I.A.

MEMORANDUM

TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Director of Public Services

SUBJECT: Planning & Public Works Committee Meeting Summary
Thursday, October 18, 2012

A meeting of the Planning and Public Works Committee of the Chesterfield City Council was held on Thursday, October 18, 2012 in Conference Room 101

In attendance were: **Chair Randy Logan** (Ward III); **Councilmember Matt Segal** (Ward I); **Councilmember G. Elliott Grissom** (Ward II); and **Councilmember Connie Fults** (Ward IV).

Also in attendance were: Mayor Bruce Geiger; Aimee Nassif, Planning & Development Services Director; Susan Mueller, Principal Engineer; Purvi Patel, Project Planner; Kevin Neill, Project Planner; and Kristine Kelley, Recording Secretary.

The meeting was called to order at 5:30 p.m.

I. APPROVAL OF MEETING SUMMARY

A. Approval of the August 30, 2012 Committee Meeting Summary.

Councilmember Grissom made a motion to approve the Meeting Summary of August 30, 2012**.** The motion was seconded by Councilmember Fults and **passed by a voice vote of 4 - 0.**

II. OLD BUSINESS - None

Chair Logan announced that the order of the meeting agenda is being changed to hear Item F. after Item A.

III. NEW BUSINESS

A. P.Z. 12-2012 Chesterfield Oaks (Capitol Land): A request for an amendment to City of Chesterfield Ordinance 2643 to add the Office, medical land use in a "PC" Planned Commercial District of 6.494 acres in size and located on the east side of Clarkson Road south of its

intersection of Chesterfield Parkway and north of its intersection with Baxter Road (19S420415).

STAFF REPORT

Ms. Purvi Patel, Project Planner gave a PowerPoint presentation showing the site and the surrounding area. Ms. Patel stated the following:

The Petitioner is requesting an ordinance amendment to add the Office, medical land use in a "PC" Planned Commercial District located east of Clarkson Road and south of its intersection with Chesterfield Parkway. The Petitioner is requesting this use as the Planning & Development Services Division rejected an application for a chiropractic clinic for the development in August as medical use is not allowed.

There are no changes requested to the existing hours of operation for the development and there are no new or additional site improvements proposed at this time. All the uses for the development will remain the same with the addition of medical office use. Keeping in mind the site history with medical land uses, the proximity to residential land uses and the hours of operation for the development, Staff recommends excluding urgent care facilities and other similar type facilities. The Petitioner has no objections to this exclusion.

A Public Hearing was held on October 8, 2012. A vote was held at the same meeting and the Planning Commission recommended approval by a vote of 8 - 0.

Councilmember Fults asked if the site has adequate parking for the requested use. Ms. Patel indicated that the site is parked at a flat rate of 4.5 spaces/1,000 Gross Floor Area for all use types.

Councilmember Grissom made a motion to forward P.Z. 12-2012 Chesterfield Oaks (Capitol Land) to City Council with a recommendation to approve. The motion was seconded by Councilmember Segal and **passed by a voice vote of 4 - 0.**

Note: One Bill, as recommended by the Planning Commission, will be needed for the November 5, 2012 City Council Meeting. See Bill #

[Please see the attached report prepared by Aimee Nassif, Planning and Development Services Director, for additional information on P.Z. 12-2012 Chesterfield Oaks (Capitol Land)].

F. Striping on Appalachian Trail

STAFF REPORT

Susan Mueller, Principal Engineer gave a PowerPoint presentation showing Appalachian Trail – Phase 1 Pavement Striping. Ms. Mueller stated the following:

- Original Pavement Condition – 36 foot wide pavement with two double center lines, leaving an 18 foot wide lane in either direction, which was a combination drive and parking lane.
- Currently Under Construction – under its current condition, there is no striping for any delineation of travel lanes. The striping plans were designed to professional engineer standards and approved by MoDOT to provide speed control for safety and liability issues. She added that speeds change significantly with lane width. As an example; when approaching the Daniel Boone Bridge the narrowing of the lanes dramatically slows down the traffic. Especially in residential areas, without any lane width control drivers tend to travel at higher speeds. When the striping was completed along Stablestone Drive, the traffic speed reduced considerably. Ms. Mueller added that there are plans in place to provide sod and landscape plantings.

Staff agreed to the striping plan because it would improve the safety by reducing speeds and preventing cars from wandering in the parking lane. It is not mandated by the MUTCD (Manual on Uniform Traffic Control Devices), but is considered a traffic control device just like stop signs, speed limit signs, and no parking signs. The ADT (average daily traffic) varies along Appalachian Trail with approximately 3,000 vehicles being the highest ADT.

DISCUSSION

Councilmember Grissom explained that the issue was brought to the Committee's attention because the trustees in Shenandoah Subdivision are opposed to the striping. He added that the trustees felt that the striping made the road look like a highway thereby increasing the speed.

Councilmember Segal stated that during the reconstruction period when Stablestone did not have striping, the residents were asking for it. He then provided the benefits of the street striping. Stablestone is considered a thoroughfare and since the striping has been completed along Stablestone, the speeds have been dramatically reduced.

Councilmember Fults asked whether the striping is a requirement or an option. Ms. Mueller responded that the City is required to comply with the MUTCD. In this particular case, the standard requirement for MUTCD is above the threshold for ADT. It is now part of departmental policy to add striping on residential streets to narrow down the lanes to control speed. Staff is proposing lanes that are 10 feet 6 inches wide which is actually 6 inches narrower than the lanes along Stablestone. To improve the aesthetics, trees and sod will be installed.

MoDOT, along with Staff, does not recommend removing the striping because of safety and liability issues. Mayor Geiger then provided the names of other streets that currently do not have striping.

At the request of the trustees, Councilmember Grissom discussed the option of leaving the completed roadway un-striped for a couple of months, and then performing a traffic check of the speed and comparing it to speeds before the project was completed.

Mayor Geiger fully supports the double striping along Appalachian Trail. Due to its proximity to a school, Councilmember Fults feels that the striping is necessary.

Councilmember Segal made a motion to approve the Striping on Appalachian Trail as presented and designed. The motion was seconded by Councilmember Fults and **passed by a voice vote of 3 – 1 with Councilmember Grissom voting no.**

C. Ameren Tree Trimming on Schoettler Road

STAFF REPORT

Aimee Nassif, Planning and Development Services Director, presenting on behalf of Mike Geisel, gave a PowerPoint presentation showing photos of the tree trimming done by Ameren along Schoettler Road. Ms. Nassif stated the following:

Tree trimming that has occurred on Schoettler Road by Ameren has left the trees in a hazardous and weakened condition. The City Arborist Mindy Mohrman has been in regular contact with Ameren about their tree trimming efforts in the City.

Ameren has two programs that would address the issue:

1. They will provide the funding to replace the trees that they remove. These trees can be placed back on public property at any location determined by Staff as long as they are not located within a utility easement or a wire zone.
2. They will further trim the trees all the way to the stump on the condition that the City will provide resources to remove and grind the remaining stumps and assist in traffic control while the work is being performed.

Staff is fully prepared to provide this assistance however it will take considerable time and expense. It has been identified by Ameren that there are 11 trees along Greenleaf Valley Drive and 13 trees at Chermoore and Schoettler Road that they will be removing. According to Mindy Mohrman, this will be at a cost estimate of $2,500 for grinding and $2,400 for three days of work. It was noted that currently there is no schedule to complete this work.

DISCUSSION

Mayor Geiger suggested establishing a policy in which Ameren is directed to remove trees near power lines rather than trim them. He stated that Ms. Mohrman needs to be involved in working with Ameren in such situations. Ameren has informed Ms. Nassif that the tree trimming will be taking place all throughout the City as well as the West County area. Ms. Mohrman has been talking with Ameren and from here on out, Ameren intends to work with the City.

Councilmember Segal questioned as to whether the costs need to be a yearly budgeted item. Chair Logan felt that it should be determined on a case by case basis.

Councilmember Fults would like Staff to be proactive and suggested that Ms. Mohrman provide her assistance in determining which trees could be trimmed while they are smaller to prevent the drastic trimming that occurred along Schoettler Road. She referred to the trees along Chesterfield Airport Road as a particular concern. Chair Logan stated that while he doesn't want to see all the trees removed, he felt that the existing condition of the trees, from an aesthetic value, is totally unappealing.

Mayor Geiger noted that he has been in touch with Ameren and they are fully supportive of working with Staff in the future.

Ms. Nassif added that the City has been aware of the concern with trees growing too close to power lines and has taken steps to avoid the situation in the future. The Street Tree Program for example does not allow street trees to be planted under power lines and the City's Landscape and Tree Preservation Manual does not allow trees to be planted in a utility easement. In addition, the City requires that utility easements be shown on the Landscape Plan now.

Councilmember Fults made a motion to request that Staff work with Ameren to provide tree removal, stump grinding and traffic management services for the 24 trees identified along Schoettler Road. The motion was seconded by Councilmember Grissom and **passed by a voice vote of 4 – 0.**

Councilmember Fults made a motion for appropriation of funds of $5,000 from General Funds – Funds Reserve to cover the cost and to forward to City Council with a recommendation to approve. The motion was seconded by Councilmember Grissom and **passed by a voice vote of 4 – 0.**

Mayor Geiger requests that the photos be available at the next City Council meeting.

Note: A voice vote will be needed for the November 5, 2012 City Council Meeting.

[Please see the attached photographs of tree trimming done by Ameren along Schoettler Road.]

D. Dissolution of the Transportation Commission

STAFF REPORT

Aimee Nassif, Planning and Development Services Director stated that the Transportation Commission was created by the City of Chesterfield back in 1996 to provide assistance in bringing alternative modes of public transportation to West

County. With the existing development in West County and the expertise of City Staff and resources that are now available to Staff, it has been over ten years since the Committee last met, so it is the recommendation of Staff to dissolve the Committee.

Councilmember Fults fully supports the recommendation and requests that their services be utilized on an as needed basis.

Councilmember Grissom made a motion to dissolve the Transportation Commission and to forward to City Council with a recommendation to approve. The motion was seconded by Councilmember Fults and **passed by a voice vote of 4 - 0.**

> **Note: One Bill, as recommended by the Planning and Public Works Committee, will be needed for the November 5, 2012 City Council Meeting. See Bill #**

Chair Logan asked that the Mayor send a letter to the members of the Commission explaining the Committee's decision and thanking them for their time served.

[Please see the attached report prepared by Mike Geisel, Director of Public Services, for additional information on Dissolution of the Transportation Commission.]

E. Street Banners

STAFF REPORT

Aimee Nassif, Planning and Development Services Director explained that Mr. Geisel is requesting $21,000 be transferred from General Fund – Fund Reserves for the appropriation of replacement of 270 banners throughout the City. The funds would provide the artwork, setup, and all related expenses to completely replace the City's street banners, with a series of up to six different banner configurations. It is Staff's recommendation to have the banners prepared and available by January of 2013.

Councilmember Fults feels that many of the banners are faded and outdated. She fully supports Staff's recommendation, but further suggested a yearly maintenance fund be allocated for this purpose. Chair Logan responded that as the materials change and through the purchase of higher-quality banners, a yearly allotment may not be necessary as a budgeted item.

Mayor Geiger suggested a sharper design on the banners. Chair Logan requested that the themes be brought back to the Committee before final approval is given. Councilmember Grissom felt the designs should be completed first so that banners related to the parks could be funded using the Parks Fund vs. the General Fund. Chair Logan explained that the Parks Fund can only be used for parks issues while General

Fund – Fund Reserves are growing at a greater rate than Park Fund – Fund Reserves. He feels that the General Fund should be used for this type of expense.

Mayor Geiger replied that it is a one-time expenditure and there are ample funds available in the General Fund – Fund Reserves to cover the costs.

Councilmember Fults made a motion to forward to City Council a recommendation to approve a fund transfer request of $21,000 from General Fund – Fund Reserves for the direct costs associated with banner replacement; to forward design ideas to the Beautification Committee; and have the final designs brought back to the Committee for final approval. The motion was seconded by Councilmember Segal and **passed by a voice vote of 4 - 0.**

Note: A voice vote will be required at the November 5, 2012 City Council Meeting.

[Please see the attached report prepared by Mike Geisel, Director of Public Services, for additional information on Street Banners].

B. Solar Energy Research and Discussion

STAFF REPORT

Kevin Neill, Project Planner gave a PowerPoint presentation of basic types of residential roof-mounted and ground-mounted solar energy systems. Mr. Neill stated the following:

During the July 19th meeting, the Planning & Public Works Committee requested that Staff research the best practices in solar panel regulation and current legislation in both local municipalities as well as across the country to determine if the current regulations of the City of Chesterfield are sufficiently addressing issues and concerns surrounding the use of solar energy on residentially zoned property.

After much research, data collection and analysis, and speaking with surrounding communities, Staff prepared a summarized presentation, which covered the basic types of residential solar energy systems, current State statutes relating to solar energy systems and electric utilities, current regulations in the City of Chesterfield, and legal considerations surrounding the regulation of solar energy systems, along with Staff's recommendation.

Photovoltaic Solar Energy Systems

Photovoltaic solar energy systems, or PV systems, convert the energy of sunlight into electricity, which is then used to supply electricity to the site. If the PV system generates more power than is used on site, the property owner can sell excess electricity back to the electric utility company through a process called net metering. PV systems are generally installed on rooftops or mounted in the ground.

Emergency Response

Mayor Geiger asked as to whether Staff has discussed the matter with the Monarch Fire Protection District to determine what they would allow since they may need to be on the roof while fighting a fire. Mr. Neill responded that some municipalities have limited the system from the edge of the roof to allow for system maintenance or emergency purposes.

Solar Thermal Systems

Solar thermal systems use the sun's energy to provide hot water or air for use on-site. Like PV systems, solar thermal systems can be located on building roofs or mounted to the ground. Because solar thermal systems do not generate electricity, their applications are somewhat limited and on a decline.

Governing State Statutes

There are a few important State statutes that govern the use of solar energy systems and set requirements for local utility companies. The first and oldest statute is Section 442.012 of the Missouri Revised Statutes, which dates back to 1979. This legislation defines solar energy as a property right and allows individual property owners to enter into private agreements for solar access.

The second important revised statute is Section 393.1030 of the Missouri Revised Statutes, which sets standards for local utilities to include renewable energy sources in their portfolio.

Finally, Section 240-20 of the Code of State Regulations provides additional rules for utility companies and individuals regarding net metering and renewable energy standards.

Review process

The City of Chesterfield reviews municipal zoning applications for solar energy systems, which are permitted as accessory uses in all zoning districts in the City of Chesterfield. Staff reviews applications to ensure compliance with setbacks, structure heights, and existing easements.

Following Chesterfield approval, applicants undergo a more thorough review process with St. Louis County, whose building codes, residential codes, electric codes, and in some cases plumbing codes all apply to solar energy systems.

In 2012, the City of Chesterfield approved six applications for solar energy systems – three on residential properties, two for commercial properties, and one on an institutional use. There are currently four Municipal Zoning Applications under review from Parkway School District for roof-mounted solar systems.

DISCUSSION

Councilmember Fults expressed her strong displeasure of an instance that recently occurred in Ward IV where an aesthetically unappealing ground-mounted unit was installed. Ms. Nassif explained that this particular property owner started construction prior to obtaining the building permit. In this case, they were cited with a violation, which initiated a "stop work order". Since that time, the property owner did obtain municipal zoning and St. Louis County approval.
The final inspection has not been completed. Mr. Neill verified with St. Louis County that the application process had been completed and since they met all criteria, they were granted approval.

Councilmember Fults noted that the unit that was approved appears to be homemade and quite unattractive. Chair Logan agreed that the current situation in Ward IV needs to be addressed. He also feels that any solar system needs to tie into the property's electrical system, which is not the case in this particular situation.

Legal Considerations
Ms. Nassif then stated that there are current state protections protecting a property owner's rights to solar energy that we need to be aware of.

1. Under State Statute, a private property owner has a legal right to use and have solar energy.
2. The State Code of Regulations allows a property owner to participate in the Renewable Energy Act and have solar energy on their property and regulations which a property owner must adhere to are established therein.

As a municipality, we cannot outright prohibit a certain type or size of development from having solar energy on its property. Clarkson Valley had a court case that went through approximately one year ago. That trial court ruled that a local municipality is in violation of the State Code of Regulations to require a permit process, a permit, or any other review because they found it to be inconsistent with the existing State Code of Regulations. Consequently, Clarkson Valley was not permitted to have a different or new set of regulations or even a permit process. This case has not gone before the Court of Appeals and until that time, a judgment or a ruling on a court case is only binding on the parties that are involved in that case. It does not become case law or set a case precedent on others until it is appealed.

Ms. Nassif is currently discussing the options the City has in regards to solar energy with the City Attorney. She cautioned that if an ordinance is drafted, it could become null and void in the future if cases like that in Clarkson Valley are appealed or with other state or federal laws.

Mayor Geiger spoke with the Mayor of Clarkson Valley and according to the judge in the case there are three points, and two of the three points have been issued. Until all points have been issued, an appeal cannot be filed

Ms. Nassif further added that the ruling specifically states that the Clarkson Valley ordinance imposes requirements that are more restrictive and in conflict with the State Code of Regulations. The State Code of Regulations does not contain a provision requiring any pre-approval by a local government municipality prior to installing a solar energy system. Any pre-approval by a local municipality in which a person seeking to install a solar energy system at a residential single-family dwelling must obtain a permit creates an unlawful condition.

Councilmember Fults fully understands and supports the fact that individuals have the right to install solar energy systems; however, she feels that the aesthetics and materials need to be of the standard and grade that the residents deserve. She is requesting the following;

- That a licensed engineer signs off on the plans.
- The system must adhere to manufacturer's installation rules and regulations.
- That insurance concerns be addressed.
- The glare does not affect neighboring homes.
- Provide restrictions for ground-mounted systems on smaller lots with respect to setbacks, location and materials.

Chair Logan noted that at this point, it has not been determined as to what can and cannot be allowed. Ms. Nassif added that St. Louis County requires an engineer to sign off on the plans verifying that the system is structurally sound and this information must be included in the submittal to the City for zoning review.

Chair Logan encourages allowing solar energy opportunities for residents, but feels they should be restricted to roof-mounted systems. Councilmember Fults suggested that ground-mounted systems be screened with landscaping, and steps taken to insure that all systems are safe and sound.

Staff will continue working with City Attorney Heggie and the issue will take top priority. No action is required at this time.

Ms. Nassif pointed out that the Municipal Zoning Application has been revised and is available on the website, which includes an advisory clause, that any approval by the City does not constitute approval of any indentures which is a separate and civil matter. The residents are encouraged to contact their subdivision trustees.

G. Proposed 2013 Meeting Schedule

Councilmember Grissom made a motion to approve the 2013 Meeting Schedule. The motion was seconded by Councilmember Fults and **passed by a voice vote of 4 - 0**

IV. PROJECT UPDATES

V. OTHER

VI. ADJOURNMENT

The meeting adjourned at 6:45 p.m.