



City of Madison
Meeting Minutes - Final
BOARD OF PUBLIC WORKS

City of Madison
Madison, WI 53703
www.cityofmadison.com

*William F. Bremer, Chair; Ald. Paul J. Van Rooy; Ald. Santiago Rosas;
Michael W. Rewey; Billy C. Harrelson; Joseph R. Clausius; John Czerepinski; Laura
Hewitt; Yehuda Elmakias; Larry D. Nelson, P. E., Executive Secretary*

Wednesday, February 16, 2005

4:30 PM

210 MLKJ BLVD RM 103A (CCB)

CALL TO ORDER

Chair Bremer called the Board meeting to order at 4:31 p.m. following verification by the Secretary that the meeting was properly noticed and a quorum was present.

ROLL CALL

Present: Van Rooy, Rosas, William F. Bremer, Rewey, Clausius, Czerepinski and Elmakias

Excused: Hewitt and Harrelson

**PUBLIC HEARING OF TDS METROCOM TO INSTALL FIBER OPTIC CABLE
WITHIN RIGHT OF WAY LIMITS AT THE FOLLOWING LOCATIONS:**

Mr. Kevin Maes representing TDS Telecom reported to the Board that TDS will be installing fiber optic cable along Midvale Boulevard south from Mineral Point Road to Keating Terrace, west on Keating Terrace to Segoe Road, south on Segoe Road to Tokay Boulevard, west on Tokay Boulevard, to Whitney Way, and north on Whitney Way to Science Drive.

He stated that all affected property owners along the route have been notified via door hangers. The work will be directional boring with no open cutting of the street. If any blocks of sidewalk are damaged they will be replaced.

D.J. Legas representing TDS Telecom was also present to answer any questions.

No action was necessary on the item.

1. Consider approving the Minutes of the Board of Public Works Meeting and the Public Hearing of February 2, 2005.

**A motion was made by Ald. Van Rooy, seconded by Mr. Clausius, to Approve.
The motion passed by acclamation.**

2. Items of concern brought to the Board but not listed below.

No items were brought to the Board not listed on the agenda.

3. Consider a Report of the City Engineer regarding the results of a review of water resources impacts and the necessity of permits for public works construction projects on this agenda and addendum to the agenda.

It was noted for the record that Agenda Item No. 13 required impact statement regarding water resources and notation was made with that item.

CONSIDER THE FOLLOWING PUBLIC HEARING RESOLUTIONS:

4. [00501](#) Approving Plans, Specifications, And Schedule Of Assessments For Capital Avenue Sidewalk Assessment District - 2005.

*Attendance: Members Present: Vice Chair Clausius, Mr. Bremer, Alder Rosas, Mr. Elmakias, Mr. Rewey, Mr. Czerepinski,
Members Excused: Alder Van Rooy, Ms. Hewitt, Mr. Harrelson*

The Board convened into Public Hearing at 6:33 p.m. following notification by the Secretary that the meeting was properly noticed and a quorum was present.

Vice Chair Clausius welcomed those present for the public hearing on Approving Plans and Specifications, and Schedule of Assessments for Capital Avenue Sidewalk Assessment District - 2005; and stated that City Staff Ms. LeAnne Hannan will make a presentation on the project, he would then call for technical questions from the Board, call for technical questions from those present, and then open the hearing to those registered to speak.

Ms. Hannan of City Engineering displayed the plans for this project, stating that Alder Holtzman had received requests from constituents for sidewalk along Capital Avenue to connect Old Middleton Road to University Avenue. This is a collector street and is the only "improved" street that connects the two streets between Whitney Way and the City of Middleton. As a result of these requests the Alder has asked that the City investigate the possibility of installing sidewalk. In the summer of 2004 a letter was sent to property owners informing them that a survey crew would be in the area and the survey would be completed in the fall.

A neighborhood meeting was held on January 13, 2004, Alder Holtzman mailed notices to the residents but unfortunately most weren't delivered by the Post office [the post office sent letters of apology to the residents]. A second informational meeting was held on January 20 for those who did not receive the first notice.

The Pedestrian/Bike/Motor Vehicle Committee was requested to provide their input on the sidewalk as well; and at their January 25, 2005 meeting they recommended that the sidewalk should be installed on both sides of the street as proposed by City Engineering as a matter of public safety.

She stated the scope of the work is to construct sidewalk on both sides of the street on Capital Avenue between Old Middleton Road and University Avenue. The drive aprons will also be replaced in order to construct a sidewalk section through the drive. Rather than place the sidewalk parallel to the property line, the decision was made to meander the sidewalk to save as many trees as possible. The alignment of the sidewalk has gone through several revisions in attempts to save trees and to address concerns voiced by some of the property owners. Retaining walls will be necessary in some areas to minimize the grading onto private property.

City Engineering staff walked the project with City Forestry personnel to identify which trees could be removed, which were in poor condition, which were in better shape, the species of some of the trees, etc. It will be necessary to remove about 36 trees and larger shrubs; many small shrubs will also be removed. About half of those being removed are not City planted terrace trees and appear to have been planted in the right-of-way by the property owners.

The trees/shrubs identified on the plan to be removed include: 12", 15" 18" 30" and 36" Ash most of which were and possibly all of which were planted by the City; 12" and 24" walnut trees; 36" elm too close to a maple tree; 18" hickory planted by the property

owner; 12" 18" and 30" maple trees, 15" black cherry, arbor vitae, small pine trees and some landscape features; and assorted smaller trees.

She mentioned that a 24" ash and 12" Norway maple as well as 12" maple are shown to be removed, however, there is a chance they will be saved. A note will be added to the plan stating "try to save the tree."

Total cost is estimated at \$134,300 of which \$35,500 is City share; and \$98,800 is assessable [City held the assessable costs to \$45 per lineal foot]. The work, if approved, would take place during the summer, this would allow property owners to remove plantings and other landscape features which are in the right-of-way prior to construction.

She noted for the record that the Mayor's office and City Engineering staff received numerous calls relative to the project, expressing opposition, complaints about lack of notifications, etc.

Noted for the file the following correspondence was sent:

E-mail and letters from Alder Holtzman to various property owners dated March 18, 2004, August 16, 2004, September 14 2004, October 25, 2004,, October 27, 2004, December 8, 2004, December 17, 2004 and notice of neighborhood meeting of January 13, 2005.

City Engineering sent the following notices:

August 27, 2004 notice of upcoming survey; January 14, 2005 notice of 2nd neighborhood meeting, PBMC meeting; and February 4, 2005 notice of public hearing, schedule of assessments and cover letter.

Ms. Hannan then noted for the record the following COMMUNICATIONS received by Holtzman and or Traffic Engineering:

March 14, 2004; April 14, 2004; May 19, 2004; June 1, 2004; July 11, 2004; July 26, 2004; September 16, 2004; and November 22, 2004; July 27, 2004; September 13, 2004 including petition in opposition; September 20, 2004; 2 letters dated October 4, 2004; October 8, 2004; 3 correspondence dated January 19, 2005; and petition in favor of sidewalk.

Communications received by City Engineering, noted for the record:

November 22, 2004 from Kathleen Lindas, 1632 Maple Street, Middleton, owns 1643 Capital Avenue - listed 19 options, most of which address issues separate from pedestrian safety;

December 16, 2004 - Barbara Lamperski, 1648 Capital Avenue - opposed

December 17, 2004 - Kathleen Lindas, 1632 Maple St., Middleton - more options

January 6, 2005 - Richard King, 1625 Capital Avenue - opposed

January 7, 2005 - Barbara & Michael Lomperski, 1648 Capital Avenue - opposed

January 9, 2005 - Neal McGuffin & Elizabeth Freitick, 1656 Capital Avenue - opposed

January 9, 2005 - Joe Dhanai, 1660 Capital Avenue - opposed

January 9, 2005 - Victoria Trujillo, 1609 Capital Avenue - opposed

January 10, 2005 - Patty Dean, owns 1667 Capital Avenue - opposed

January 10, 2005 - Gerald & Kathleen Lindas, 1643 Maple St., Middleton

January 12, 2005 - Bernard Trujillo, 1609 Capital Avenue - opposed

January 12, 2005 - Bernard Trujillo, 1609 Capital Avenue - opposed

January 12, 2005 - Christopher & Jill Wren, 1622 Capital Avenue - opposed (included copy of petition opposing sidewalk from September 4, 2004)

January 13, 2005 Douglas Flygt, 1626 Capital Avenue - opposed

January 13, 2005 - Larry & Pamela Nash, 1621 Capital Avenue - opposed

January 13, 2005 - Jane Antonovich, 1664 Capital Avenue - opposed
Unknown from Lonnie Smith & Family, 1672 Capital Avenue - opposed
January 19, 2005 - Petition Request to Reschedule the Consideration of Capital Avenue Sidewalk

Vice Chair Clausius thanked Ms. Hannan for her presentation and called upon the Board for any technical questions on the project.

Questions included:

Whether Old Middleton Road will have sidewalk installed in the future - response was from University Avenue to City limits on the south side.

Whether the street is centered on the 70 foot right-of-way - response was the 36' wide street will be centered as much as possible.

Trees removed and replaced by whom - response was those trees in the terrace right-of-way will be replaced by the City Forestry section if Forestry feels that a tree is needed.

Technical Questions from the general public:

Who decided sidewalk should be on both sides - what was rationale
Response - was that the City policy is to have sidewalk on both sides as much as possible and the PBMVC recommended sidewalks on both sides as well.

How many pedestrians are there in the area?
Response - no specific count was done but when sidewalks are made available they will be used.

Is the City considering saving trees close to sidewalk?
Response if the tree is too close and the roots cannot safely be trimmed, the tree will be removed and a replacement may be planted.

What about looking at a type of tree that does not have roots that will heave sidewalks. How can you guarantee that a tree will not die if it is planted so close to sidewalk - or need its roots trimmed back.
Response: The City Forestry section felt that if the sidewalk is no closer than 2 feet from the trunk of a tree it is safe to trim the root system; however that will be reviewed again. Forestry currently plants terrace trees which have a root system that is less likely to adversely impact the sidewalk.

Where are storm sewers located?
Response: University Avenue, and near Baker Avenue there is a pipe crossing Capital Avenue with inlets.

At 1621 Capital Avenue it is a hilly area and there are five large pine trees 80' or taller - the Forester has concerns.
Response: City will protect the pine trees on the private property as much as possible.

Vice Chair Clausius opened the hearing to those registered to speak Against the project.

REGISTRATIONS - Against Project

Christopher Wren, 1622 Capital Avenue - Opposed - Read a statement regarding opposition to the project. Was concerned with three areas (1) Neighborhood plan; (2)

deficiencies and drawbacks in the proposed plan; and (3) issue of neighborhood support or lack of support.

Cited Page 54 of Madison Pedestrian Transportation Plan that stated: "Because property owners pay the total cost of installing a new sidewalk, the neighborhood's and property owner's desire to either install or not install a sidewalk has as much if not more weight in the final decision as the sidewalk's importance to the pedestrian transportation network."

Pointed out that a Professional Engineer Hank Simon and he walked Capital Avenue with the proposed plan; and if the project were referred to a later date Simon expressed interest in assisting the Capital Avenue property owners as an engineering consultant to work with the City and neighborhood association and others in developing a plan that would earn more support than the current on.

Requested that the project be referred to allow the Spring Harbor Neighborhood Association [who received a \$15,000 matching fund grant] to develop a comprehensive plan for the neighborhood. Shary Bisgard the President of the Spring Harbor Neighborhood Associated [who is travelling] submitted to both the PBMVC and now the Board of Public Works a request that this project for sidewalk be referred until after the Spring Harbor plan is completed and approved by the Council. Her quote was "Since we have required the neighborhood plan to address pedestrian and bicycle safety as well as traffic calming initiatives, I believe the issue of sidewalks for this portion of Capital Avenue can be more appropriately reviewed and discussed within the framework of that plan."

He stated that at the January 25, 2005 PBMVC hearing Alder Holtzman stated that anyone who has that understanding of Shary Bisgard's statement was misinformed. He felt Alder Holtzman had wrong facts, that the Alder told PBMVC members that the Spring Harbor Neighborhood plan would not address pedestrian or traffic flow on Capital Avenue - but would address commercial development in the University Avenue/Whitney Road area.

The SHNA newsletter of June 2003 reported the plan has two fold focus: (1) University Avenue corridor and the commercial property bounded by University Avenue, Whitney Way, Old Middleton Road and the Trillium neighborhood; and (2) to identify and address implications to the whole neighborhood of change may occur in areas (just as noted). The implications include dealing with pedestrian and bicycle movement throughout all the affected areas.

Ms. Bisgard wrote in an e-mail to Capital Avenue property owners on January 30, 2005 that she disagreed with Alder Holtzman regarding the plan. She was on the steering committee to select a planner and each of the three applicants indicated they would address pedestrian and bike access along with traffic and make recommendations. Those three applicants indicated they would look at bike and pedestrian access to public spaces and businesses.

The SHNA selection committee unanimously endorsed the proposal form Shreiber/Anderson Associates which identified issues to be addressed in the Comprehensive Neighborhood Plan: "Improve walkability and pedestrian safety through the neighborhood; improve pedestrian/bicycle connections to Lake Mendota and throughout the neighborhood; continuation of the City's bicycle trail system through the neighborhood; traffic calming to discourage cut-through traffic and reduce speeds on key neighborhood streets such as Lake Mendota Drive; provide safe connections between residential and commercial area on both sides of University Avenue.

Stated that Alder Holtzman was incorrect at the PBMVC hearing when he said the City's matching fund grant was \$10,000 - it was \$15,000 - the largest City has given for a neighborhood plan.

Requested that the Board refer action on this until Ms. Bisgard's return in early March 2005 to be able to speak to the comprehensive neighborhood plan.

Mr. Wren also pointed out that the City has repeatedly pushed back providing sidewalks or walkways on Old Middleton Road between Capital Avenue and St. Dunstan Drive, rescheduling Old Middleton Road to 2009, Cannot understand why the City cannot give the Spring Harbor Neighborhood six months to conduct its planning before rushing in with stand alone sidewalks for Capital Avenue - especially when it has not had any pedestrian collisions in nearly half a century or possibly longer.

Petition was submitted to SAVE THE TREES ON CAPITAL AVENUE signed by 40 property owners who "do not live on the 1600 Block of Capital Avenue but join the unanimous opposition of that block's property owners to placing sidewalks there."

Statement from Spring Harbor Neighborhood Plan, page 1 - PROJECT UNDERSTANDING - Submitted for the record.

Jill Robinson Wren, 1622 Capital Avenue - Opposed to project - did not wish to speak.

Victoria Trujillo, 1609 Capital Avenue - Opposed - Also read a letter into record from Joyce Gaffney of 1800 Capital Avenue opposed to project and to removing trees and installing sidewalk. [letter was not submitted for the record].

Ms. Trujillo submitted a letter and stated that they have owned house on 1600 block of Capital Avenue for 5 years; have four young children [8 yrs, 5 yrs. 3 yrs and 4 month] - Opposed to sidewalks because they were denied a fair process and were also denied input into the plan. The plan does not meet needs of the neighborhood; would like it referred until Spring Harbor Neighborhood plan is completed and a better outcome for the neighborhood is certain. Felt that some of the information is false, that traffic calming is not available. The project will diminish safety of children and it will make the area an extension of University Avenue, with no trees and encourage speeders. Sidewalks are kid magnets and felt they are too close to the street and creates danger for children. Now children play farther back from the street with no sidewalks and is safer for them; but if sidewalks were installed and a ball went into the street, a child would run into the street to retrieve the ball and possibly get hit.

Petition submitted from "homeowners of Capital Avenue between University Avenue and Old Middleton Road - opposed to construction of a sidewalk" containing 34 residents.

Pam Nash, 1621 Capital Avenue - opposed - Did not get interaction from the neighborhood on this process. Felt this project would take away from the "Frank Lloyd Wright" appearance of their home and cut out portions of their front yard and include ugly retaining walls. The walkway would be ten feet from their bedroom, that will destroy their privacy. Give the neighborhood the time to review and discuss this process. Requested that the Madison that cares about neighborhoods and trees hear their voices.

Douglas Flygt, 1626 Capital Avenue - Opposed - Felt it was fragmentary, it was a sidewalk to nowhere, even side does not connect up. Reasonable alternative not install on both sides but on one side. Cited other streets [Old Middleton Road] where sidewalks were installed only on one side and both sides shared in the total cost. Stated that on July 13, 1999 Alder Holtzman has sent an e-mail to the Traffic Engineer for sidewalk on one side which would be effective and to place it on the odd side of the

street. Did not feel a need for sidewalk as there were no pedestrian traffic in the area, and what was there was very little. Stated that the cost was not the real issue - it simply was not needed. Most of the opposition is because of the tree removal; and the almost certain death of those trees "saved"; cutting the roots is unhealthy and unsafe.

Elizabeth Fretick, 1656 Capital Avenue - Opposed. Lived there 15 years and works at UW Medical School. Concerned about emotional level caused by Alder Holtzman; it is upsetting and causes problems amongst neighbors. Do not feel they have been fairly dealt with. Those in favor also feel emotional about the project. Those that walk in the area have never felt unsafe. Felt the only real danger is when they attempt to cross the street. Felt that residents of Capital Avenue are being held responsible for pedestrian safety and responsible for the cost. If trees are removed it will only encourage speeding. Trees now act as sound barrier, wind barrier, and keep the area residential for cooling in summer and protection in winter. They should not be held responsible for speeders that would come off other streets. They need traffic calming. Other areas have had the opportunity to say "no" to their projects and they should be listened to. Requested the project be deferred until after the Spring Harbor Neighborhood Plan is approved.

Michael Lomperski, 1648 Capital Avenue - Opposed - Lived there for 18 years with no incidents for pedestrians - no need for sidewalk; street is wide and he noted that only 8-10 people walk there per day. It currently is safe. There has been an increase in traffic on their street because of the traffic signal at University Avenue and the fact that cars go through their area rather than through the signalized intersection. Felt it will become more dangerous because of speeding traffic. Requested that the project be deferred until the Spring Harbor Plan has been approved. A wider street will not protect children playing on sidewalks.

Also submitted a letter that was sent on February 14, 2005 to Alder Holtzman that corrected a statement that Alder Holtzman said he made to be in favor of the sidewalks.

Neal McGuffin, 1656 Capital Avenue - Opposed to project - His family walk the area about 4000 times over the years, and he noticed that the traffic patterns have changed; traffic problems need to be addressed. Felt that Alder Holtzman was a protagonist, and he is not representing the residents. He contacted the Alder some time ago that there was a tree on Capital Avenue that was going to be destroyed and he requested the Alder check into saving it; he got verbal word back from the Alder that he would check into it but never did. Was in favor of referring until the Spring Harbor Plan was approved. [Letter with that information was also submitted into the record dated 2/14/05]

Barbara Lomperski, 1648 Capital Avenue - Opposed - Trees make Capital Avenue beautiful - now the City wants to remove them which will erode the area and cause runoff. She values trees, they keep people cool in summer, provide wind break and protection in winter, clear the air of pollution, noise and erosion. If trees are removed it will devalue their property. Requested project be referred until Spring Harbor Plan is approved.

Barb Johnson, 1613 Capital Avenue - Opposed - Felt same as other residents, lived there 45 years and raised five children with no problem. Cannot see why sidewalks are now needed.

Letter was submitted from President of Spring Harbor Neighborhood Association requesting that this be referred until after the Neighborhood plan is approved; the residents on Capital Avenue do not feel they have been given enough time to prepare their position. Explained that a grant was received from the City to have a plan drafted for the area. She felt that the issue of sidewalks for Capital Avenue can be better

reviewed and discussed in the plan.

Pat Koenecke, 1640 Capital Avenue - Opposed - Lived there 45 years and raised 3 children with no sidewalks and no problems on Capital Avenue. She walks daily to Brennans for the past 45 years with no problems. No one wants sidewalks and have submitted petitions against them. Save the trees that reduce pollution, keep it cooler and provide noise barriers.

A letter was introduced into the record from Richard King, 1667 Capital Avenue - Opposed to sidewalks - felt the process was unfair - no input from the affected owners; it would have adverse affect on environment due to removing many trees; there is no safety necessity for sidewalks in front of his home as it is level and cars do not park there; the cost of \$11,678.60 is a lot of money, especially when there are alternatives available that have not been considered [remove cars on one side of Capital Avenue and striping in a bike lane at a modest cost]; feels that the cost of this project and all subsequent projects that would connect this project would be more expensive due to compliance with ADA. Brought this letter forth to be part of the record that he gives notice of potential lawsuits should this proceed.

Bernard Trujillo, 1609 Capital Avenue - Opposed - is a professor at Law School. Felt this was in violation of the Madison Pedestrian Transportation Plan and a decision is being rushed. The City plan indicates involvement of owners in the plan; if they are asked to pay for this they need to be given opportunity for involvement. It seems that all are not involved in this case, only the 22 that want it installed. Notices were posted of a meeting in a coffee shop to discuss the project - this is not adequate notice to all. Did not feel that Alder Holtzman met or satisfied the need for sidewalks.

Felt the appropriate action is to refer this so it can be considered and discussed by all involved and to wait until the Spring Harbor Neighborhood Plan was approved. It would not cost the city anything to refer this to allow ample time for input. Why be in a hurry for this project.

Kathleen Lindas, 1643 Capital Avenue - Opposed to project - Read into record a letter she sent to the City Traffic Engineer David Dryer on February 14, 2005 requesting a pedestrian survey be undertaken on 1600 block of Capital Avenue between University Avenue and Old Middleton Road. Letter stated that 100% of the property owners directly affected are against the project. Felt that the co-mingling of pedestrians and traffic could cause safety problems and the best way to handle the situation is to do a survey. Felt there also is need to enforce traffic laws, speeding limits; as well as looking into the fact that several trees will need to be removed for sidewalk installation. Use traffic calming methods rather than destroy the trees. Set this project aside until it can be reviewed and discussed appropriately by all involved.

Judy Aspinwell, 1602 Capital Avenue - Opposed - Does not see any current danger to people; is retired and cannot afford this assessment. Displayed pictures of the area of what it looks like now and what it would look like with several trees removed. Supported doing a pedestrian study of the area.

Gerald Lindas, 1673 Capital Avenue - Opposed did not wish to speak.

Patty Dean, 1667 Capital Avenue - Opposed to project - Displayed pictures and on an illustration board and a map of the area. [also distributed printed information]. Stated that only one proposal was presented to the owners. She has three alternatives to proposal, to look at where the pedestrians are in the area. Discussed current plan [leaving 1667 Capital Avenue] sight lines which would be a safety concerns for pedestrians using sidewalks. Suggested moving the walkway closer to the road so that

sight lines improve but safety of pedestrians using bikes, trikes, skateboards increase because the sidewalk is on a down ramp into the driveway. Bikes pick up speed and this could cause problems. She discussed grading the driveway at 1667 Capital Avenue which would have increased of 2.1% - from 12.1% to 14.2% which would mean if you walk across the parking lot to the sidewalk the lot ends and the five feet you need to walk over to get to the sidewalk would be steeper than the driveway currently is. This is a safety hazard. She discussed the loss of 46 mature trees and bushes on the street. Suggested that the width of the sidewalk be 4 feet and be closer to the roadway it would insure more trees to be saved. Requested a pedestrian count. Suggested options: Use of existing road bed for walk way - one lane of parking to build sidewalks and terrace; and paint other parking lane; if it is constructed on the west side the possible storm drain could be opened or reconstructed so the street would drain better; Terraces could be grass or rain gardens consisting of plants that grow 12-24" in height; no trees would be removed - it maintains current character of the street and the current landscaping remains in place; currently no dollar figure has been given to the owners although some feel it would be high - How high. They have never been told what they are comparing the cost to - i.e. sidewalks on both sides, or one side. Other alternatives included: Natures Walk-way; Suggested Turning Capital Avenue into a one-way street; and proposed that it become a cul de sac.

Also submitted five letters from property owners listed below on Capital Avenue requesting delay of project until all have been present to discuss ideas and plans in open forum and the new Alder for District 19 is installed in April: Aline Winters, Apt. 2, 1667 Capital Avenue; John Heilmann, Apt. 8, 1667 Capital Avenue; Judith Brings Apt 9, 1667 Capital Avenue; Michael Hinn Apt 11, 1667 Capital Avenue; and, Stephanie North, Apt. 19, 1667 Capital Avenue.

Michael Dean, 1606 Cypress Way, regarding 1667 Capital Avenue - Opposed - Thanked Ms. Hannan for all her work and time spent on this project. Wanted to correct the PBMVC; there was no review process, if there had been, then there would not be people present at the hearing to speak on the project. When he contacted several of the member of the PBMVC he had been told they had not reviewed the plan, but at the meeting voted for it. He was now requesting time for the residents to come up with a plan to balance all the costs, aesthetics involved and input from residents. He could support sidewalk on one side; might include bike paths, and possible other alternatives. Would like opportunity to discuss and possibly compromise to bring all neighbors together on this project.

A-xing Zhu, 1606 Capital Avenue - Opposed - Has two children and first heard about this project when his wife called him when he was out of town in November of 2004. Felt that the street does not need sidewalks, there is no problem with what is there now - did not feel it was a safety issue. The street trees caused the traffic to move slower; if the trees are removed it will only cause speeding traffic and this affects all. The notice of meetings was late and he felt they have been denied due process for input. Requested that the process be opened up to allow residents to give their input for action.

Ouya Zhou, 1606 Capital Avenue - Opposed - did not wish to speak.

Judith Brings, 1667 Capital Ave., Apt. 9 - Opposed - did not wish to speak.

Alder Steve Holtzman - Support of project - addressed the Board and those present and wanted to address some concerns expressed by the residents. Some expressed concerns about being denied process input. All were notified and notices were sent. This project is about pedestrian safety, not process. The residents were given a number of opportunities to discuss this project. At the annual neighborhood meeting in April of

2004 it was brought up at that time, but no residents discussed it. There also was information given to the president of the neighborhood association but again there was no effort to discuss it. Another meeting was held in October of 2004 with the Spring Harbor Neighborhood. He stated that the neighborhood has a history of not addressing controversial issues. In February an e-mail was sent to Chuck Dunning, Co Chair of Spring Harbor Neighborhood association who indicated issues of that neighborhood plan. The focus of that plan was the redevelopment of 22 acres. There is no neighborhood plan to defer the issue of sidewalks to., The plan will deal with pedestrian traffic because the plan is to deal with alternative Madison transportation for pedestrians along University Avenue and the 22 acres. Capital Avenue has been put aside by the Spring Harbor Neighborhood Association.

He stated that to refer this sidewalk issue is to basically kill the project, the Board and residents have been discussing it at this hearing for over two hours and no alternatives were suggested other than one to have sidewalk in a drainage way; the residents just want to refer it again until a neighborhood plan is approved. He sent letters on March 18, 2004 in which he included the elements of the pedestrian plan; a survey was being done that summer with a fall design completed in December. There was lead time for people to discuss the plan.

When traffic calming was discussed it was disclosed that Capital Avenue was not eligible for it because of the low traffic volume, and also no traffic humps would be installed. He mentioned that one resident reported that there were no footsteps in the snow; the reason there are no footsteps visible is because children and others are afraid to walk along the street side. There is bus service available and that will bring pedestrians and the need for sidewalks.

When a request for a pedestrian survey was made, he attempted to have one done in April of 2004 but the neighborhood association did not want to take one.

He felt that action should be taken on this project now.

Vice Chair Clausius then called upon those registered to speak in favor of the project.

REGISTRATIONS those in Favor of Project:

Don Reeder, 5 Veblen Place - Support of project - The fact that pedestrians and vehicles, when mixed, become a safety issue. It is a traffic problem, not with speeders, but with the density of traffic that has continued to increase over the past several years, and it will continue to increase. As more construction is done in the area, the traffic will still continue to increase on Capital Avenue and traffic calming will not do the trick. The trees are important and there have been a number of them removed due to power line trimming. Change takes place and more trees will be planted. This project is long overdue to increase the safety factor on Capital Avenue.

Alison Craig, 13 Veblen Place - Support of project - She drives and walks the areas daily and there is a day care near by. She wants to have sidewalks because of the busy streets and the need to keep people safe. Capital Avenue is not a local area, it is connection between Whitney Way and Old Middleton Road; there are 4,000 plus cars, school buses and trucks in the area and it is unsafe to walk. Many do not walk Capital Avenue because there are no sidewalks. If the project is delayed it will only delay the problem. She understands that those directly affected are those paying for it; the delay would only cause costs to increase more; the time is now to have this done.

G. Daniel Little, 13 Julia Circle - Support of project - He walks the area and without sidewalks it is very unsafe for pedestrians; in winter it is snow and a water problem.

Need the sidewalks.

Alexander Shashko, 13 Veblen Place - Support of Project - Understands that it is not easy to do something for the good of everyone. Understands concerns and frustration about the "process". He stated that several people not present would sign a petition stating that they do not use Capital Avenue because there are no sidewalks available. Felt the merits of sidewalk over shadows the frustration with the process. Urged sidewalks installed on the merits of the project, not the process.

Mike Beyler, 1667 Capital Ave., Apt 22 - Support of Project - Need sidewalks because no one would feel safe letting children walk in the road along Capital Avenue alone. He noticed children attempting to get down the street without walking in the street by climbing over snow banks. It is dangerous having pedestrians mix with traffic on the street.

Gary Lundquist, 5809 Julia Street - Support of Project - Has lived there for 19 years and this issue has been discussed two other time. A safe pedestrian area for this area is important and safety should be the only concern. Everyone needs a safe pedestrian environment and this section of Capital Avenue is very unsafe now. Some of the Capital Avenue neighbors have a "save the tree" campaign and have requesting traffic calming. A meandering sidewalk is to be done to help save the trees. It is time for sidewalks.

*Mary Lundquist, 5809 Julia Street - Support of Project
There is a petition with over 60 signatures in support of the project. Safety is for pedestrians; it is only way to get to and from businesses and bus stop as well as schools. In 2009 the pedestrian traffic will increase. She walks every day and it is unsafe with vehicles rushing by. In 1980 this same project was stopped; now the pedestrian safety factor has increased making the lack of sidewalks very dangerous. Capital Avenue is a collector street on existing bus route and school route; there is right-of-way present; the need is present to protect pedestrians; this meets the criteria for retrofitting sidewalk for pedestrian safety. Please support this project.*

Margaret Mayer, 5801 Julia Street - Support of Project - did not speak.

Verena Stanbhaar, 5802 Julia Street - Support - did not speak.

COMMUNICATIONS FOR THE RECORD:

Copy of e-mail from Shary Bisgard in opposition to project - requesting that the item be referred until Neighborhood plan is approved. Disagreed with Alder Holtzman; she was on steering committee that selected planner and all three candidates indicated they would work on pedestrian/traffic and bike issues.

Letter from Daniel & Joan Little supporting pedestrian safety and sidewalks on Capital Avenue.

**ENTERED INTO THE RECORD COMMUNICATIONS FROM ALDER HOLTZMAN
DISTRIBUTED TO BOARD MEMBERS:**

Communications & Notices Regarding Sidewalks on Capital Avenue:

March 18, 2004 - Letter from Ald. Holtzman to Michael Lomperski regarding CDA Housing Operations Subcommittee issues with two properties in the neighborhood. Attachments included were excerpts from City's Pedestrian Transportation Plan that the value of providing safe walking areas for pedestrians and others.

April 16, 2004 - Notice from Ald. Holtzman in Council regarding Tree Trimming in Spring Harbor and Sidewalks on Capital Avenue? Notice was posted on neighborhood bulletin board. Contained notice that he was receiving complaints from people having to push strollers or walk in streets on Old Middleton Road and University ; he requested input and suggestions from residents to discuss Sidewalks on Capital Avenue.

June 12, 2004 - E-mail from Bisgard to Ald. Holtzman suggesting a version of a letter to be walked around the neighborhood and placed in front door screens. Need to know if traffic has increased on Capital Avenue and when Old Middleton Road will be reconstructed. [no version was attached]

June 16, 2004 E-Mail from Ald. Holtzman to Bisgard with traffic counts for Capital Avenue

June 23, 2004 - E-mail from Bisgard to Ald. Holtzman with finalized letter that was distributed to all in the area and stating that she and "Mary" will walk Old Middleton Road from Norman Way to Heim Avenue, Capitol cul de sac, Veblen Place and Rough Lee Court the next afternoon. Also telling Ald. Holtzman she received only one e-mail that was positive - may it was a good sign. {Final letter version was attached titled Pedestrian Safety on Capitol Avenue from Bisgard}

August 16, 2004 from Ald. Holtzman to Bernard & Victoria Trujillo thanking them for the petition and calls to him earlier. Letter stated that he received several calls from people who live on and use the street regarding the need for improved pedestrian safety. He stated that in the process all would be given opportunity to give their input. [attachments included a copy of letter to Lomperski dated 3/16/04 with an attachment].

August 16, 2004 - from Ald. Holtzman to Douglas Flygt with same information as above letter.

August 27, 2004 - Notice to Property Owners on Capital Avenue from Old Middleton Road to University Avenue regarding a scheduled survey of Capital Avenue right-of-way corridor, from City Engineer, Larry D. Nelson.

September 14, 2004 - Letter from Ald. Holtzman to Jill Wren regarding her opposition to making Capital Avenue more pedestrian friendly.

September 16, 2004 - Letter from Ald. Holtzman to Victoria & Bernard Trujillo thanking them for work on polling neighbors and sending petition objecting to sidewalks on 1600 block of Capital Avenue.

Report in Spring Harbor Neighborhood Association Newsletter Fall 2004 - City Report by Ald. Steve Holtzman including names of pedestrians killed by vehicles while walking along roadside in their community.

October 25, 2004 - Letter from Ald. Holtzman to Jill Wren regarding meeting in person at the neighborhood meeting on October 21, 2004. Included assurance of fair open process to allow all an opportunity to be heard on the request for sidewalks in the neighborhood.

October 27, 2004 Letter form Ald. Holtzman to Kathleen Lindas regarding messages form her regarding open records request and indicating that Ev Fahrbach with Traffic engineering is custodian of the records requested as it relates to Capital Avenue sidewalks.

Another Copy of the 10/25/04 letter to Wren from Holtzman

October 27, 2004 letter from Holtzman to Barbara Lomperski thanking her for setting up a meeting with neighbors on Capital Avenue during week of November 8, and assuring her that the residents have not been out of the loop as indicated. He included list of names and dates of people responding to him.

Another copy of the 10/27/04 letter from Holtzman to Lindas about request for open records and referring her to Ev Fahrback.

October 29, 2004 - Letter from Holtzman to Lindas responding to her message of 10/28/04 questioning his spreadsheet, and his notifying her that there were letters that he did not have either - he was reviewing his files again.

December 8, 2004 letter form Ald. Holtzman to Lindas responding to her 11/22/04 letter raising issues on the responsibilities of several City departments.

December 17, 2004 Letter from Ald. Holtzman to Liz Freitick about her interview on WKOW-TV and his responding to some of her points.

Notice sent to Residents on Capital Avenue of Neighborhood Meeting 1/13/05 with agenda of Capital Avenue Sidewalk Plan Meeting

Copies of attendance at the 1/13/05 neighborhood meeting

January 14, 2005 Letter to 1600 Block of Capital Avenue property owners regarding the 1/13/05 informational meeting to install sidewalk in 1600 Block of Capital Avenue and indicating some did not receive the notice due to Post Office failure to send, and the notice of another meeting on January 20, 2005 to attend if they didn't get notice or attend the 1/13/05 meeting.

January 14, 2005 Letter from Ald. Holtzman to all property owners and residents of 1600 block of Capital Avenue to clear some confusion from the 1/13/05 information meeting regarding pedestrian safety.

January 25, 2005 letter from Ald. Holtzman to Postmaster Kim Mayo regarding apology for not sending out the notices to residents.

February 1, 2005 - Letter from Postmaster Mayo to postal customers in 1600 block of Capital Avenue apologizing for non delivery of notice.

February 2, 2005 - Letter from Terri Bouffious for Postmaster Mayor to Ald. Holtzman stating mailing to constituents went out that same day.

February 2, 2005 - E-mail from Charles Dunning to Ald. Holtzman discussing the SHNA plan committee meeting about the matching fund-raising grant for development of the plan.

February 11, 2005 Letter from Ald. Holtzman to Dolly Ingrson about her 2/4/05 letter about experience with the SHNA Planning Committee and his stating that the leaders of that plan steering committee were unaware of the 2/3/05 action that she conveyed to them in her letter.

February 11, 2005 letter form Ald. Holtzman to Chris and Jill Wren responding to their charges of procedural unfairness, naming him as instigator of unfair process regarding hte pedestrian safety on 1600 block of Capital Avenue.

February 11, 2005 - Letter from Ald. Holtzman to Charles Thimmesch of PBMVC following up on concerns expressed by Thimmesch at 1/25/05 PBMVC meeting. [included SHNA Planning Committee scope of services]

February 10, 2005 - Memo from PBMVC to Board of Public Works regarding Capital Avenue Sidewalks recommending to the BPW that two-sided sidewalks be recommended for Capital Avenue - attaching the minutes from that meeting.

COMMUNICATIONS RECEIVED IN OPPOSITION TO CAPITAL AVENUE SIDEWALKS [provided by Ald. Holtzman]

June 28, 2004 - e-mail from Richard King to Bisgard and Mary opposing sidewalk.

June 29, 2004 - E-mail from Ald. Holtzman to Richard King discussing concerns in letter to the neighborhood representatives.

July 27, 2004 - letter from Douglas Flygt to Ald. Holtzman opposing sidewalks.

August 1, 2004 - letter to Ald. Holtzman from Victoria and Bernard Trujillo sending a petition in opposition to sidewalk on Capital Avenue. {included petition with 32 signatures.

September 20, 2004 letter to Ald. Holtzman from Patty Dean regarding alternatives and solutions to sidewalk situation.

November 22, 2004 letter to Ms. LeAnne Hannan from Kathleen Lindas listing alternative methods for better controlling traffic on Capital Avenue.

December 16, 2004 letter from Michael Lomperski to LeAnne Hannan discussing the meeting held with city staff and the assurance of preserving trees as much as possible.

No date - letter from Judith Aspinwall to LeAnne Hannan objecting to sidewalks and wanting bus stops reduced from six to two.

January 6, 2005 - Letter from Richard King to: To Whom It May Concern opposing sidewalks for three reasons - they would destroy character of neighborhood; would unfairly burden property owners; sidewalks are wrong answer to their problem.

January 7, 2005 - letter from Michael and Barbara Lomperski to Ms. Hannan regarding sidewalks opposition.

January 9, 2005 - Letter from Victoria Trujillo to Ms. Hannan regarding opposition to sidewalks.

January 9, 2005 - Letter from Neal McGuffin and Elizabeth Freitick to Ald. Holtzman opposing sidewalks.

January 10, 2005 Letter from Patty Dean to Ms. Hannan regarding objection to sidewalks [pictures of the area]

January 12, 2005 - Letter Christopher and Jill Wren to Ms. Hannan objective to sidewalks. [3 enclosures: petition opposing sidewalks with 31 signatures; articles from Wisconsin State Journal and Capital Times]

January 12, 2005 - Letter to Ald. Holtzman from Bernard Trujillo noticing Holtzman he

heard that Holtzman might use his 10/21/02 letter as support for sidewalks on Capital Avenue, correcting him that he was in opposition. [attached 10/21/02 letter To Whom It May Concern requesting speed humps on Capital Avenue to protect children.

January 12, 2005 - Letter to Ms. Hannan from Bernard Trujillo objecting to sidewalks.

January 13, 2005 from Douglas Flygt to Ms. Hannan objecting to sidewalks.

January 13, 2005 letter To Whom It May Concern from Jane Antonovich opposed to sidewalks.

January 13, 2005 letter To Whom It May Concern from Larry and Pamela Nash opposing sidewalks.

No Date - Letter received from Lonnie Smith & Family of 1672 Capital Avenue opposed to sidewalks - don't want to lose any trees.

No Date - Letter from Joe Dhanai of 1660 Capital Avenue to Ald. Holtzman opposing sidewalks.

Petition to Larry Nelson, City Engineer Request Reschedule Consideration of Capital Avenue Sidewalks with 22 signatures.

January 25, 2005 - Letter from Kathleen Lindas to Mark Shahan, PBMVC attaching 4 letters sent over three months to Engineering of City Public Works opposing retrofitting sidewalks on 1600 block of Capital Avenue.

January 25, 2005 - Letter from Walter Jaeger to Mark Shahan of PBMVC opposing sidewalks.

January 25, 2005 - Letter from Bernard Trujillo to Mark Shahan, PBMVC opposing sidewalks. [attachment to letter: Chronology of correspondence provided by Holtzman]

January 25, 2005 - Letter from Michael and Barbara Lomperski to Mark Shahan, PBMVC opposing sidewalk.

January 24, 2005 - Letter from Victoria Trujillo to Mark Shahan PBMVC opposing sidewalk.

January 25, 2005 - Letter from Douglas Flygt to Mark Shahan of PBMVC opposing sidewalk.

January 25, 2005 - Letter fro Neal McGuffin and Elizabeth Freitick to Mark Shahan of PBMVC opposing sidewalk.

January 24, 2005 - Letter from Christopher and Jill Wren to Mark Shahan PBMVC opposing sidewalks.

January 22, 2005 Letter from Shary Bisgard to Ald. Holtzman regarding letter to PBMVC - attaching a letter she sent to David Dyer for distribution to PBMVC at their meeting. Requested the issue be referred due to concerns expressed to her. [attached a copy of her letter to the PBMVC]

February 4, 2005 - E-mail from Ald. Holtzman to Rod Shaughnessy requesting suggestions on what to tell walkers who object to exposure to risk when forced into a street with over 4000 vehicles a day; and Shaughnessy's response "against installing

sidewalks on Capital Avenue - let it die".

February 4, 2005 - letter to Common Council Office from Robert Cowell, Ph.D regarding new sidewalks on Capital Avenue and Old Middleton Road in opposition.

February 4, 2005 - hand written note to Ald. Holtzman from Dolly Iverson - requesting Holtzman cease supporting sidewalks.

PACKET OF INFORMATION AVAILABLE AT BPW MEETING:

January 31, 2005 to BPW from Affected Property Owners - requesting Board not approve sidewalks on Capital Avenue including petition with 22 signatures and picture of trees along Capital Avenue during fall of 2004 and Brennans Corner Capital and University Avenues before sidewalks and then what it looks like after sidewalks; copies of article in Capital Times 11/2/04 Old Growth Tree Destruction an Outrage; copy of Shary Bisgard request to PBMVC to refer the sidewalk issue until SHNA plan is approved; copy of Petition from home owners of Capital Avenue between University Avenue and Old Middleton Road opposing sidewalk containing 37 signatures.

Copies of PBMVC note to Board of Public Works supporting sidewalks on both sides of Capital Avenue with copy of the minutes in draft form from its January 25, 2005 meeting; and a copy of the PBMVC Cover Sheet.

Alder Holtzman was recognized by the Vice Chair to speak: Ald. Holtzman stated that he has been working on the issue of pedestrian safety for the area for over ten years. It is a question of pedestrian safety as more injuries and/or death occur because sidewalks are not available. Pedestrians will never win when confronting vehicles. He heard no resident on Capital Avenue who opposes sidewalks indicate they would be willing to be responsible for safety of pedestrians if injured. The loss of one life cannot be replaced. Sidewalks are needed.

Vice Chair Clausius thanked everyone for their input and closed the public hearing and called the Board into regular session to discuss and take action on this item.

The Board discussed the need of sidewalks and concerns were expressed by Mr. Rewey that 4,000 cars on a collector streets that has no sidewalks is unacceptable. Chair Bremer also expressed his appreciation to the residents and understood their concerns but also felt that sidewalks are necessary; the City is going to save as many trees as possible, and he felt it was fair that the City capped the cost at \$45/frontage foot. He read the information available and could not see having sidewalk only on one side when it would be needed on both sides. Board member Elmakias also voiced his concern that safety is the issue and residents need to understand that safety was clearly stated as reason for the project; that pedestrians would be at great risk walking in the roadway and not on sidewalks. Alder Rosas also agreed that safety is the issue and understood the residents concerns but as an Alder that has a highway in his district he realizes the need for sidewalks and can appreciate them. The City does have long range pedestrian plans for safety.

A motion was made by Mr. Rewey, seconded by Ald. Rosas, to RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING. The motion passed by acclamation.

ITEMS REFERRED BY THE COMMON COUNCIL

5. [00435](#) Authorizing the execution of an Underground Gas and Electric Easement to Madison Gas and Electric Company within an existing City Sanitary Sewer Easement located at 5030 Lake Mendota Drive.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
6. [00480](#) Authorizing the Mayor and City Clerk to execute a Temporary Limited Easement to the Wisconsin Department of Transportation for Reconstruction of U S Highway 151.
Robert Rogers representing Wisconsin DOT reported that DOT is reconstructing portions of US Hwy 151 and a portion is greenspace between the City of Madison and City of Sun Prairie and part of storm water management system. WisDOT is requesting a 50' x 100' temporary limited easement along the south easterly property line of Outlot 3 for sloping, bike path and drainage purposes and has agreed to pay for this temporary limited easement.
A motion was made by Ald. Rosas, seconded by Mr. Clausius, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
7. [00502](#) Accepting sanitary sewer constructed by Private Contract In 5030 Lake Mendota Drive, Private Contract No. 1980.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
8. [00503](#) Approving plans and specifications for public improvements necessary for the project known as Oakwood Village East Campus PUD and authorizing construction to be undertaken by the Developer, Private Contract No. 2027
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
9. [00504](#) Improvements accepted for water main by Private Contract to serve REston Heights - Phase V.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
10. [00505](#) Improvements accepted for water service laterals by Private Contract to serve Reston Heights - Phase VI
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.

11. [00506](#) Improvements accepted for water service laterals by Private Contract to serve Sprecher Road Extension.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
12. [00507](#) Improvements accepted for water main by Private Contract to serve Milwaukee Street Extension
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
13. [00531](#) Improvements accepted for Olin Landfill Remediation - Phase II Remedial Action Construction, Contract No. 5447.
Noted for the record that this item is complete and required submittal of a Notice of Termination to the WDNR.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
14. [00511](#) Improvements Accepted Park Paving 2003 Contract No. 5461
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
15. [00512](#) Improvements Accepted Parking Paving 2004 Contract No. 5625
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
16. [00509](#) Declaring the City of Madison's intention to exercise its police powers establishing the East Main Street Reconstruction Assessment District - 2005
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
17. [00510](#) Declaring the City of Madison's intention to exercise its police powers establishing the Adams Street, Jefferson Street, Lincoln Street and Alley Reconstruction Street Assessment District-2005
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.

18. [00513](#) Approving plans, specifications, and schedule of assessments for the installation of street lights in: Churchill Heights Phase 3.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
19. [00514](#) Approving plans, specifications, and schedule of assessments for the installation of street lights in: Grandview Commons Phase 8, 10-12.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
20. [00515](#) Approving plans, specifications, and schedule of assessments for the installation of street lights in: Maywick Estates.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
21. [00516](#) Approving plans, specifications, and schedule of assessments for the installation of street lights in: Meadowlands Phase 1 & 2.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
22. [00517](#) Approving plans, specifications, and schedule of assessments for the installation of street lights in: Second Addition to Reston Heights.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
23. [00518](#) Approving plans, specifications, and schedule of assessments for the installation of street lights in: Secret Places at Siggelkow Preserve.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
24. [00519](#) Approving plans, specifications, and schedule of assessments for the installation of street lights in: Southern Ridge.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.

25. [00521](#) Approving plans and specifications and authorizing the Board of Public Works to advertise and receive bids for "Restoration/Landscaping 2005".
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
26. [00522](#) Approving plans and specifications and authorizing the Board of Public Works to advertise and receive bids for Tornado Tree Replacements, Contract No. 5838, and amending the 2005 Capital Budget to allow for grant funded expenditures.
City Forester Marla Eddy reported to the Board that this project is to replace that were damaged from the 2004 tornado. The goal is to reforest the area on the west side of the City. The estimated cost is \$80,000 including a \$25,000 DNR Urban Forestry Grant.
A motion was made by Ald. Van Rooy, seconded by Mr. Rewey, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
27. [00523](#) Approving plans and specifications and authorizing the Board of Public Works to advertise and receive bids for Capitol Square Fountains and Planters.
Christy Bachmann with City Engineering reported that this project originally was bid in 2004 but was deferred due to bids over estimate. The is planned for this summer estimated at \$905,000 [anticipating that bids will be lower].
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.
28. Change Order No. 5 to Contract No. 5508, Portage Road Sidewalk Assessment District - Amoth Ct./Atwood Ave. to Homburg Contractors, Inc. in the amount of \$996.00.
Motion to approve by Alder Rosas; seconded by Alder Van Rooy; motion unanimously passed.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy. The motion passed by acclamation.
29. [00524](#) Authorizing the Mayor and City Clerk to execute Amendment 1 to the present agreement between the City of Madison and Dane County, Contract No. 5363, Reconstruction of Buckeye Road.
A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.

30. [00525](#) Approving plans and specifications and authorizing the Mayor and City Clerk to execute an agreement with Dane County and the City of Middleton for cost sharing of the University Ave., Thorstrand Dr. and Overlook Pass Median Widening and Intersection Improvements.
- Steve Gohde with City Engineering displayed the plans for this work stating that the Resolution is to authorize the cost sharing between City of Madison, Dane County and City of Middleton for the university Avenue, Thorstrand Drive and Overlook Pass median widening and intersection improvements. Total estimated cost is \$123,000 which the three municipalities will share equally.*
- A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.**
31. [00520](#) Authorizing the City Engineer and City Attorney to establish quiet zones within the City of Madison.
- A motion was made by Ald. Rosas, seconded by Ald. Van Rooy, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by acclamation.**

32. Report by City Attorneys Office regarding Parisi Companies appeal of the issue of liquidated damages to Contract No. 5633, North Transfer Point Park & Ride.

It was noted that at the last Board meeting the Board requested legal advise from the City Attorneys office regarding the decision of the City Engineer to charge liquidated damages to Parisi Construction on the North Transfer Point Park and Ride Contract No. 5633.

A memo from Assistant City Attorney Zellhoefer was distributed to the Board and representatives of Parisi Construction on the issue. It was noted in the memo that all parties did not dispute the fact that the work was not completed by the project completion date although there was dispute as to when the work was finally completed.

The information in the Standard specs site Section 109.8 which gives delays and extensions of time. This was read into the record: "Should the Contractor find it impossible to complete the work on or before the time for completion as specified in the contract, the Contractor may at any time prior to the expiration of the time stipulated for completion make a written request to the Board of Public Works for an extension of time, setting forth therein the reasons which the Contractor believes will justify the granting of the request. If the Board of Public Works finds that the work was delayed because of conditions beyond the control of the Contractor, it may grant an extension of time for completion in such amount as it finds to be warranted and justified.

If the Contractor is delayed at any time in the progress of the work by any act of the City, or by any other Contractor employed by the City, or by any changes ordered in the work, or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any cause beyond the Contractor's control, or by an cause for which the Engineer may justify the delay, then the time of completion shall be extended for such reasonable times as the Board of Public Works may decide, provided the Contractor provides written notice of the cause of delay within ten (10) days after it first occurs."

It was pointed out that Section 109.8 makes it clear that the Contractor must make a written request for an extension prior to the contract completion date and within ten (10) days after a delay first occurs. This written request must be made before the Board can decide on whether to grant an extension.

Attorney Zellhoefer's memo stated that Parisi did have knowledge on or about June 24, 2004 that the poles would not be available until sometime after the project completion date but Parisi did not notify the City of this fact until July 30. Wisconsin law holds that a contractor's delay is not excusable where the contractor failed to request an extension of time pursuant to the contract. Parisi did not request an extension of time required by the contract so the project completion date may not be extended.

The Board discussed the issue again at length, reviewing the fact that project was awarded to Parisi Construction May 24, 2004; the start work letter was sent June 1, 2004 and the completion date for the project was set at July 30, 2004. All project work on the project was completed with the exception of light poles, light fixtures and activation. The light poles were finally received and lights activated as of September 2, 2004. It was proposed that liquidated damages be assessed to Parisi from the delayed grand opening date of August 24, 2004 to September 2, 2004 when the lights were finally activated, [18 days at \$295 per day = \$5,310]

Parisi's representative Bob Endres briefed the Board that Parisi did act appropriately by contacting KL Engineering who was acting on behalf of the City. Felt that KL Engineering should have contacted the City regarding these issues.

The Attorney representing Parisi Construction [Philip Bradbury] stated that this would set a precedent if the Board charged liquidated damages to the contractor for causes beyond their control; Parisi had contacted KL Engineering throughout the entire process.

The Board discussed the information received at length and concerns were expressed by Member Rewey that KL Engineering who was the consultant for this work and was acting on behalf of the City should have some responsibility in this also. If KL Engineering was overseeing the project they were acting as "the city" and Parisi did keep them posted with each delay.

Member Czerepinski also stated that this was a very short time line project and expressed his concern that with a special item such as the poles, delays by suppliers or vendors is possible. The City could have provided the poles which would not have caused the issue. He cited instances he also encountered delays on projects in obtaining specified materials that caused delays. He felt that if Parisi was held accountable for issues beyond their control, contractors may begin increasing their bids to account for this type of occurrence. He did not feel Parisi should be penalized.

A concern was expressed that if vendors, subcontractors or suppliers are allowed to cause delays in completion times by general contractors, the City may not be able to establish a completion date.

Information from Atty. Zellhoefer's memo clearly stated that the Contractor must make a written request for an extension prior to the contract completion date and within ten (10) days after a delay first occurs. Parisi did not contact the City of this fact until July 30 but know about it on or about June 24 that the poles would cause a delay. Because Parisi did not request an extension of time as required by the Contract, the project completion date could not be extended. Delays by subcontractors and suppliers are generally not excusable or "beyond the control of the contractor" but are deemed the responsibility of the contractor as "captain of the ship."

A suggestion was made to the extend the completion date of the contract to the date of the grand opening of the lot - August 23, 2004 and charge liquidated damages from that date to when the lights were activated - September 3, 2004.

After continued discussion the following Motion was passed:

Motion by Alder Rosas to charge liquidated damages to Parisi Construction from August 23, 2004 to September 3, 2004 [excluding weekends and holiday] at \$295/day for 9 days; motion seconded by Alder Van Rooy; Motion passed 5-2 with Mr. Czerepinski and Mr. Rewey voting NO.

Noted for the record Parisi Construction inquired if there was an appeal process to this decision; Mr. Nelson responded that there was.

33. Request by Ald. Rosas regarding extension of Pankratz Drive to Copps Avenue.

No action taken

34. Request by LRTPC for an early review of City projects to be required for including in the annual TIP.

Item Referred to Next Board meeting. No action taken.

A motion was made by Mr. Rewey, seconded by Ald. Van Rooy. The motion passed by acclamation.

35. Appeals regarding prequalifications of various contractors to bid on City of Madison Public Works Projects, and contractors applying to be licensed Concrete Layers, Asphalt Pavers, and Mudjackers as approved by the City Engineer, if any.

No appeals to process.

36. The City Engineer opened bids on Friday, February 11, 2005, for Contract No. 5770, Annamark Drive Assessment District - 2004.

Bid was extended to February 25, 2005

37. Presentation by City Attorney regarding landfill remediation cost recovery from insurance carriers.

Item was referred to next Board meeting.

38. Change Order No. 4 to Contract No. 5533, Traffic Calming, to Joe Daniels Construction, in the amount of \$9,495.70.

Noted that the Change Order No. 4 should have been listed as Change Order No. 5 - item was misnumbered by Madison Metro.

A motion was made by Mr. Czerepinski, seconded by Mr. Clausius. The motion passed by acclamation.

ADJOURMENT

Board regular meeting recessed at 6:17 p.m. to convene for public hearings at 6:30 p.m. and reconvened into regular session at 9:35 p.m. and adjourned at 9:40 p.m.

Minutes prepared by M. Bakken, Secretary, Approved by Larry D. Nelson, P.E., Executive Secretary Board of Public Works