their second or motion they can do that. Council Member Matthews said Mr. Dickey was at the Special Called Meeting so he has had the information in front of him for a while, but there are other Council Members who haven't had that much time to review the document. Council Member Matthews said there is not a bigger topic in the City of Columbia. Council Member Matthews said we may not see the final contract and we have direction that we would like to be given to the board. Vice Mayor Kennedy said he isn't withdrawing his second because he wasn't at the meeting, he thinks it is wise to wait until CPWS gets the contract the way they intend it to be. Council Member Martin asked if she can send her direct statements or does she have to wait to send the statements with Council Member McCullen. Mayor Gentner said maybe they should send Mr. McCullen back to the Board and ask that the City Council be able to critique the contract before it is signed by the parties. City Attorney Tisher said if Council members want to express their

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comments as individuals then there is no problem with that, but if they wish to take a position as a body then there needs to be a vote as a body and they will need to send Mr. McCullen back saying the position is from the City Council. Council Member Stephenson said she has many concerns about this document and was stunned to hear this was a copy of an old contract. She said this is a big thing and the people of Columbia have a right to know what is going on here. She said it is a poor planning issue with Spring Hill and their growth and they need to improve their plant since their capacity is limited. Council Member Stephenson said she would like to try to find out if they can have a more open forum for citizens to question CPWS, maybe at Columbia State. Vice Mayor Kennedy asked Mr. Clark if CPWS can get out of the contract if it became unbearable to sell water. Mr. Clark said there is a curtailment clause in which they must treat all suburban customers the same, but everyone is in this together. Vice Mayor Kennedy asked if they have to service Spring Hill if there is a drought. Mr. Clark said CPWS is provided protection legally if unable to deliver the services. Mr. Clark said not all water shortages are caused by weather-related droughts. Mr. Clark said he has taken everything that has been said here tonight seriously and will take it back to the Board. All Council Members present voted aye with the exception of Council Members Dickey, McCullen, Vice Mayor Kennedy, and Mayor Gentner who voted no. Motion to table the matter failed. Mayor Gentner moved to send the communication back to the CPWS Board and to request that before a contract is entered into with Spring Hill that Council has the opportunity to critique it and to make recommended changes. Vice Mayor Kennedy seconded the motion. Council Member Dickey asked if that would be after CPWS has negotiated with Spring Hill. Mayor Gentner said he is talking about before anyone puts their signature on the document and added that the motion is to go through Council's representative on the Board, Carl McCullen. Mayor Gentner said it is up to the Board as to when they allow Council to see the final contract. Council Member Dickey said it seems better to him for Council to allow Spring Hill to see the contract first. All Council Members present voted aye with the exception of Council Member Matthews who voted no. Motion passes.

- **CPWS'S PARTICIPATION IN SOUTH CENTRAL HUMAN RESOURCE AGENCY'S UTILITY ASSISTANCE PROGRAM;**

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Mr. Clark advised that the use of electric services revenue is basically a legal issue and he will ask Mr. Murphy to be brief so there is time for questions from Council. Mr. Murphy said the use of electric system revenues is governed by three areas: State of Tennessee statutes, Tennessee Valley Authority (TVA) Power Contract and CPWS Revenue Bond Covenants. Mr. Murphy said TCA §7-34-115(a)(1-9) sets forth how the power system can spend its money. He said there is no specific listing of making donations and in the power system statute they cannot use revenues to make a donation. Mr. Murphy said they have to treat everyone equally whether poor or rich and if they treated people differently that could result in lawsuits. Mr. Murphy said TVA has responded saying they cannot use revenues for the LIHEAP program. Mr. Murphy said they do have a CPWS “Plus One” Program where people can donate so much on their bill. Those funds are administered by the Good Samaritan Program. CPWS does not decide, direct or select who receives assistance. Mr. Murphy said from a legal standpoint if they made a donation, there would be an audit finding and there would be a letter sent to the bond covenant. Council Member Matthews said Ms. Miller came before Council to talk to them about LIHEAP. She had informed Council that there are people losing their homes because their utility bills are becoming extremely large. Ms. Miller had said there were thirteen counties that she represented and all counties participated in LIHEAP except CPWS. Council Member Matthews said all of them (counties that participated) have TVA contracts yet they were still able to participate. Council Member Matthews said Duck River Electric was willing to donate more if CPWS would also donate, but CPWS did not. Ms. Miller had said Maury County is the largest county in the area so they got more money than any other county, but the money was sent to other counties because CPWS would not participate in the program. Council Member Matthews asked if Mr. Murphy or Mr. Clark went to Mr. Boyer to see if they could do anything to help with the requests for donation. Mr. Clark said they did not go to Mr. Boyer and the fact that other utilities may do something that may be questionable is no reason for CPWS to do something that is dishonorable. Council Member Matthews asked if helping the poor is what he considers dishonorable. Mr. Clark said to violate their contract is dishonorable. Mr. Clark said CPWS participates in adult education programs but they cannot write a check to help. Mr. Murphy said he spoke to some other agencies and they said they violated the law and don’t have bonds. Mr. Murphy also advised that Duck River Electric’s contract is

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different from a municipal contract with TVA. Council Member Matthews said there are many decisions being made by the Board of CPWS. She said every time there is a rate increase it is because there is a need for infrastructure. Council Member Matthews said to call it dishonorable is just wrong and that maybe it is the wrong word but there are other counties that are helping their poor. Council Member Matthews went on to say the Board at CPWS gave Mr. Clark a 20% increase in his salary last year. Mr. Murphy asked for an objection in the line of questioning. Mayor Gentner did object to Council Members Matthews' line of questioning. Council Member Matthews said the line of questioning is relevant and she wants to know why the Board approved the raise when things were bad in the City of Columbia. Mayor Gentner asked that questions be directed to the participation in the utility assistance program. Council Member McCullen said he did not know he was supposed to come here ready to answer questions about Mr. Clark's salary and that he thought they were suppose to stick to what was on the Agenda. Mayor Gentner said they would not be discussing salaries. Vice Mayor Kennedy asked what word Mr. Clark used earlier. Council Member Matthews said he used the word "dishonorable" to help the poor. Vice Mayor Kennedy said he thinks the word should be "unlawful". Mr. Clark said he would dishonor himself by violating the contract and misusing monies. He said he would be letting customers down by violating the laws they are suppose to follow. Mr. Clark asked Council Member Matthews if she wanted him not to act legally with regards to the Bond Covenants that Council has approved. Mayor Gentner said that question wasn't appropriate. There were no more questions.

Mayor Gentner called for a five minute recess at 8:50 p.m. and said the meeting will convene at 8:55 p.m.

Mayor Gentner called the meeting back to order at 8:57 p.m.

ORGANIZATIONAL BUSINESS:

Item 6.1 – **MINUTES OF THE REGULAR CITY COUNCIL MEETING OF APRIL 16, 2009.** Council Member Martin moved to approve the April 16, 2009 City Council Meeting Minutes. Council Member Dickey seconded the motion. All Council Members present voted aye with the exception of Council Member McCullen who was absent for the vote.

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Item 6.2 – APPOINTMENT OF JOAN JACKSON TO THE BEER BOARD, THE TERM WILL EXPIRE MAY 7, 2010. Mayor Gentner moved to approve the appointment of Joan Jackson to the Beer Board with the term expiring on May 7, 2010. Council Member Matthews seconded the motion. All Council Members present voted aye. Council Member McCullen was present for the vote.

CONSENT AGENDA:

Council Member Dickey moved to approve the Consent Agenda. Council Member Stephenson seconded the motion. All Council Members present voted aye and the following items were approved:

1. Authorization to dispose of surplus City property – Finance Department.
3. Approval to submit an application to the 2009 Federal Assistance for Firefighters Grant Program – Fire Department.

ADMINISTRATION:

Item 8.1 – REQUEST FOR AUTHORIZATION TO EXERCISE EMINENT DOMAIN CONCERNING TWO (2) TRACTS ON RIVERSIDE DRIVE RELATED TO THE DUCK RIVERWALK PROJECT. Council Member Stephenson moved to approve the authorization to exercise eminent domain concerning two tracts on Riverside Drive for the Duck Riverwalk Project. Council Member Matthews seconded the motion. City Attorney Tisher advised the City has been negotiating getting the required easements to finish up the Riverwalk and there are couple properties that look like the City needs to exercise eminent domain on. Vice Mayor Kennedy said he assumes this is the property that has been in newspaper that said the property owner has never been approached by the City. City Attorney Tisher said there have been representatives that have talked to the residents numerous times. Vice Mayor Kennedy said he is not in favor of eminent domain and they need to make sure the citizens have rights. Council Member Matthews said she also is not in favor of eminent domain. Council Member Matthews asked if what was in the paper about how much of the property owner’s lot the City wants is correct because the

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paper stated that the City only wants part of their lot. City Attorney Tisher advised that is the way the project is designed, there used to be more infringement but it has since been redesigned. He said when many of the properties were acquired there were discussions with the property owners at that time, but they didn't want to sell their property then. Council Member Matthews asked if that was for the entire property. City Attorney Tisher advised that was for the entire lot. Council Member Matthews asked why that isn't an option anymore. City Attorney Tisher advised that was FEMA money and that grant money is now gone. Council Member Matthews asked what amount was offered for the piece of the property in the back and how much the property owner is asking for the entire lot. City Attorney Tisher advised he didn't have those numbers. City Manager Boyer advised the process that was used was a process that City Council approved by a contract with Carol Croft and Associates who has been acting as Council's agent in the acquisition of the properties. Mr. Boyer said no City employee has made contact because it was recommended by the granting agency that we use this process in order to ensure the property owners' rights were protected. Mr. Boyer said he believes Council had a unanimous vote for that agreement. Council Member Mathews asked how much the city spent for the contract. City Manager Boyer advised he isn't sure about the amount - maybe around 30 or 40 thousand dollars. Council Member Martin said there is a communication problem and whoever is representing us needs to know they are indeed representing the City of Columbia. City Attorney Tisher said the written offer clearly shows that the agent is representing the City of Columbia. Vice Mayor Kennedy asked if the money for Riverwalk property is gone. City Attorney Tisher advised the FEMA grant money is gone and the Riverwalk money is coming in. He said there is money available to purchase the easements but there isn't anymore FEMA money available to purchase properties. Mr. Boyer said the Riverwalk money does not allow the City to purchase any more property than what is needed for the Riverwalk, so they cannot purchase the entire property if it is not necessary to accommodate the walk itself. Council Member Matthews asked if the property owners turned the money down when the FEMA money was available. City Attorney Tisher said there were numerous properties that were purchased and there were several on Riverside Drive but they had to meet qualifications. Mr. Boyer said the FEMA Hazard Mitigation Grant Program has been zeroed out since around 2003 and those funds used towards the war in Iraq and for Hurricane Katrina recovery purposes.

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Council Member Matthews asked if mitigation program funds would be available if there were to be a flood this year. City Manager Boyer advised he hasn't seen anything to show that the Obama administration plans on putting funds back into the FEMA Hazard Mitigation Program. Vice Mayor Kennedy asked if these two properties flood. City Attorney Tisher advised he would imagine there was water on the back of the properties from the last flooding but he isn't sure. Mr. Terry Pullen who owns Riverside Small Engines, which is one of the properties being discussed, said no one has approached him to buy his property with the grant money and that no one ever approached him. Mr. Pullen said he should have been offered to be bought out before the grant money ran out and he doesn't know why he wasn't when all the other businesses were bought out. Mayor Gentner asked if anyone contacted him about the sidewalks for the Riverwalk. Mr. Pullen said no one approached him until last fall. Mayor Gentner asked when the contract was signed with the agency. City Attorney Tisher advised it was last fall. City Manager Boyer advised that there needs to be a property appraisal and there needs to be an additional property appraisal (according to grant requirements). City Manager Boyer said if there is a disagreement between the two appraisals, then a third appraiser comes in to settle things. Mr. Boyer said the agent is charged to negotiate on behalf of the City. Mayor Gentner asked Mr. Pullen if someone has sat down with him related to buying the part of his property for the sidewalk not the whole lot. Mr. Pullen said they came and appraised it last fall and that another person came and spoke to him in March of this year and told Mr. Pullen that he didn't represent the City and he came back with a totally different thing and made him an offer. Mr. Pullen told him about the liability and security concerns he has if someone falls in the river because he is the property owner. Mr. Pullen said after three weeks the gentleman came back with another offer to try to take care of some of his concerns. Council Member Matthews asked if there is a written documentation of who they spoke to and when. City Attorney Tisher said Jimmy Jumper was in charge of the project. Council Member Matthews said she wanted see the documentation of who was spoken to. Mayor Gentner said from his experience there were several property owners that the previous City Manager wanted to buy the properties from but there were insufficient funds at that time to buy the properties and he may have been hoping for more funds to buy the other properties. Council Member Martin said she appreciates Mr. Pullen coming before Council to share his concerns and she would like research done and to have

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information brought back to Council. Council Member Stephenson said Mr. Pullen is in her Ward and the consultant's representatives were at a Riverwalk Meeting. Council Member Stephenson said the representatives said they have documented the conversations they have had with Mr. Pullen. The representatives have said there was an offer made that Mr. Pullen agreed to and then later did not agree to. Council Member Stephenson asked Mr. Pullen if he accepted an offer. Mr. Pullen said he did not accept any offer and that no one had talked to him about this until last fall and the guy after him made the offer. Council Member Martin asked if this motion would just authorize the opportunity to use eminent domain but not cut off the opportunity to make other offers. City Attorney Tisher said from the logs he has been given about the conversations the representatives from Mrs. Croft and her company had, they were unable to reach an agreement and therefore recommended eminent domain. Council Member Matthews moved to defer Item 8.1. Council Member Martin seconded the motion. Council Member Martin said she would like to defer this matter so Council can see additional documentation on what has been happening with this project. All Council Members present voted aye to defer the authorization to exercise eminent domain concerning two tracts on Riverside Drive related to the Duck Riverwalk Project.

RESOLUTIONS:

RESOLUTION NO. 09-15 - A RESOLUTION ACCEPTING AN ORGAN DONATION WITH AN APPROXIMATE VALUE OF \$1,000.00 FROM MRS. MARY MCNEELY TO BE USED AT THE FAIRVIEW RECREATION CENTER – PARKS AND RECREATION DEPARTMENT.

Council Member Martin moved to approve Resolution No. 09-15. Council Member McCullen seconded the motion. Council Member Martin said she appreciates this offer and encouraged Parks and Recreation Director Brian Borden to take pictures of the organ for the City's records. Mayor Gentner said it will also be appropriate for a thank you letter to be sent to Mrs. McNeely. All Council Members present voted aye.

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RESOLUTION NO. 09-18 - ACCEPTANCE OF OWNERSHIP AND MAINTENANCE OF SANITARY SEWER IMPROVEMENTS SERVING PORTIONS OF ELAINE DRIVE –WARD 3 – WASTEWATER DEPARTMENT.

Council Member Martin moved to approve Resolution No. 09-18. Council Member Matthews seconded the motion. All Council Members present voted aye.

RESOLUTION NO. 09-19 - RESOLUTION AUTHORIZING THE AMENDMENT OF EXHIBIT B TO THAT CERTAIN LOAN AGREEMENT, DATED DECEMBER 21, 2007, HERETOFORE EXECUTED BY THE CITY OF COLUMBIA, TENNESSEE, IN CONNECTION WITH A LOAN FROM THE PUBLIC BUILDING AUTHORITY OF THE COUNTY OF MONTGOMERY, TENNESSEE, IN THE AMOUNT OF \$4,000,000 – FINANCE DEPARTMENT.

Council Member Dickey moved to approve Resolution No. 09-19. Council Member Martin seconded the motion. City Manager Boyer said this is the loan that the City took out in 2007 to support the construction of Ridley Park. Due to the problems with access to the site, the money was not expended the way the original repayment scheduled envisioned it being expended. Mr. Boyer said the first principal payment will be due on May 25th and it was scheduled to be \$211,000. As the City has only drawn down \$165,000 to date, the City is requesting the Tennessee Municipal Bond Fund to amend the repayment schedule to reflect a payment of \$165,000 in May 2009 and a principal payment of \$267,000 in May 2010 provided that we draw that much money down. All Council Members present voted aye.

RESOLUTION NO. 09-21 - ACCEPTANCE OF OWNERSHIP AND MAINTENANCE OF SANITARY SEWER IMPROVEMENTS FOR PORTIONS OF THE HONEY FARM DEVELOPMENT

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INCLUDING THE GRAVITY LINES
SERVING RESIDENTIAL PHASE 1,
SECTION 1 AND INCLUDING TWO
PUMP STATIONS AND FORCEMAIN –
WARD 5 – WASTEWATER
DEPARTMENT.

Council Member Stephenson moved to approve Resolution No. 09-21. Vice Mayor Kennedy seconded the motion. Council Member Stephenson said at Study Session Mr. Anderson said he accepts the improvements and she asked about the Certificate of Occupancy. Council Member Stephenson asked Mr. Boyer if the Code Administration Department has done what they needed to do. Mr. Boyer said he does not routinely monitor the Building Inspectors on a daily basis but that has nothing to do with this Resolution. All Council Members present voted aye.

ORDINANCES:

ORDINANCE NO. 3805 - AN ORDINANCE TO AMEND TITLE 18,
CHAPTER 1, SECTION 18-103 OF THE
MUNICIPAL CODE OF THE CITY OF
COLUMBIA WITH REFERENCE TO
SEWER SERVICE CHARGES –
SECOND CONSIDERATION WASTEWATER DEPARTMENT.

Council Member Dickey moved to approve Ordinance No. 3805 on second consideration. Council Member Stephenson seconded the motion. Council Member Stephenson said she doesn't have the handouts that the Vice Mayor gave Council and she thought that would be something he might want to review. Vice Mayor Kennedy said his concern about this from the word "go" was the constituents and any kind of increase during these hard economic times. Vice Mayor Kennedy said he has been told that our Wastewater Department is second to none for the State of Tennessee. Vice Mayor Kennedy's handout listed the following items:

1. Financial report
2. Revenues and expenditures balance for 2007
3. Projected projects for 2009 and how much of the reserve are we using for these

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4. How much are revenues projected for 2009
5. How much of the monies raised by the rate increase will be earmarked for reserves after we balance our budget in your department
6. Do you think revenues from new projects will help us overcome our two million dollar short fall
7. What are the new projects that we had to debit our reserves for do you think we sill need a eleven million dollar balance in our reserve
8. Is the Stoneybrook project paid for, how much revenues do you project from this project.

Vice Mayor Kennedy asked if there has not been a rate increase since 1997. Mr. Mike Anderson, Wastewater Director, said that is correct. Vice Mayor Kennedy said all of a sudden in one of the worse economies that we have seen, we are expected to approve a rate increase. City Manager Boyer advised that staff is ready to answer everything on the handout that Vice Mayor Kennedy gave out. City Manager Boyer added that he had to go outside the organization to receive a copy of the list. Vice Mayor Kennedy advised the handouts were given to everyone today. Vice Mayor Kennedy said the City paid \$30,000 for the consultant firm but were offered by TML to do it for free. Vice Mayor Kennedy said his concern is that he doesn't think there needs to be any kind of rate increase at this time. City Manager Boyer said TML does not do rate studies, MTAS does rate studies. Due to some of their work lately, their studies have been found less than satisfactory and the City knew this was an important issue that for the community to deal with and the City wanted to make sure we had a timely and accurate study. City Manager Boyer said that is why they chose not to take the "free route", because you get what you pay for. City Manager Boyer said the Stoneybrook project is paid for. City Manager Boyer said in the case of the Wastewater Department, he chose not to present a rate increase last year when Mr. Anderson wanted to ask for one. Mr. Boyer said he didn't ask for an increase last year because he didn't think it was right to ask for an increase when a property tax increase was being requested. Mr. Boyer said this should be used to pat staff on the back - not to not recommend a rate increase because there hasn't been one since 1997. Mr. Boyer said this is a result of great fiscal management (not having an increase since 1997). Mr. Anderson said there is no Stoneybrook project and that the area was being worked on before Stoneybrook was even thought of. Mr.

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Anderson passed out some papers to help explain some of the questions asked by Vice Mayor Kennedy. Mr. Anderson passed out a graph on the fund balance. Mr. Anderson said the actual fund balance is 15.2 million dollars. If you start looking at the obligations, the graph shows they will need two million dollars to balance the Operations & Maintenance (O&M) portion of the budget. Mr. Anderson went over some of the capital items in the proposed budget received by the Council. Mr. Anderson said when you take the O&M and the capital projects out of the fund it leaves a 20 to 25% operating reserve. That represents three months, which is not an enormous amount of money for that size budget. Mr. Anderson said in 2007 the cash balance and the fund balance decreased over 4 million dollars. Mr. Anderson advised the revenues that are projected for 2009 can be found in the proposed budget. Mr. Anderson said for item five on the list he would not recommend anything be earmarked because the fund balance needs to be in reserve to be used for whatever type situation is thrown at them in the future. In regards to item number 6, Mr. Anderson said new developments might help, but alone would not overcome the operating deficit. With the economic situation at this time, things are not growing great. Mr. Anderson addressed number 7 on the list by saying there is not eleven million dollars in reserve and that new projects are listed on the graph along with being listed in the proposed budget. Mr. Anderson said there are things that are desperately needed because the system is getting old and there are issues associated with the age of the system. Mr. Anderson said the financial report is a public document that has been listed on the City web for a long time. Mr. Anderson said revenues are going down and expenses are going up. Vice Mayor Kennedy said he apologizes for saying TML instead of MTAS and he said Stoneybrook project because that is where the line is. Mr. Anderson said he didn't want the public to think a project was done for a specific developer. Vice Mayor Kennedy said he was told there was eleven million dollars in reserve. City Manager Boyer said the budget was planned around the money in the reserves. Mr. Boyer said these aren't expansion projects: they are projects that would be improving equipment and pipes that have corroded. Council Member Matthews said she doesn't want the Council to be deluding themselves because it is an increase. Council Member Matthews said she has changed her mind because of the proposed budget that came before Council. Council Member Matthews said there was a

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22% overrun in O&M with a projection of 35% for next year and products and services were overrun by 56% and wastewater has overrun everything in the budget in case there is an emergency. Council Member Matthews said there are overruns in personnel and positions haven't been filled. Mr. Anderson said the City is in a hiring freeze. Council Member Matthews said she would rather have him come before Council to do a designated increase for a certain amount of time if there is an emergency that comes up. Council Member Matthews said Mr. Anderson isn't within a million dollars of knowing what they are going to spend next year and she would like an audit of the Wastewater Department. City Manager Boyer said Council has the audit, he said the Wastewater fund is audited every year as part of the City's audit and they were provided a copy of the document. City Manager Boyer advised Council did vote and accept the audit. City Manager Boyer said there will be another audit at the end of this fiscal year as required by law. Council Member Matthews said she will go back and look at the audit. Council Member Matthews reemphasized that Mr. Anderson is not within a million dollars in his budget on what they are going to spend next year. Mr. Anderson said he gave Council a realistic number. Council Member Matthews said next year he will just run up the numbers again. Mr. Anderson said he has been in the wastewater business for over 30 years and a department head for 17 years. Mr. Anderson said they operate as frugally as they can and when there are funds left over they go back into the balance and that is why they haven't had a rate increase since 1997. Council Member Matthews said we, as a City, have been letting the "tail wag the dog". Council Member Matthews said we have projects because we think a subdivision may be going into a certain area and so we put sewer lines in that area without a strategic plan. Council Member Matthews said she believes the way Mr. Anderson has handled it so far is working and that a 14% increase is unnecessary. Mayor Gentner said they don't need to get this personal but he wanted to say for his satisfaction that he has known Mr. Anderson for twenty years and he is one of the most frugal department heads in the City of Columbia. Mayor Gentner said he really values Mr. Anderson's statements and he doesn't think there is any manipulation. Mayor Gentner went on to say Mr. Anderson is just trying to provide a reliable service that has the ability to serve existing customers and the ability to attract new customers and we are very blessed to have this type of department head with us. Council Member

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Matthews said she seconds the Mayor's statements but the budget has overruns in it. Council Member Matthews said there is a lot of money being "padded" in the budget for emergencies. Mr. Anderson said they turn the money back over at the end of the year. Mr. Anderson said even if they put one million back next year they are going to be at 4.72 million dollars next year, which will leave nothing for capital projects because they will still have a two million dollar operating shortfall. Mr. Anderson said they will be below the recommended 25% fund balance for reserves. Council Member Matthews asked how much they are putting back into the fund. Mr. Anderson said the graph is based on the proposed budget. City Manager Boyer said it has been the City's unwritten policy in all operating funds to attempt to have a reserve of three months expenses for worst cases. City Manager Boyer said Council Member Matthews has stated her opinion that General Motors (GM) may leave Maury County and if they leave which he doesn't believe it will happen and hopes it doesn't happen but if it does we will then lose our single biggest customer. Mr. Anderson said next year there will not be any money for capital projects, so to do a project they would have to borrow money and pay interest. Council Member Matthews said regarding the GM statement she said for the City to prepare for the worst-case scenario, not that they are going to leave. Council Member Stephenson said there hasn't been a rate increase in twelve years and if she has read this right there will be an increase of \$3.61 for year one for those using 5,000 gallons per month. In year one that would be around \$43.00 for the year and in year two it would be an increase \$4.11 per month for those using 5,000 gallons. Council Member Stephenson said in year two if you add the amount from year one the total combined amount would be less than one hundred dollars. Council Member Stephenson said it is amazing that this department hasn't had an increase in twelve years. Council Member Stephenson said she isn't saying that the money isn't important to people, but she commends Mr. Anderson for what he has been able to do for the last twelve years. Council Member Stephenson said if you look at the big picture when looking down the road this seems minimal. Vice Mayor Kennedy said they have been talking about if GM closes and a decrease in revenues, but what if we have an increase in revenues. Mr. Anderson said anything can happen but there are 280 miles of sewer lines in the city with 60 to 70 % of that line being over fifty years old. Mr. Anderson said he hopes for the community that the economy gets better. City

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Manager Boyer said he joins the Vice Mayor in wanting the economy to turn around. There was discussion on the tap fee, which is a one-time fee for a new house, it is not a recurring fee for a household. All Council Members present voted aye with the exception of Vice Mayor Kennedy, Council Members Matthews and McCullen who voted no. Motion passes on second consideration.

ORDINANCE NO. 3721 - AN ORDINANCE TO ANNEX PROPERTY KNOWN AS WINDY HILL FARM LOCATED ON THE SOUTH SIDE OF CAMPBELLSVILLE PIKE CONTAINING 131.89 ACRES AND ESTABLISH THE DATE OF JUNE 4, 2009 AS THE DATE OF THE PUBLIC HEARINGS ON THE ANNEXATION AND PLAN OF SERVICES – GRANTS AND PLANNING DEPARTMENT.

FIRST CONSIDERATION

Council Member Matthews moved to defer Ordinance No. 3721 on first consideration until the next Regular City Council Meeting. Council Member Dickey seconded the motion. All Council Members present voted aye to defer Ordinance No. 3721 on first consideration.

ORDINANCE NO. 3722 - AN ORDINANCE TO AMEND ORDINANCE NO. 3638 – THE SAME BEING THE ZONING ORDINANCE OF THE CITY OF COLUMBIA, TO ZONE PROPERTY BEING ANNEXED BY ORDINANCE NO. 3721 KNOWN AS WINDY HILL FARM LOCATED ON THE SOUTH SIDE OF CAMPBELLSVILLE PIKE CONTAINING 131.89 ACRES TO R-0 PLANNED UNIT DEVELOPMENT AND ESTABLISH THE DATE OF JUNE 4, 2009 AS THE DATE OF THE PUBLIC HEARING – GRANTS AND PLANNING DEPARTMENT.

FIRST CONSIDERATION

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Council Member Dickey moved to defer Ordinance No. 3722 on first consideration until the next Regular City Council Meeting. Council Member Matthews seconded the motion. All Council Members present voted aye to defer Ordinance No. 3722 on first consideration with the exception of Council Member Stephenson who abstained.

ORDINANCE NO. 3807 - AN ORDINANCE TO AMEND ORDINANCE NO. 3638 – THE SAME BEING THE ZONING ORDINANCE OF THE CITY OF COLUMBIA, BY REZONING 1119 SOUTH MAIN STREET FROM I-G (INDUSTRIAL GENERAL) TO GCS (GENERAL COMMERCIAL SERVICES) DISTRICT AND ESTABLISH THE DATE OF JUNE 4, 2009 AS THE DATE OF THE PUBLIC HEARING – WARD 3 – GRANTS AND PLANNING DEPARTMENT.

FIRST CONSIDERATION

Council Member Martin moved to approve Ordinance No. 3807 on first consideration and to establish the date of June 4, 2009 as the date of the Public Hearing. Council Member Matthews seconded the motion. All Council Members present voted aye with the exception of Council Member Stephenson who abstained.

ORDINANCE NO. 3808 - AN ORDINANCE TO AMEND ORDINANCE NO. 3448, THE SAME BEING THE ORDINANCE ADOPTING A NEW PROCEDURE AND SANITATION FEE SCHEDULE, BY ADOPTING A NEW FEE SCHEDULE FOR THE COLLECTION OF COMMERCIAL REFUSE WITHIN THE CORPORATE LIMITS OF THE CITY OF COLUMBIA, TENNESSEE – PUBLIC WORKS DEPARTMENT.

FIRST CONSIDERATION

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Vice Mayor Kennedy moved to approve Ordinance No. 3808 on first consideration. Council Member McCullen seconded the motion. Council Member Matthews then moved to defer Ordinance No. 3808 on first consideration and Council Member Stephenson seconded the motion. Council Member Matthews said they are talking about an increase in the commercial area, which doesn't look bad on paper, but in the current budget they are trying to buy a couple of trucks. Council Member Matthews said next year for the two trucks, they are going to have a property tax increase. City Manager Boyer advised that the Sanitation fund pays for its own trucks and there would be a five year capital outlay note to buy the four trucks. Council Member Matthews withdrew her motion to defer after the explanation from Mr. Boyer. Council then voted on the original motion, which was to approve Ordinance No. 3808 on first consideration. All Council Members present voted aye.

PUBLIC COMMENTS:

OTHER BUSINESS:

Council Member McCullen advised he had to leave. Council Member McCullen left the meeting at 10:14 p.m.

Council Member Matthews asked for a discussion on CPWS' current board structure. Council Member Matthews spoke about Mr. Clark's employment agreement with CPWS. Council Member Matthews said City Manager Boyer's salary is quite less than what Mr. Clark is making and Mr. Boyer governs thirteen departments. Council Member Matthews said what was shocking to her most especially since the citizens have been crushed by the utility bills the last couple of years is that the contract shows an average of a 6 to 7% in increase in Mr. Clark's salary every year except last year where his salary went up 20%. Council Member Matthews said at the next study session she would like to ask Council Member McCullen why the Board of Public Utilities voted on an increase when the rest of the City was strapped under utility bills that many citizens could not pay. Council Member Matthews said there is a crime situation in our City. Council Member Matthews said our officers are arresting people and by the time the paperwork is complete the people that were arrested are back on the streets. She said by the time we get a first conviction for violent crimes, they have

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been before a judge twenty-one times before they are actually sentenced. Council Member Matthews said she would like a crime think tank or a crime discussion and she would like the City Manager to invite police officials, City Council and every elected judge to come and participate in this discussion. Council Member Matthews said there are teachers and police officers that are begging for something judicial to come out of the City. Council Member Matthews did her “business shout outs” to King Buffet (they have started delivering Chinese food) and to Campus Grill for the best catfish on Friday nights. Also Council Member Matthews sent a “shout out” to Fralix Electric. She said she had an issue with her central heating and air unit and had fifteen people look at it. Council Member Matthews said the gentleman from Fralix took his time to find out what was wrong with the unit.

Council Member Martin thanked everyone for coming out to the Bethel Chapel AME Church for the neighborhood revitalization plan. She also thanked the City Manager and Department Heads for coming out the next day to discuss the revitalization. Council Member Martin said that today at 4:30 p.m. they released balloons at Fairview Park to release the stigma for children that have mental health issues. Council Member Martin said this event was sponsored by the Mule Town Family Network and also a couple of other agencies. Council Member Martin said mental health may be heavily involved with some of the crimes going on in the community. She congratulated Ken Donaldson and Mark Blackwood for their work in Kentucky. Council Member Martin asked to have the special appropriations organizations come before Council to speak about their request for funding before Council completes the budget process. Council Member Martin asked everyone to keep in their prayers the Mosley Family and the Bailey Family in the loss of their young daughter, their mother and their granddaughter. Council Member Martin said we have to do something about the crime in this City.

Council Member Dickey just asked to clarify when the next budget meeting would be. City Manager Boyer advised the meeting would be Monday at 5:30 p.m.

Council Member Stephenson said on April 24th she had to call first responders because her husband’s boat had capsized in the Duck River.

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Council Member Stephenson said she could not get over the response at the Iron Bridge Boat Ramp. She said she could not believe all the departments that responded to the emergency. Council Member Stephenson said there was even a gentleman who was launching his boat onto the river when she pulled up to the ramp and Emergency Director Mark Blackwood asked to use his boat to help Mr. Stephenson, which he let them use. Council Member Stephenson thanked all the departments that came out to help rescue her husband from the river and reemphasized how great the response was to the situation and how impressed she was with the first responders. Council Member Stephenson said she has had discussions with State Representatives and the Governor's Office and it is very important that what we communicate especially verbally be positive in regards to the General Motors Plant. Council Member Stephenson said local officials need to be as positive as possible when speaking about GM until we know definitively what is going on.

City Manager Boyer asked that Council bring their calendars Monday night because last year it took three meetings to go over the special appropriation presentations.

Mayor Gentner said he had two items. The first was in regards to Whiskey Alley. Mayor Gentner said in the contract there is still the opportunity for the City to get Whiskey Alley. Mayor Gentner asked that the following be put in the minutes in its entirety. Mayor Gentner said the following "Vice Mayor Kennedy, Members of City Council it has truly been an honor and a privilege to serve on City Council. However, I would like to announce this evening that I will not seek reelection for Mayor for the City of Columbia in November. I have had the privilege of serving as City Manager for Columbia for eleven and a half years prior to running for election of office in 2003. I have served two years as the 5th Ward Council person and then in 2005 I was elected Mayor. I am the only Mayor in the history of the City that has held both a City Council position and City Manager. I also have the distinction of being both the last Mayor of this City in its first bicentennial and the first Mayor in its quadrennial. It has also been my honor to work with the most dedicated and hardworking City employees that any city can hope to employ. I have enjoyed my sixteen plus years with this city both as an employee and as an elected official and I feel that I have been able to make a positive difference in the governance of this City. I have an

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overwhelming appreciation of what it requires to keep this City thriving. My time with Council has allowed me in part to be part of the construction of the E.T. Frierson Public Works facility, Fire Station 4 & 5, the Police Department relocation, remodeling of City Hall, land acquisitions for parks, downtown improvements including sidewalks, landscaping, traffic improvements on Garden Street, expansion of our wastewater facilities to I65 on the east; to Tindell Lane on the west; to Sheegog Lane on the south; to Freehand Lane on the north; to Potter Drive to the southeast and the growth of the City following the announcement of GM to locate the Saturn Corporation to Maury County. During this period I have also had the opportunity to draft and pass legislation that has and will in the future make this City a better place to live and work and prosper. I leave office at the end of the year knowing I have work diligently and compassionately for all the citizens of this City I look forward to pursuing other political and business opportunities in 2010.”

There being no further business, the meeting adjourned at 10:27 p.m.

APPROVED:

WILLIAM E. GENTNER, MAYOR

ATTEST:

BETTY MODRALL, CITY RECORDER