



**MINUTES
CITY COUNCIL MEETING
GLADSTONE, MISSOURI
MONDAY, JANUARY 10, 2011**

**ADJOURNMENT TO CLOSED EXECUTIVE SESSION
6:00 PM**

Mayor Les Smith opened the City Council Meeting to adjourn to a Closed Executive Session on January 10, 2011, at 6:00 PM. Mayor Pro Tem Barry McCullough made a motion to adjourn to Closed Executive Session pursuant to Missouri Open Meeting Act Exemption 610.021(1) for Litigation and Confidential or Privileged Communications with Legal Counsel, and 610.021(2) for Real Estate Acquisition Discussion, and 610.021(3) for Personnel Discussion. Councilman Carol Rudi seconded.

Roll Call Vote: All “aye” – Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (3-0)

Councilman Mark Revenaugh and Councilmember Carol Suter were present at the Closed Executive Session.

Mayor Les Smith adjourned the Closed Executive Session.

**REGULAR CITY COUNCIL MEETING
7:30 PM**

PRESENT: Mayor Les Smith
Mayor Pro Tem Barry McCullough
Councilman Carol Rudi
Councilman Mark Revenaugh
Councilmember Carol Suter

City Manager Kirk Davis
Assistant City Manager Scott Wingerson
City Counselor Randall Thompson
City Clerk Cathy Swenson

Item 2. on the Agenda. ROLL CALL

Mayor Les Smith opened the Regular January 10, 2011, City Council Meeting at 7:30 PM in the Gladstone City Council Chambers, and noted that all Council members were present.

Item 3. on the Agenda. PLEDGE OF ALLEGIANCE.

Mayor Les Smith led the Pledge of Allegiance, in which all joined.

Item 4. on the Agenda. Approval of the Regular December 13, 2010, City Council Meeting Minutes.

Councilmember Carol Suter moved to approve the **Regular December 13, 2010, City Council Meeting Minutes**. Mayor Pro Tem Barry McCullough seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0).

Item 5. on the Agenda. Approval of the Special December 20, 2010, City Council Meeting Minutes.

Councilmember Carol Suter moved to approve the **Special December 20, 2010, City Council Meeting Minutes**. Mayor Pro Tem Barry McCullough seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0).

Item 6. on the Agenda. Approval of the January 3, 2011, City Council Meeting Minutes convening a Closed Executive Session.

Mayor Pro Tem Barry McCullough moved to approve the **January 3, 2011, City Council Meeting Minutes Convening a Closed Executive Session**. Councilmember Carol Suter seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0).

Item 7. on the Agenda. CONSENT AGENDA

Following the Clerk’s reading, Councilman Carol Rudi moved to adopt the Consent Agenda as presented. Councilmember Carol Suter seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0).

Councilman Carol Rudi moved to adopt **RESOLUTION R-11-01**, authorizing acceptance of work under contract with Amino Brothers Company, Incorporated, for the Bolling Heights Stormwater Drainage Improvement Project; and authorizing final payment in the amount of \$12,333.49. Councilmember Carol Suter seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0).

Councilman Carol Rudi moved to adopt **RESOLUTION R-11-02**, authorizing acceptance of work under contract with William White and Sons Construction Company, Incorporated, for the 2010 Curb, Gutter and Sidewalk Program Phase Two Project; and authorizing final payment in the amount of \$1,000.00. Councilmember Carol Suter seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0).

Councilman Carol Rudi moved to adopt **RESOLUTION R-11-03**, authorizing the City Manager to accept a Bill of Sale from Prospect-1 and/or Northaven Village Condominiums, conveying Streets and Sidewalks to the City of Gladstone. Councilmember Carol Suter seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0).

Councilman Carol Rudi moved to adopt **RESOLUTION R-11-04**, authorizing an Intergovernmental Agreement between the City of Gladstone and the Mid-America Regional Council (MARC) Solid Waste Management District for the Regional Household Hazardous Waste Collection Program. Councilmember Carol Suter seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0).

Councilman Carol Rudi moved to adopt **RESOLUTION R-11-05**, authorizing the City Manager to accept a Bill of Sale from Wal-Mart Real Estate Business Trust and Martin Phillips Backhoe Service LLC, conveying to the City a Water Main built in conjunction with construction of a Wal-Mart addition at 7207 North M-1 Highway. Councilmember Carol Suter seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0).

REGULAR AGENDA

Item 8. on the Agenda. Communications from the Audience.

There were no communications from the audience.

Item 9. on the Agenda. Communications from the City Council.

Councilmember Carol Suter expressed her appreciation for the kind thoughts and support that she and her husband received while he was hospitalized. He is now home and doing well.

Councilman Mark Revenaugh stated that as it appeared there were many in the audience who wished to speak this evening, he would forego any comments at this time.

Councilman Carol Rudi had no comments at this time.

Mayor Pro Tem Barry McCullough thanked Public Works Director Tim Nebergall and everyone who is working so hard to keep our streets clean.

Note: This comment was followed by applause from the audience.

Mayor Les Smith agreed, and offered “good job”, and said he knows the Public Works Department appreciates this very much.

Item 10. on the Agenda. Communications from the City Manager.

City Manager Kirk Davis reported that City Hall would be closed on Monday January 17, for Martin Luther King’s Birthday. City Manager Davis thanked the Public Works crews and said they did a nice job. They were out Sunday pre-treating the roads, and they have been plowing snow since. They will be out again tonight, so by the rush hour time tomorrow, all the roads will be cleaned. City Manager Davis introduced Randall Thompson, the City’s new City Counselor. He comes to us as a resident for almost 20 years, and he has been with Ensz and Jester law firm. Many people in the room know who Randall is because of his involvement in the community. City Manager Davis said he was really looking forward to having Mr. Thompson on the staff, and he believes he will do a great job, and he has already fit in very well with the staff on various issues, and he believes Mr. Thompson feels very comfortable in his first week on the job. City Manager Davis welcomed Mr. Thompson.

City Counselor Thompson thanked City Manager Davis.

Mayor Smith said he was confident he spoke for the entire City Council in welcoming Mr. Thompson on board. Mayor Smith said he has known Mr. Thompson for a while, and he is a man of very high integrity and ethics. Mayor Smith said he appreciated him being here.

City Counselor Thompson thanked Mayor Smith.

Item 11. on the Agenda. PUBLIC HEARING: for consideration of a Special Use Permit for operation of a Child Care Facility at 5804 North Norton. Applicant/Owner: Darron and Alecia Jones. File #1351.

Mayor Smith explained that first comments would be heard from City staff, and then comments would be heard from the applicant, if they so desire. Comments would then be heard from anyone in favor of the application, followed by comments from anyone opposed to the application. Mayor Smith asked everyone to keep their comments to the facts of the application, and to be relative to the application.

Mayor Smith opened the Public Hearing.

Staff Report

Assistant City Manager Scott Wingerson began by saying his goal this evening was to explain to the Council what they have before them, more than anything else, and hopefully as we go through the materials, what hopefully will emerge is a review of the criteria in granting a Special Use Permit. Bill 11-01 grants a Special Use Permit to allow the operation of a Day Care at 5804 North Norton Avenue. Mr. Wingerson said that Planning Specialist Chris Helmer presented this application before the Planning Commission; however, he is ill tonight, so he will be doing that job this evening. Mr. Wingerson pointed out the Staff Report that was part of the packet of information. In this case, it is brief and to the point. It talks about zoning, a home based Day Care, the number of children and it also makes a staff recommendation. Staff's recommendation is to approve the Day Care. It is important to note that when staff writes the recommendation, it is based on the application materials that are submitted. It is made prior to any public input. When the Planning Commission holds its Public Hearing, there is the opportunity for public input, and the Planning Commission will weigh that and the application materials, and move it forward as a recommendation to the City Council.

Mr. Wingerson stated the next document in the packet is typical maps and pictures of the property. The property is in Brooktree Subdivision. The next two pages are examples of the website operated by Brighton Learning Center. On the backside of the website posting is an email from the applicant, Alecia Jones. It is in response to an email from staff that asks about parents' night out. We asked the question about parents' night out; it is different than the hours being proposed as the operation of the Day Care. The applicant's response is that they put it on the website, but it did not work, so they discontinued that, and are accepting of the proposed hours for the Day Care of 6:30 AM to 5:30 PM. Also in the packet is a table that shows the Special Use Permits issued by the City Council that are currently in effect. Of the total list, there are seven Day Cares. Two of those Day Cares are probably not comparable to tonight's discussion, because they are not home based. They are not occupied by a family who operates a Day Care, so there are really five comparable Special Use Permits, and they are geographically spread across the city. Following that are a few letters; these letters were provided to a Planning Commission member prior to the Hearing, but they did not make discussion or the record of the Planning Commission. One is from Kim Percy, and one is from Joyce Hoefler, and one is from Harold and Kathryn Hake.

Mr. Wingerson stated that the Planning Commission minutes are also attached along with an exhibit relative to property values that was provided by one of the people speaking to the Planning Commission. The next group of documents were received at some point after the Planning Commission Public Hearing. The first is a letter from December 9, from the Poppenhagens, the Medelys, the Gibsons and the Levels. It is a two page letter indicating their concerns with the action of the Planning Commission. The next two pages are photographs provided by a neighbor of the applicant. These are included only to show the Council that they are not indicative of a home based Day Care that exceeds the current requirement. In other words, there are not more than four unrelated children in either of these two photos. Although staff was trying to gather documentation, the documentation that was being received was not indicative of what was or was not happening at the Day Care location. The next set of documents is from the applicant. The first part is a letter directly from the applicant, which is in response to the December 9 letter. There is also

included a copy of the State of Missouri license, a floor plan of the house, the daily schedule, the fire drill log and the tornado drill log for the last period of time. The next documents are letters from Josh Thomas, Rich and Dodie Rayl, Dwight and Esther Blake, and are followed with the Minutes from the December 6, 2010, Planning Commission meeting. Mr. Wingerson said this is what was given to the City Council as part of their City Council packet. Based on staff recommendation, and based on the Public Hearing in front of the Planning Commission, the Planning Commission recommended by a vote of 8 to 1, one person abstaining, to recommend to the City Council that this operation be approved. The next group of documents was at City Council members' places either before the meeting started, or just prior to the regular Council meeting starting. The first is a statement from the Brooktree Homes Association. The second is a letter received very late this afternoon from Patricia and Larry Brant. Finally, there were two documents provided tonight to the City Council, that have not been reviewed. The first document looks like a progression of children kept by the applicant over a period of time and various staff letters about the status, on a given time, of the Day Care operation. Mr. Wingerson said, although, staff does not have a copy, Ms. Poppenhagen did provide to the Council copies of the covenants in Brooktree and maybe a secondary document to that, and he believes that will be spoken to by Mr. Meyers.

Mr. Wingerson said this is all the information that City Council has at this point, and he would like to back up just a little bit and talk about the process. The process starts with the operation of a business. That business grows, and that is what business people are in the business of, which is growing the business. At some point a business, as in this particular case, transitions from a home occupation Day Care to something else – a larger operation. The process is to work with the applicant and the property owners to bring forward opinions from all perspectives. The staff recommendation and the Planning Commission Hearing are really about providing information.

Mr. Wingerson continued by saying that the Council has issued five Special Use Permits to in home Day Cares that care for more than five but less than ten children. Each one of those is unique, and many of the City Council will remember those Public Hearings, and how unique and different they were. At the same time, either at the Planning Commission level or at the staff level, applicants have applied for these types of operations, and on the surface they may appear not to work. Either staff or the Planning Commission works with that neighborhood or that applicant, and looks for other alternatives. In this particular case, we did the same thing. Staff worked with the Jones family on other arrangements for their Day Care such as operating it from a church or at a separate location. All of those efforts did not pan out in this particular case, and that is what brings us here today. Mr. Wingerson said, in conclusion, the City Council has wide discretion. The situation is involving land use, traffic and noise, which are all applicable things, and all things on which reasonable people can differ.

Applicant Presentation

Alecia Jones, 5804 North Norton, began by thanking the City Council for the opportunity to speak this evening, and said she would like to clear up some incorrect statements that were

made by their former neighbor last time. Ms. Jones said the first statement the former neighbor made was that their Day Care had been up and running for over two years, which made it seem they had not begun the process of getting a Special Use Permit for quite a while after they started watching children. That is not the case; they did not move into their home until June 2009, so they have not even lived in their home for two years. They did not begin watching children until August 2009; therefore, they have been open for about one and one half years, and State licensed since October 2009. Ms. Jones said this person also stated that through watching her home that they have people living with them and several employees – she mentioned several times seeing a burgundy car. Ms. Jones said that is her mom's car, who is one of her State approved assistants. Being licensed by the State of Missouri, one must have at least two approved assistants who get background checks for emergency situations. Ms. Jones said when they had their last child, both she and her husband had to be at the hospital, so one of their State assistants had to come for those reasons. For the most part, her mom comes to see her grandchildren and to see the other kids. She is not an employee.

Ms. Jones said another point that was brought up at the last meeting was a concern that if they were to receive a Special Use Permit, then all of a sudden, Day Cares would spring up all up and down North Norton. At this point they know that there is at least one other State licensed Day Care on North Norton that has been in operation for over three years, and they have spoken with the owner. Ms. Jones said they have the same number of children that they do, and that was happening before they moved into the neighborhood, so that concern was already happening before they moved in or started watching children. There was also some concern about why they have been opened since 2009, and the fact that they are just now applying for a Special Use Permit. That was the copies of the letters that she provided just before the meeting.

Ms. Jones said they received the first letter from the City of Gladstone in August, which was the same month that they began watching children. They did what they were instructed to do in the letter, which was to fill out some enclosed paperwork, send in a fee to start the process, and then they received the second letter, which was in October. That stated that no further action was necessary on their part, and they would receive a refund of their money, and they received back their money. They received another letter in April, which said there were some concerns and phone calls from the neighbors, and they needed to send an email at that time about how many children they had, any employees, what their hours were, and things of that nature. Ms. Jones said she included a copy of the email she sent at that point. The final letter is the one they received this October, stating that they needed to begin the process again. This is just to clear up the fact that they did not wait until a year after they had been in business, and that they had been doing what they were instructed to do. From their end, it seemed that no further action was necessary, because at that point in August, they only had three unrelated children. As time has passed, they have grown through referrals, and currently operate under their State capacity of ten children, with nine full time children enrolled.

Ms. Jones said they do what they do, because as former educators, they realize the importance of early childhood education, and felt led to provide other young families with

their unique child care program that combines nurturing care with high academic expectations. Those things, coupled with their faith based practices, and close partnerships with their families, has caused the growth mentioned. With growth, come some of the concerns voiced. One of which was traffic issues. Ms. Jones said they have events for families that are common to Day Care, such as a Christmas party and an Easter egg hunt. They have approximately four of these types of events per year, and during the events that last typically one to two hours, there is as much traffic as someone would have for a birthday party or a summer barbeque. The daily traffic is minimal, and staggered across about an hour in the morning and about an hour and a half in the evening, when most of the parents drop off and pick up. Ms. Jones said, in closing, she hoped most of the misconceptions have been cleared up, and that it is seen that they are part of the neighborhood, the community and the city, and they simply want to use their gifts, education and experience to make our community better.

Ms. Jones said she provided a list of the progression of children just to show how it may have been confusing to various neighbors to see different cars coming and going, or at times more cars than others. Ms. Jones explained that they care for children of several teachers, so during the summer months and Christmas break, often those children are not there. They have also provided care for a semester for parents who are also students, so there have been some short time children. Ms. Jones said as shown in the progression, they started off in August with just three unrelated children, still had three in September, a new child enrolled in October, and they were at four children all the way until January. Three were added in January and the number stayed there until April, then three left. In May, two were added. It can be seen through the progression, that the numbers go up and down. People decide to stay home, or it may not be a good fit, and different things happen. Ms. Jones said they have had growth and some leave, so it may have been confusing to the neighbors who were watching their traffic.

Ms. Jones stated that one of the neighbors mentioned seeing cars late in the evening. Before families are accepted, there is a tour, so they can meet them and see their home, and those are done in the evenings. At this point, they are at their capacity, but when they were still growing, there were tours on an average of a couple per month, so if they were seeing cars in the evenings, that was probably due to those things. Ms. Jones asked if the Council had any questions.

Mayor Pro Tem Barry McCullough asked Ms. Jones how many children of their own do they have?

Ms. Jones replied they have three children of their own.

Councilman Mark Revenaugh asked if the other Day Care on North Norton was a licensed Day Care?

Assistant City Manager Wingerson replied that it is not licensed as a Special Use Permit, but they can check to see the size of it; it is possible that it is under the four non-related children criteria.

Councilman Revenaugh asked Ms. Jones, for clarification, if she went back after she received the application from the City, and she was told she had done everything she needed to do at that point, and then she was just waiting to hear from the City for the next move?

Ms. Jones replied she was told no further action was necessary.

Councilman Revenaugh asked if she was told she needed a license.

Ms. Jones replied no, the letter said her application material was received, and at that time, no further action was necessary, and she would receive her refund in a separate mailing.

Councilman Revenaugh asked if the application was for a license, and did she know they needed a license.

Ms. Jones replied that was correct, but then they received all the paperwork back saying they did not need a license.

Councilmember Carol Suter stated to Ms. Jones, in regard to long term business projections for this enterprise, they are limited to ten children, and asked if word of mouth grows, did they have ambitions to grow the enterprise into something else at some other location, or is this the vision that they have.

Ms. Jones replied that they have looked into other locations, and at this point, they are looking at continuing this for five years or so; their youngest is one year old. Once all of their children are in school, they will look at doing something different. This will not be for a long term.

Darron Jones, 5804 North Norton, began by saying he hoped not to insult anyone with the basic nature of some of his statements; he just wants to be very thorough and cover some bases. Mr. Jones said he wished to state the relevancy of child care in our State. As a licensed Child Care, it is estimated they serve approximately 50,000 working families' children. There are various organizations that ensure the quality of licensed Child Care facilities, and that make sure that we have more to stimulate our economy. Mr. Jones said it is their intention to operate under the State guidelines; to have no more than ten unrelated children; to stay in compliance and to offer a good service. They do not want to be a corporation. You gather variables and find out if something is for you. They have a great opportunity under the guidelines that are set in the State to be at home with their children, and to use their experience to build community.

Mr. Jones said they are people, and he was glad to see that tonight, that there was some people behavior, that it was not just about the numbers, which are very important, and it was not just about stats. Mr. Jones said they are people, and with that said, they do have an issue with education. They do have an issue with society, and they were mindful of those things when they came up with Brighton Learning Center. Mr. Jones said that he did not want there to be confusion – Brighton Learning Center does not have corporate ambitions. It is

more of a marketing tool, that they are more than a home Day Care. In reality, they are a home Day Care, and operate under those confines, and they do not plan on using the 5804 North Norton property beyond that goal. The property will never be used like that, and they have no intention to use it like that. They think it is an excellent home for them, and that is how they intend on using it.

Mr. Jones said some issues came up regarding real estate, and that is a key issue in his opinion, because they do reside there and it is a residential area; however, the law has allowed and seen fit that it is important that Day Cares are provided, and that a home Day Care has its place. For many people, real estate is the greatest investment they will make. We know that jobs are a vital part of our society, and we know that children are a vital part of our society, and we know that education is a vital part of our society. Mr. Jones explained it is a combination of things that he wants to be mindful of, and empathetic to everyone who is affected by what they do. They understand that real estate bears greatly on our society and our community. There were some issues that came up regarding the use of commercial and the use of residential, and how they should properly be used. Mr. Jones said that we know in our society that child care in the home environment is important, and we know that real estate is important, and we know that capitalizing on our real estate is important, but he believes in this situation that we are talking a lot of theory as far as how them being there is going to affect property values.

Mr. Jones said we may be talking theory if how they operate their Child Care program is making a difference in our society. Mr. Jones said he applauds the City Council for the decision they have to make, and it is lofty; the City Council is affecting someone's employment with the decision they make and affecting someone's pocket book, potentially, with the decision they make, either way it goes. Mr. Jones said he truly has admiration for the public job that the City Council does, and he wants to show empathy, and he understands either way, and they are vested both ways. They understand that some things are repairable as far as property; they do not plan on modifying the property to suit their purpose, such as putting up any storage. It is used like a residential home is supposed to be used. With that said, the kids are hard on certain things.

Mr. Jones stated that they have three children who are hard on certain things. Not only do they have three children, but also they have added more children to the bunch. They will be hard on grass, and the walls. A lot of the things they bear on the inside. At times they will be loud, but that is quality. As far as property and how it is used and how it is relevant to real estate and its value, they are in a situation where they have to judge if this is something that is repairable, and that this is something they can go back from, and they are very cognizant of that. Mr. Jones said he is just showing that they are in it and vested for the residential area, but the children, their children personally, and the opportunity they have, they cannot go back from that. They have a great opportunity to be with them and invest in their lives, and the children they get to take care of everyday; they cannot go back from that. They feel like they are the best and feel like they do a great thing. The affect that they have on the children is a priceless situation, but the grass – we can come back from that.

Mr. Jones said he hoped that they established through the Commission meeting that they are an asset to the community; they greatly believe that, but he does not want to harp on that because that is better seen than said, but they have some testimony to prove that. Even the people around them who are in opposition and those who are for us have said out of their own mouths that they are good neighbors, and they believe that the Jones family are good people – it is not personal. Mr. Jones said hopefully he has separated the business end that they take care of and the personal end that they take care of.

Mr. Jones continued by saying he wanted to touch on how they are organized. They open their door at 6:30 AM, but for the last six months, the children do not get there until 7:00 AM. The children are all gone by 5:30 PM. During that time, it is a good day if they are outside for an hour. Not of late, but that could include them walking around with the children in the neighborhood. They try to be very visible and transparent in all that they do. Sometimes they go in the back yard or to the park. The park was a very attractive feature for them moving into the neighborhood. That would be no longer than an hour or maybe an hour and a half, if it is in their schedule. Mr. Jones said he says this, because this may be where the noise factor may come in, and where they may be a potential nuisance. Mr. Jones said there are play sets in their connecting yards, some of them more extensive than theirs, he is talking tire swings and the big items you jump on. Mr. Jones said they have three pieces, and they have some cars and things like that for the kids to push on, but people love their children in the Brooktree area, and they appreciate that, so there are some extensive toys. Mr. Jones said his case is that he hears noise, there are kids screaming, there are kids having a good time, kids that drive around in golf carts in the community, and they play their music in the summer. They are a relatively young, so they are OK with that and do not mind. These are things that are normal and typical in Brooktree.

Mr. Jones said they get the rare deal of being residential and having a business at the same time – great country. Mr. Jones said they do not get out very much; they are pretty private people as far as Brooktree is concerned. They are still feeling their way, and this has been a great opportunity. They have met some people and heard some great ideas, and met some people who make Gladstone what it is. Even the opposition has been a great learning experience, and he would like to take the time to thank them, because he has no hard feelings. This is a very beautiful thing to preserve a neighborhood, preserve the safety, and to preserve all those things involved. He is very knowledgeable of that, and a neighborhood and the way it appears, and how it is kept, crime and those types of things are all statistically connected, but he is here to say that there are individuals who are aware of that, and are on the side of the struggle to preserve stability. That is who the Joneses are and that is what Brighton Learning Center represents, and our track record proves that.

Mr. Jones said regarding the short, intermediate and long term goals for Brighton Learning Center, they have a short term goal of attaining ten children in their home for a period of no less than five years, because that is when their youngest would be ready for school. Their intermediate goal is to ensure that families who allow them the privilege of caring for their children to comfortably have their children at a place until they are at a place to usher their children into grade school. Their long-term goal is not related to child care, but to be part of the community in other business endeavors. There will be an eventual exit. It is an

outstanding opportunity for Brighton Learning Center to extend or for other business endeavors to take priority. Mr. Jones said they are in it to maintain the residential integrity of 5804 North Norton Avenue. They do not want to keep any big business appearance. There will be no advertising signs. No modifications to the property. They continue to strive to abide by the housing association regulations. Mr. Jones said that is the best thing they can do; that is regulation beyond what the City provides – beyond what the State provides. It is even more detailed. Mr. Jones said they will continue to do that, and that was their mindset when they moved in. Mr. Jones said he would answer any questions.

Councilman Carol Rudi asked for a definition of ten unrelated children.

Mr. Wingerson replied that definition is ten children unrelated to the family operating the Day Care.

Comments from those in Favor of the Application

Melissa Toby, 3603 NE 78 Street, Kansas City, Missouri, stated she and her husband appreciate what Darron and Alecia Jones do. They have been amazing with their daughter, who has been there about one year. It just really takes special people to have the patience to work with children. Ms. Toby said she just works with her daughter and gets frustrated sometimes, so she really appreciates the fact that they have the patience to maintain their Day Care and not go crazy. They provide a wonderful learning environment in a home setting, and when she and her husband were choosing day care for their daughter, that was something they really wanted. They did not want her going to a corporate Day Care; they felt that she might not get as much attention, and they wanted her to feel really comfortable with where she went. They also wanted her to go to a place where she would learn a little bit of academics, even though she is little, and they did want her sitting in front of the television all day. They were a perfect fit. She is learning sign language, so instead of throwing her food on the floor, she can sign that she is all done. That has been really wonderful. It is really terrifying to have to find day care for your child; especially when you see on the news about abuse and everything, so it has been just really wonderful. Ms. Tobey said when she first talked to them she just knew that they would probably be the people they chose. Ms. Tobey said they went through an interview with her mother and her, and they made it through that, and then her husband got to grill them. They made it through both of those interviews, and they ended up being who they chose to watch their daughter.

Ms. Tobey continued by saying if they were forced to relocate their Day Care to a commercial building, she is sure they would have to raise their rates, since they would have more overhead, and families like hers might not be able to afford the increase in price. Right now the payment for day care is about a nice car payment. If they had to take their daughter to Kinder Care or another corporate Day Care it would be about \$1,000 per month, which is some people's mortgages. Some families may not be able to afford that. Ms. Tobey said she has to focus on her daughter. This really is about her. She goes full time to Brighton Learning Center. She spends about 45 hours per week there, so that is quite a bit of time. They are probably like a second set of parents to her. She is very comfortable and confident there. She has learned so much since she has been there. There are just not

enough good people taking care of children, and so she feels like she hopes they do get their permit tonight; that way, hopefully, they will not have to find alternative care for her.

Ms. Tobey said she would like to give her take on some of the concerns the neighbors had about the Day Care last time. Some of the concerns would be happening whether or not there was a Day Care. For instance, they do have three children, so they would have toys in the back yard, regardless, of whether or not they own the Day Care. The neighbors are upset that they kept the trash outside, but they have fixed that now, so their trash is in the garage, but that could have happened whether or not they had the Day Care. They also did not like how their lawn was manicured, which could also happen whether or not they owned the Day Care. Ms. Tobey said, in her opinion, she does not feel that the toys in the back yard are excessive; her daughter has quite a bit of toys already, so she does not feel like what they have for their Day Care is excessive. She does not feel like their lawn has anything to do with the Day Care; it would still look like it does without the Day Care. She does not think it looks bad; it looks like it fits in with the rest of the community. As far as traffic, she does not feel that the parents disturb the neighbors. She has only seen a couple of the neighbors a couple of times, and even since the last Planning Commission, she has only seen one other neighbor, and she has been going there for a year, so she does not feel like her dropping her daughter off is disturbing anyone, unless they are looking out the window.

Ms. Tobey said generally, when she drops her daughter off, there is usually maybe one other parent there; so, it is not like there is a herd of parents going in at the same time. Right after the Planning Commission meeting when the neighbors did state that they were worried about the traffic, the Joneses did address the car issue. They ask that the parents park in the driveway, even if it means that they block another parent in. That way they do not have to park in front of any of the neighbors' homes. They also asked that if they do have to park on the street, that they do stay right in front of their home, and do not park across the street or in front of any other neighbor's home. In reality, with the traffic, Brooktree is a fairly busy street for being a side street, and those who apposed this permit at the last meeting, live at the corner of Brooktree and Norton, so there is already traffic in that area.

Ms. Tobey said going back to the toys – they live on the corner, so they are OK with looking at a pavement road right next to them, but they are not OK with looking at children's toys. Ms. Tobey said she is not really understanding. The noise issue – like Darron said they are only outside an hour or an an hour or an hour and a half per day, if that. She would like to point out that there is a pool only a couple of houses down, so she is sure in the summer there is plenty of traffic from the pool, and she is sure there are plenty of children at the pool making noise, so there is another area that they could get noise from, besides the Day Care. Ms. Tobey said she felt that at the last meeting there were a couple of mixed truths presented by the opposition. The first one was that some parents drop their children off at 5:30 in the morning. Ms. Tobey said about one year ago when she first started going, she would drop her daughter off at 6:30 AM, so she knows people do not drop their children off at 5:30 AM, because if she arrived at 6:28 AM, they would not open the door. She had to wait until 6:30 AM on the dot, and they would open their door for her. There is also one that all the parents would line their cars up and down the street and one by one they would pull into the driveway to get their children, if it is raining or snowing. It is not true. After the end of the

day she just wants to go home. They all park in the driveway to get their children; they don't just sit there and go one by one.

Ms. Tobey concluded by saying she really feels that if the neighbors would get to know Darron and Alecia better, and knew what they were about and how much they really cared about their Day Care and what they are doing, then maybe this would not be happening. Ms. Tobey thanked the Mayor and Council for listening and said she urged them to vote in favor of this Special Use Permit.

Mandy Shoeman, 5420 North Wayne, Kansas City, Missouri, began by saying they have two children, 2 ½ years old and 10 months old, and finding a Day Care for your children is one of the hardest things you can do as a parent. They decided to switch to Darron and Alecia in the fall of 2009, when they opened, for several reasons. Ms. Shoeman said she teaches at Chapel Hill Elementary School, and has since 2002. She knows the clientele there and she highly respects the children that go there, and she loves the neighborhood. The community is very kid friendly, safe and clean. There are many parks and she knows that the children get to take advantage of those during the school day.

Ms. Shoeman stated another reason is because they were applying for and received their State Certification, which does limit their numbers. The State does unannounced visits and inspections of their home. Ms. Shoeman said she could talk for an hour about the quality that is provided at Darron and Alecia's, but she knows that is really not what this meeting is about, but allowing them to get their Special Use Permit will allow them to continue to care for these children, and educating them, and if you get to know Alecia and Darron, they are two of the most loving people you would ever meet. They allow parents to rest easy every day knowing that their children are safe and loved, and there is really no better feeling as a parent. Ms. Shoeman said she really hopes this continues as an in home Day Care.

Comments from those Opposed to the Application

Philip Wilson, 4000 NE 58 Terrace, said he is a member of the Brooktree Homeowners Association in good standing. He is not aware that either the State or the individuals who are a part of the City's apparatus that gathers materials for approval of restrictions on permits have been aware that the homeowners' association, since 1972, has had a part of the recorded covenants of the subdivision – a document that is called a Deed of Restriction. They also have in part a Brooktree Homeowners' Declaration Number 1. Mr. Wilson said at this time he would like to introduce that into evidence, and provide to each of the Council members a copy.

Note: Mr. Wilson also provided a copy to Assistant City Manager Scott Wingerson.

Mr. Wilson said he wished to call to the attention of the City Council and the Mayor Section One, which is Use of Land, Page 2, of the Declaration of Restrictions to the Brooktree Homes Association. It in part reads:

Any residence erected or maintained on any of the lots hereby restricted shall be designated for occupancy by a single family. No business building shall be erected, nor business of any nature conducted on the land herein described, nor shall anything be done therein which may be or become a nuisance to the neighborhood.

Mr. Wilson said he believed that a business functioning, no matter how small, would be in potential violation of that Deed of Restriction. Mr. Wilson said he heard a discussion this evening about a potential Day Care, and he also believed he heard that it had not applied for a Special Use Permit. The State may not be aware of this restriction, and he fully intends to make them aware of the restriction, and ask that this City Council take due note of these restrictions and they request that Council abides by them as they have to abide by them as a way of keeping their area a residential area, not a commercial area. Mr. Wilson said he would also like to have a copy of their report.

Mayor Smith said Mr. Wingerson would provide that to him.

Mayor Smith said he had a question of City Counselor Randall Thompson, and he does not want to interpret their covenants and restrictions, but his question is two fold. Number one, should the Council make its decision based on the restrictions of the subdivision, or would that be more of a private matter between the homeowners' association and the resident?

City Counselor Thompson said Mayor Smith was correct with the latter statement, which is they are private covenants and restrictions, and private covenants and restrictions can be enforced by the entity that created them, and that is the Brooktree Homeowners' Association, so the City Council is not confined by the private restrictions.

Mayor Smith said he would also assume that in no way shape or form could our action supercede the association or relieve the association of their rights to bring action against the homeowner, is that correct?

Mr. Thompson replied he believed that the homowner's association could attempt to enforce their own covenants and restrictions regardless of what the Council does.

Kiel Batchelor, 5804 NE Buttonwood Tree Lane, said he is presently the Director of Facilities for the Brooktree Homes Association. Mr. Batchelor said to his knowledge, there is not a Day Care center in his subdivision except for the Jones' Day Care. If there is one on North Norton, that is going to be in either Carriage Hill or in Brookhill.

Mayor Smith asked Mr. Wingerson if he were aware of the other Day Care.

Mr. Wingerson replied he is not aware of a Day Care that cares for more than five unrelated children, and he is not aware of even a smaller Day Care, but he assumes they exist as they do in other parts of the City.

Mayor Smith, for clarification, stated the City would not be aware of a Day Care if they had not applied for a Special Use Permit.

Mr. Wingerson replied that was correct.

Mr. Batchelor asked if they are operating without a Special Use Permit from the City, they are operating illegally?

Mayor Smith replied a Day Care is allowed to care for four unrelated children without applying for a Special Use Permit. Mayor Smith said there could be a Day Care operating under those parameters, and the City would not know about it, and they are legal, because they do not exceed that number, and they did not have to apply for a Special Use Permit.

Mr. Batchelor said the other thing that has come to his attention is that the Jones family is not the legal owner of the property. It is owned by another person, and they are renting, which is no big deal, but they have no vested interest in Brooktree, since they are not legal owners of that property, and that concerns him.

Lenny Poppenhagen, 5800 North Norton, said he and his wife live next door to the Day Care center, to the south of them. They have been Gladstone residents for over 40 years, and have been residents of Brooktree for 26 years. They really enjoy their stay in the City of Gladstone. The City of Gladstone is an All America City. Brooktree is one of the premier residential planned neighborhoods in the City. On the City's website there is a list of planned neighborhoods that list a lot prestigious homes that may be vulnerable to Day Cares coming in: Stonebrook Estates, Claymont North and a whole list that would be vulnerable to this type of situation. Mr. Poppenhagen said the bottom line is that it gets down to operating a home based business in Gladstone. Right from the website, there are about nine different rules and regulations that are required to operate a business in a residential area. You have to have an Occupation License; you have to pay \$30.00 per year, plus whatever it is; he is not sure the taxes have been paid; and he does not have a definitive date that they actually had a home operating business license, and paying those fees.

Mr. Poppenhagen said the nine conditions that they must follow include: 1. There must be no outdoor storage of materials related to the business. They live right next door, so many times they have counted 15 or 20 big plastic toys in the back yard, that are outside all of the time. They are now putting them in one area of the yard, but Rule Number 1 says they cannot be stored outside the business. The second condition, they are in compliance with. Number 3, states that No patrons of the business may come to the home, but they have their customers coming to the home, and it says right there that they cannot have people coming to the home, if they have a home based business. Number 4, The business cannot produce any obnoxious or offensive vibration noise, odor, dust or fumes, and they were storing outside the dirty diapers in big containers; that has been resolved, but that was a problem for a while. Number 7, Only members of the family, who live in the home may carry on the business. No persons who do not live in the home shall be employed or assist in the business, and you heard from them that they have people coming in to assist them. Mr. Poppenhagen said these are the rules and regulations from the City of Gladstone. The application that they fill out states that "I understand the violation of these regulations would result in revocation of my license and therefore, the right to continue home occupation".

Mr. Poppenhagen said from his standpoint, this is a clear-cut case, and it has nothing to do with the quality of Day Care they have. They have not been in compliance with a home based business application from day one. Mr. Poppenhagen said if you are going to drive a car, you have to have a driver's license, if you are going to own a business, you have to have a business permit from the City. Mr. Poppenhagen said to his knowledge, they were very delinquent in getting that, if they have that now; also, they applied for and got the State regulation, which has nothing to do with where a business can be located. They have certain standards and regulations by the State, but the State does not say that you can come into Brooktree and set this up. Mr. Poppenhagen said he does not understand that since they have been in noncompliance for five out of the nine restrictions for a home occupancy business, and are now exempt from following those rules and regulations, why the Council would recommend that they should be extended a Special Use Permit, when they have been operating on their own for a good period of time. It does not stand to reason that would even be a good request.

Mayor Smith asked Mr. Poppenhagen if he could summarize the objections, what would they be? Is it traffic? Is it noise? Is it possible to list 1, 2, and 3?

Mr. Poppenhagen replied where he is coming from is that they are not following the City's rules and regulations set by the City of Gladstone. This is an All America City, there are rules, regulations, and zoning codes. You follow the procedures, and so it is a clear-cut deal. If you want to be a home-based business, this is what you do. If you want to expand your business, then you apply for a Special Use Permit. It did not go in that sequence, whatsoever. Mr. Poppenhagen said he goes by the behavior of what has happened and not what they want to do.

Lisa Bone, 4008 Northeast Brooktree Lane, said she is the Standing Secretary for the Board of Directors for the homeowners association in Brooktree. Ms. Bone said she was not present to judge or to have an opinion either way, personally, or the other, but just to basically uphold their covenants. Ms. Bone said by most of what she has seen, this has become a nuisance, not only to the half of the room that is here this evening, but it was also brought to her attention, and she is here speaking about it. Truly, if they were to have businesses in their neighborhood, it would have been in their covenants, and it is not. Unfortunately, the Joneses seem like very nice people, and it sounds like they care about children, but they were not informed before they came into the neighborhood that they could not have a business. That is the unfortunate thing.

Edwin E. Trainor, 4012 Northeast 57 Place, said he has owned his house for 20 years, and one of the reasons he moved to Gladstone and Brooktree was that he read the covenants. It was not a commercial/residential area; it was a residential area. He pays \$280 per year to support a swimming pool that he does not use, but he is happy to do it, because that is going to help him sell his house, God forbid, if he has to go to a nursing home. Mr. Trainor said he was interested in protecting his interests in his real estate. He thinks we need child care, but we don't need it mixed in residential areas, and as he read the Brooktree residents' restrictions, they did not permit businesses.

Mr. Trainor said if we permit this, what is going keep us from having an automobile garage, what is going to keep us from having a grocery store, and what is going to keep us from having a music store that sells bands and makes noise all day? This is going to prevent us from living in a residential area. It is just like the camel with a tent – he sticks his nose under the tent, and before long, the camel is in the tent. This is what we have here. Mr. Trainor said he bought in Brooktree for a residential area. He read the covenants 20 years ago, and he guesses right now we are questioning whether this 20 year old covenant is worth anything it is written on. Mr. Trainor said he had to put on a shingle roof because the covenants said he had to. You don't have to now, because the rules have been changed, but the rules were changed, he did not change it. Mr. Trainor said they are probably wonderful people, but they need to be in a commercial area, not in a residential area. They are going to hurt the residential property that he owns. Mr. Trainor said he is very selfish.

Don Palmiter, 4016 Brooktree Lane, began by saying that he is known in the neighborhood as a friendly guy, and he is usually out in his yard working. He loves his yard, and he loves to work in his yard. He and his wife built their house on Brooktree Lane in 1977, so they have lived there 34 years this summer. Mr. Palmiter said they lived in Gladstone in the Northaven addition before they built their home in Brooktree, and one reason that they moved to Brooktree is that they were looking for planned community living. One that had restrictions, and one that upheld their restrictions, and did not let them, over the years, dwindle to where you lost all of the value that you had bought into a planned community for.

Mr. Palmiter said he usually stays out of these issues, and he really does not like to offend people, and he has met the gentleman and he is a very nice gentleman. He talks to him on the street as he goes by. Mr. Pamiter said that is not his problem, his problem is if we begin to allow this to happen, and they are allowed a Special Use Permit, what is to stop other Special Use Permits for other things - say, a woman is a beautician and wants to start a beauty shop in a garage. There would be a lot less people coming and going probably than a Day Care. What is to stop someone working in their garage on a car. That was one thing that was in his other neighborhood, which is one reason that he moved to Brooktree – that was a restriction that was not allowed. That was made quite clear. At the time, you could not even have a car sit on the driveway for over a 24-hour period without being in a garage.

Mr. Palmiter said he has watched these things over the years slip a little bit. Mr. Palmiter said he believes Brooktree has done a pretty good job in trying to uphold the restrictions - it is a matter of the value of their homes and the value of the planned community, and the continued use. Mr. Palmiter said he is getting to the age where probably one of these days he will be retiring, and he may want to sell his house. He will make a profit, because he bought it so cheap back in 1977, when he built it, but still, he would like to see it maintain its true value in the market. One of the things he has noticed has happened in Brooktree is because of the market, and because of different situations, there have been a lot of rental houses coming in, and those people have no vested interest in the neighborhood. Most of those houses are not kept up like the ones where people bought the houses and understood the covenants when they purchased them, and know the importance of maintaining your

neighborhood and keeping it up. Mr. Palmiter said he is sure there are all the attributes of a wonderful Day Care, and he even agrees with what they are saying, but he believes it should be done in a residential area that would not have a problem with this. Mr. Pamiter said whoever owns the property, did not tell them how strong Brooktree feels about their covenants.

Carol Medley, 5805 North Norton, said she lives across the street from the Day Care. Ms. Medley said she is a former 30-year mortgage banker, and she has discussed this with practically every real estate agent she knows in the Northland, and mostly in Gladstone. Her property value is decreasing because of this Day Care. In addition, there is traffic congestion. She realizes these people don't think there is, but she lives on that street. She lives across the street from it, and she has the traffic congestion of one garage sale every day. Ten cars coming in the morning; ten cars coming in at night – it is like a garage sale. Ms. Medley said she looks at it from the point of view of five garage sales per week – “I don't think so”. The noise congestion in the summertime, she can hear that noise. She is not against noise, but she does not feel like she wants it outside her door every time she opens up a window or walks out her door. She does not want to hear it. Other than that, her main concern is this cannot happen, because this is a business. They have admitted that it is a business. It is for a profit, and she is not against a business; her husband was self-employed before he retired. They did not bring their business into their home and go to work. They went out, got a commercial building, and opened up a business that way. That is the way they should be doing it also.

Linda Gibson, 4100 Northeast Brooktree Lane, said she lives one house down and over from the Day Care. Ms. Gibson thanked everyone for coming out in the bad weather. Ms. Gibson said her husband works nights at the Union Pacific Railroad, and railroading is a very dangerous job, comparable to firefighting. He is unable to be here this evening, because he is at work, but he states that he is unable to get good sleep, because in the mornings, of the noise of the doors shutting. Mr. Gibson said she is also concerned about the value of their homes and she wants the Joneses to know that it is not personal; they spoke very eloquently, and she is impressed with their education, and she is 100 percent positive they will be successful in a commercial location for their Day Care.

Mayor Smith asked Mr. Wingerson, in regard to Mr. Poppenhagen's comments, to explain how that works.

Mr. Wingerson replied he was not certain what Mr. Poppenhagen was reading from, but it appeared to him a brochure that staff put together to help people understand the rules of a home occupation. These are normal home occupations. There are hundreds within the City. It may be an internet travel agency, or an accountant, or any number of businesses. There is criteria in which an occupation license is issued, if they meet each and every one of those. Those are really not up for discussion. In every case, except for one, when a business does not meet each of the criteria that Mr. Poppenhagen referenced, it becomes a Special Use Permit. Very few make it to the City Council level, because they just do not work. The one exception in all of the home based businesses is for Day Cares. For Day Cares, by State law, people are allowed to keep four non-related children in their home. It is really a

provision that years ago was designed to allow young mothers to stay home and watch the kids of other mothers, while they were going into the work force. What Mr. Poppenhagen talked about is applicable to home based businesses, except for Day Cares, except especially for Day Cares, like we are talking about tonight, to care for more than four unrelated children.

Mr. Wingerson said he apologized, the Council knows this, but the public does not, there were two conditions added to the draft Bill in the Council's packet. Condition Number 10, requires the construction of a six foot wood privacy fence around the backyard of the property, on or before August 1. The second Condition comes out of the Planning Commission, and it relates to absolutely no signage as related to the home based Day Care.

Mr. Wingerson said in the Planning Commission Hearing, there were comments made by Mrs. Huff. The property, for clarification, is titled in the name of Jones and Huff, LLC. That is a pretty common practice when two people go together to buy a piece of property. Mrs. Huff is a relative of the Joneses, so the home is, in fact, owner occupied. It is just titled differently than Mr. and Mrs. Jones. Mr. Wingerson said he hopes that clears things up on the ownership side.

Bev Poppenhagen, 5800 North Norton, stated she is the person who has been monitoring the situation for over two years. While she cannot quote years, she could say that the first year, they had four or less children, who are no longer at that Day Care. She is assuming the oldest girl probably went to school, in Kindergarten or first grade. They were in compliance. Ms. Poppenhagen said she has been talking to the Assistant City Manager, who she understands is the head person for the zoning and planning staff, for over two years, and she does not understand. She has provided him with documentation. The first time, before the Planning Commission, she left personalities out of it, because that is how she operates, but they have been put in the position of addressing some of these discrepancies, and unprofessional behavior. She was been many times in communication with Scott Wingerson, and it was very difficult to get straight answers from him. She is a person who does not spend time pursuing things like this, unless she knows what she is talking about. At one point that first year, she said, "I cannot get straight answers, so I'm just going to forget it, because I am going to end up being made to look like I'm foolish, and I don't know what I'm talking about".

Ms. Poppenhagen said it was only three months ago when she was told by a neighbor that it had escalated to the extent that it has, that she started taking a look at it. She sat outside one day, and she saw from 3:15 PM to 5:00 PM that there were ten children who were picked up every five or ten minutes. That means three hours out of every day children are being left and picked up right next door to her house. Ms. Poppenhagen said in the Special Use Permit rules or Ordinances, or whatever it is called, Chapter 165 says: *If, after Public Hearing, and after consideration and recommendation by the Planning Commission;* Ms. Poppenhagen said that is the end of her quote. Ms. Poppenhagen said there appears to be no mention of the staff making a recommendation, and in all of her conversations with Mr. Wingerson, never once did he say that the staff would make a recommendation before the Hearing. Ms. Poppenhagen said she does not understand this.

Ms. Poppenhagen said that the Planning Commission is made up of volunteers. How many volunteers are going to take issue with a staff member's recommendation? Ms. Poppenhagen said she is a profiler. She profiles people and jobs. She knows people. How many volunteers are going to do that, if they like working and serving on the Planning Commission? She does not think there are very many. Ms. Poppenhagen said she asks a lot of questions, and she asked Mr. Wingerson what types of things are looked at when a Special Use Permit is allowed, and there are only five in the City of Gladstone. Ms. Poppenhagen said Mr. Wingerson stated *that this is a pretty gray area, but basically the types of issues related to safety, consistency, neighborhood preservation, and the like*. Ms. Poppenhagen said that is the end of the quote. Ms. Poppenhagen said none of the pro advocates talked about these issues when they came to the Planning Commission meeting, and she does not think how nice people are or what good teachers they are has anything to do with safety, consistency, and neighborhood preservation, and the like. Mr. Wingerson then went on to say *of course, certain things are off the table for discussion, like race, religion, income, marital status, property ownership*. Ms. Poppenhagen said she does not understand why property ownership would not be considered, but she is not going to go off on that tonight, and the like. How nice someone is and what a good educator would not fit in this group. Are these statements biased and subjective? Ms. Poppenhagen said she believed that yes, they are. Can the City impact these? She does not think they can, and yet, all of the testimony that was allowed at the Planning Commission meeting had to do with things that the City can't impact. So while she inquired about how things processed and how they worked, the Planning Commission did not stick to that, nor did they require that of the people who got up and spoke. Ms. Poppenhagen said she was sorry, she is a very logical person; she does not understand this.

Ms. Poppenhagen said this brings up another issue. She has a real question about whether the Planning Commission has adequate training, because of the way the vote went. It is inconceivable the way the testimony was, and the Council has had access to that, because they have the Minutes of the meeting. None of it applied to any of the things that she was told that the City would look at, and it was not required of them. Ms. Poppenhagen said the thing that was most upsetting to her was that the owner of the house, Linda Huff, was allowed to get up and she made a false statement, and she was allowed to talk about that statement for five minutes. That statement that she made is incorrect. The information that she gave was incorrect.

Ms. Poppenhagen said, getting back to the planning and zoning staff, she does not understand why when they have been provided with pictures, and all of this documentation from so many other people, why they would make a recommendation. It makes no sense to her. Ms. Poppenhagen said how she personally feels is that she listened to what they had to say, and she went down the primrose path, and when it came right down to it, she could not believe what they told her. Things were not required that they had told her would be the way it would process. At the Planning Commission meeting it was allowed to get very personal, and she resents that; she is sorry, she is a person who takes the high road.

City Counselor Randall Thompson stated, as a point of order, that what was before the Council this evening was a Special Use Permit, and not one citizen's satisfaction, or lack thereof, with a process or what happened at an earlier process. If we could just confine ourselves to whether or not someone is in favor or not of the permit, that is what is required by our City Ordinances.

Mayor Smith asked Ms. Poppenhagen if she would please speak to the merits of the application.

Ms. Poppenhagen said from the very beginning the State has been an issue. The State clearly says in their printed information that if there is a local Ordinance that interferes with them having a Day Care of ten children, then it is not applicable, so in other words, the State does not have jurisdiction over Brooktree, they do not have jurisdiction over Gladstone's specifications in this particular situation, and yet, she keeps hearing this time and time again. Ms. Poppenhagen said she knows that the State has stipulations about animals, and her husband was over at the house two weeks ago, and looked in the yard, and there were four piles of dog excrement. That is against the State regulation, but from day one it has appeared that the City wants the State to monitor this, and she does not get it. She is very much against it. It does affect property values. She is very much an ethical person, and they have not followed proper guidelines. Ms. Poppenhagen said she did have a question, and asked if someone has four or less children, do they not have to get an occupation license.

Mr. Wingerson replied yes.

Ms. Poppenhagen stated she has been asking about this for a year and a half, because she could never get an answer that they had that documentation, and she still does not know whether they did or not. Ms. Poppenhagen said she has been very open and straight forward about this; she provided the City with all this information, and she had probably done more work than anyone else on this, and she does not understand why the stuff that has been presented to the City has not been part of the record. She does not understand this. These things can be documented, and they should have been documented. Ms. Poppenhagen said she also has a problem with the staff's recommendation.

Mayor Smith asked Ms. Poppenhagen to speak specifically to her opposition for this application.

Ms. Poppenhagen said she is in opposition to three hours per day of people coming next door to her house, picking people up and letting them off. It does affect the property value. She has had her house for sale, and she will have it for sale again in three and one half years, and she does not want to have to deal with a Day Care that is next door.

There being no further comments, Mayor Smith closed the Public Hearing.

Item 12. on the Agenda. **FIRST READING BILL 11-01**, approving a Special Use Permit for operation of a Child Care Facility at 5804 North Norton. Applicant/Owner: Darron and Alecia Jones. File #1351

Councilmember Carol Suter moved to place **Bill 11-01** on its First Reading. Councilman Carol Rudi seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0). The Clerk read the Bill.

Councilmember Carol Suter moved to accept the First Reading of **Bill 11-01**, Waive the Rule and place the Bill on its Second and Final Reading. Councilman Carol Rudi seconded. The vote: All “aye” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (5-0). The Clerk read the Bill.

Councilmember Carol Suter to accept the Second and Final Reading of **Bill 11-01** and to enact the Bill as **Ordinance 4.175**. Councilman Carol Rudi seconded.

Councilman Carol Rudi said this is probably the hardest Special Use Permit she has ever considered. She does believe that we have an excellent facility available to children in our area, but she also believes that the neighbors have a right to their own privacy and quiet. Councilman Rudi said she plotted on a map the people who were in favor and the people who were opposed, and until tonight, it came out even, and if she just looked at the street itself, there were the same number of people on that street in favor of it as opposed to it. Councilman Rudi said what she hears tonight is a lot of concern about the noise and the traffic, and she does not think she can support it as much as she would like to, so she would be voting no.

Mayor Pro Tem Barry McCullough stated that it does sound like the Joneses operate a fantastic business that does benefit the community, but he shares the concern of the Brooktree residents that this does impact their property values, and therefore, he cannot support it.

Councilman Mark Revenaugh stated that he owned a small business several years ago in Kansas City, he started out working in his basement, so he has been there; he knows what it is like to have to go through the process. However, clearly the number one issue is how does it affect the neighbors. Councilman Revenaugh said he was on the Planning Commission before being elected to the City Council, so he has been through that process, and he understands that process. He would say that generally if it is a good fit, we do not run into this kind of opposition to the fit. Generally, Gladstone is a welcoming community, and they are glad to have people move in, and especially, entrepreneurs, such as the Joneses. Councilman Revenaugh said what he sees tonight is just not a good fit for this particular location for this particular business, so he would be voting no.

Councilmember Carol Suter stated she also finds this to be a really problematic decision, because quality Day Care is one of the biggest needs in our community. Several years ago, the Community Foundation of Greater Kansas City and the Northland Foundation did a study, and one of the biggest needs we have in the Northland is quality child care. To have educators, in particular, run child care is an absolute asset, and for all those parents, who are

out looking to find something that is both affordable and quality, it is a real challenge north of the river. Councilmember Suter said it really pained her that we are not finding a welcoming community for this kind of an enterprise. Other parts of our community are open to these kinds of activities, because we have a number of them. We have lots of other kinds of Special Use businesses going on in the City, as well. It really does come down to this issue of fit.

Councilmember Suter said regarding the issue about property values in neighborhoods where we are now having rental, she is interested that, apparently, Brooktree does not consider investment property and renting your house a business, because that seems to be happening in Brooktree, but that will run property values down faster than anything else that is going on in your neighborhood. For those who own and do not live there or live next to rental properties, that is a major issue, beside itself. Councilmember Suter said her concern is that the business will not be successful, if the neighborhood is troubled, and that is a sad situation. Councilmember Suter addressed the Joneses by saying, in a community that needs your kind of service, that needs the kind of people that you seem to be, it is a real disappointment for the people that you serve that they may lose their opportunity. She hopes that some other arrangement may be able to be found so that you can continue to serve the community, but clearly, in a neighborhood with this much unpleasantness it would be hard for the business to be successful, so she would have to vote no.

Roll call vote: All “nay” – Councilmember Carol Suter, Councilman Mark Revenaugh, Councilman Carol Rudi, Mayor Pro Tem Barry McCullough and Mayor Les Smith. (0-5)

Mayor Smith stated that the application for the Special Use Permit had been denied.

Item 13. on the Agenda. **RESOLUTION R-11-06**, authorizing the offering for sale of a series of Certificates of Participation, Series 2011 evidencing a proportionate interest in basic rent payments to be made by the City of Gladstone, Missouri, pursuant to an annually renewable Lease Purchase Agreement and, if economically advantageous, authorizing the issuance of additional refunding Certificates of Participation to refund outstanding Certificates of Participation, and prescribing matters related thereto.

Councilman Carol Rudi moved to adopt **RESOLUTION R-11-06**, authorizing the offering for sale of a series of Certificates of Participation, Series 2011 evidencing a proportionate interest in basic rent payments to be made by the City of Gladstone, Missouri, pursuant to an annually renewable Lease Purchase Agreement and, if economically advantageous, authorizing the issuance of additional refunding Certificates of Participation to refund outstanding Certificates of Participation, and prescribing matters related thereto. Councilmember Carol Suter seconded.

Mayor Smith said he noticed Mr. Bricker in the audience this evening, and asked that either he or City Manager Davis provide “the Reader’s Digest” version of the intent of this Resolution.

City Manager Davis invited Mr. Greg Bricker to speak about the scheduling. Mr. Davis said the financing for this particular financing tool is presented to allow the City to complete projects that are listed in the memo in the City Council's packet, for about \$5.9 million. Mr. Bricker can talk about scheduling, process and what is going to happen.

Greg Bricker, of George K. Baum Company, began by saying that the action item before the City Council this evening is to consider the adoption of what he refers to as a "go to market" Resolution. Basically, the official action that the Council will take or consider is to authorize the steps necessary to proceed forward with bringing into the market place a financing to produce approximately \$5.9 million for various projects that have been discussed at earlier meetings. The form of this financing is what is referred to as a Certificate of Participation. The City of Gladstone has used this form of borrowing on at least four other occasions that he is aware of, and the Council will recall that they worked on a simultaneous basis two transactions late in 2010, to bring to market a General Obligation Bond issue and a Water and Sewer Revenue Bond issue. That financing also involved a "go to market" Resolution.

Mr. Bricker said the calendar that he has mapped out currently would envision being on the agenda either on the February 14, but more likely the February 28, agenda for final passage of the Ordinance to accept the final sale results of this financing, with a closing expected on or before March 20. Mr. Bricker said we have a need for a portion of these funds to be available on or before April 1, to meet an installment payment on the communications system. Right now, the interest rates would expect to be somewhere in the very low four percent range. We are looking at a twelve year amortization on this financing, and basically, this is the action the Council will consider to authorize this financing to proceed forward.

Councilman Revenaugh pointed out that Mr. Bricker's firm and the bank for which he works have a relationship, so he would be abstaining from the vote.

Mayor Pro Tem McCullough stated he has previously stated his concern over the money being spent in this fashion, and he would not be voting in favor of this.

Councilman Revenaugh stated that he brought up in the planning session that there were some expenses that were being considered that he wondered, personally, if it was the direction the Council wanted to go. Councilman Revenaugh said he long has said that we have a great City staff; they know what they are doing, and he saw his job as a City Councilman to pretty much stay out of their way, and so he is hoping that this is following along that pursuit of excellence that we have come to know and expect from our staff.

Mayor Smith said there are a couple of items that have been discussed as part of this package that may or may not come to fruition for one reason or another. If we go to market with the \$5.9 million amount, and those projects, through no fault of our own, do not come to fruition, what happens to those funds?

City Manager Davis replied he would consult with bond counsel Mr. Bricker on the ultimate solution, but there are a number of ways that this could go. Number one, at some time the

Council could retire the debt of the remaining money or money not spent. Number two, the focus of this Certificate of Participation is stormwater. The City has many stormwater needs. There are stormwater needs not financed here, because we reduced the size of this financing, based on Council concerns, and he would suggest to the Council that he would encourage us to look at other stormwater projects to invest in. Those are projects we will have to invest in anyway at some point of time down the road.

Mayor Smith asked Mr. Bricker if every dollar had to be specifically earmarked to every certain project. This is a financing tool, and there is certain collateral in place. Mayor Smith said this is the answer he hoped he would get. It could be \$250,000 that is in that package; it could \$650,000 in the package. Mayor Smith said he is hoping that we would get some commitment that if those projects do not come to fruition, that those monies be focused, unless there is some dire need to retire the debt, towards the main focus of the program, which is stormwater needs.

Mr. Bricker said that was correct.

Councilman Revenaugh said that was a good point – the focus is on the stormwater.

Mayor Smith stated to be frank, there are a couple of issues out there. The triangle we have talked about is “iffy” because it will require a large participation in excess of our own by an outside party to make that happen. We are talking about some amenities to the Village Center, and we are potentially looking at some expenses there to do it first class, which is how we do everything in which we engage. If that becomes too expensive of a proposition, because that needs to be built on a business plan, that may not work. Those funds will then be shifted towards the main emphasis, which is storm drainage.

Mayor Smith said we have been working with storm drainage since 1983. We passed the first ever bond issue, which dedicated real money towards storm drainage problems in this community – it was \$1.5 million, and it was the same time we passed a bond issue for \$2.5 million for North Prospect. Mayor Smith said since 1983, we have been talking about serious storm drainage problems in this community. If these funds could then be utilized to help reduce the storm drainage problems that we have, then that makes him a bit more comfortable.

The vote: “Aye” – Councilmember Carol Suter, Councilman Carol Rudi, and Mayor Les Smith. “Opposed” – Mayor Pro Tem Barry McCullough. “Abstain” – Councilman Mark Revenaugh. (3-1-1).

Item 14. on the Agenda. Other Business.

There was no other business.

Item 15. on the Agenda. Questions from the News Media.

There were no News Media present.

Item 16. on the Agenda. Adjournment.

There being no further business to come before the January 10, 2011, Regular Gladstone City Council Meeting, Mayor Les Smith adjourned the meeting.

Respectfully submitted:

Cathy Swenson, City Clerk

Approved as submitted: ____
Approved as corrected/amended: ____

Mayor Les Smith