

REGULAR SESSION – APRIL 4, 2011

The Cape Girardeau City Council convened in regular session on Monday, April 4, 2011, at 7:00 p.m., with Mayor Harry E. Rediger presiding and Council Members Mark Lanzotti, Meg Proffer, Loretta Schneider, Kathy Swan, Debra Tracy and John Voss present.

Prior to the regular session, the City Council convened in closed session for purposes of discussing property acquisition and confidential communications with legal counsel, pursuant to Section RSMO. 610.021(1) and (2) upon Mrs. Tracy's motion, Mrs. Schneider's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

Reverend Ronald Knapp, of the First Church of God, presented the invocation, and the Pledge of Allegiance was recited.

Mrs. Schneider made a motion, seconded by Mrs. Swan, to remove from the Consent Agenda Item No. 20, a Resolution authorizing the City Manager to execute a Contract for Professional Design Services with Philip B. Smith Architect, LLC, for facility assessment of the former Federal Courthouse located at 339 Broadway, and to approve the Agenda as amended. The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none

PRESENTATIONS

Mayor Rediger presented a plaque to Sergeant Dennis Horn, recognizing his retirement from the Cape Girardeau Police Department after 25 years of service.

Mayor Rediger presented a Proclamation to Mr. Brock Davis, Parks Division Manager and Tree Board staff liaison, recognizing the first Friday in April as Arbor Day in Cape Girardeau, Missouri.

Ms. Jennifer Williams, local director of the Muscular Dystrophy Association, presented an award to Captain Norman Baker, president of the local Fire Union, recognizing the Cape Girardeau Fire Department for their contributions to the "Fill the Boot" campaign.

COMMUNICATIONS/REPORTS

Mayor Rediger commended the Parks and Recreation Department staff on hosting the district Special Olympics this past weekend at Southeast Missouri State University. In August the Parks and Recreation Department will be hosting the second of four Special Olympics state events.

Mayor Rediger encouraged all citizens to vote tomorrow on the smoking ban and the wastewater treatment plant funding issues.

The Mayor recognized Ms. Cindy Jeter, with Southeast Missouri State University, who had an Electronic News Gathering class present at both the study and regular Council sessions working on a class project.

Mr. Voss said that last Monday, the Parks and Recreation Department had a ribbon cutting at the Shawnee Park Center, built with funding from the Parks and Stormwater sales tax. The facility is now open with just a little bit of work yet to be completed. He continued that last Thursday was the Isle of Capri Casino groundbreaking, and it is exciting to see this project begin.

Mrs. Tracy reminded everyone of the opportunity to purchase trees from the Parks and Recreation Department to be planted as a memorial. Parks Division Manager Brock Davis said that the Department has a memorial tree program from October through May each year. The cost is \$300 for a stone and a tree, and Shawnee Park Center would be a great place to put in a new tree.

Mr. Lanzotti said that last week he was approached by residents of the Whispering Oaks Subdivision with questions about building and development in their area. The residents have now come to the Council meeting to discuss their questions.

Mr. Michael Barnes, of 405 Monterra, appeared and stated that he was seeking relief from the City for development occurring outside the City limits next to the Whispering Oaks Subdivision. In August of 2010, the City sent a letter to the developer regarding the improvements he was making. On September 10, 2010, the City informed the developer that unless the property was properly zoned and annexed, they would not be allowed to connect to City services. He asserted that the City has provided utilities to the developer by providing a fire hydrant meter for water services to a construction site outside the City limits. Mr. Barnes asked that the City remove the water meter from the fire hydrant.

Mayor Rediger stated that the City has not given utility hookups to the duplexes in question. City Manager Scott Meyer said that the City had indeed provided a meter to be installed on the fire hydrant, as they would for any developer or person who requested it. In this case, the developer requested the meter and said he would be using the water to clean the streets. Mayor Rediger noted that the water meter was a temporary hookup for construction purposes, not a permanent utility provided to the duplexes.

Development Services Director Ken Eftink said that the developer indicated to him that he was going to drill his own well and install a sewer system for the duplexes. The developer also stated to him that the fire hydrant meter needed a special connection, which had been ordered, and then he would be washing the streets. Mr. Barnes responded that the City had stated that denying utility hookups was the only way to control the situation, and they were now providing City services, permanently or not, to property outside City limits. Mr. Meyer agreed that the City had denied City services, and the developer had opted to provide his own services as a result. However, the City did not feel it was in the residents' best interests to deny the developer the temporary ability to clean the streets.

Upon questioning by Mr. Lanzotti, Mr. Meyer explained that the City has a fire hydrant use procedure that does not differentiate between services inside or outside of the City limits. Mr. Meyer read the regulations from the City Code of Ordinances. He noted the requirement of a deposit, connection fee, and billing for the water used. He continued that the City does have the right to deny the request to protect the interests of the City. In this case, washing the streets is in the best interest of the city by keeping clean a street used by many city residents.

Mr. Lanzotti expressed concern that the developer was not using the hydrant meter as he stated. He asked if it was possible to terminate the hydrant hookup and evaluate the developer's effort to clean the streets. Mr. Meyer answered that the streets to be cleaned are not City streets and the City cannot enforce nuisance Ordinances for removal of mud from the streets. If the developer gets the nozzle, he can then clean the streets for the neighborhood's benefit. Mayor Rediger again asserted that the City has no intention to connect the developer to City utilities.

Mrs. Schneider asked if the developer could be given a deadline to complete street cleanup with a set date to remove the meter. Mr. Meyer said that the City would ensure that the developer cleans the street, and if he does not, the City will withdraw the hydrant meter and deny water access. Mayor Rediger said that the City will put a timeline on providing the meter and then remove it.

Mr. John Townsend, of 225 Castle Rock, said that the area in question is an ongoing construction site, and the streets would need to be washed off every day. He asked the City to protect the value of their homes.

Mr. Lanzotti asked if there had been any discussions with permitting agencies, like the Department of Natural Resources, about whether the development's well and septic system meet their regulations. In addition, basic site disturbance is also governed by the Department of Natural Resources and there is a series of guidelines for silt retention that are within the Department's jurisdiction. Mr. Lanzotti said that there are developments in this area that have had ownership changes, and he encouraged City staff to reach out and establish communications with them. Mr. Meyer said that the City has indeed initiated communications with the new owners of some of these developments, and they have not expressed an interest in annexing into the City.

Mr. Meyer reported on the public open house to review the proposed bicycle lanes. The City had received an outpouring of public comment expressing both support and concerns about parking. Because of those comments, the number of streets with proposed bike lanes was reduced. The meeting was not a public hearing but rather an opportunity for residents to look at the plans, express their specific concerns, and allow City staff to follow up.

PUBLIC HEARINGS

This being the date set for a public hearing regarding the request of Shade Tree Properties, LLC to rezone the properties located at 604, 608 and 620 Jefferson Avenue from the R-3, high density single family resident district, to the CBD, central business district, the hearing was opened. There being no appearances, the hearing was closed.

BILL NO. 11-42 was given first reading as follows:

AN ORDINANCE APPROVING THE RECORD PLAT OF SHADE TREE 1ST SUBDIVISION

The first reading of BILL NO. 11-42 was approved upon Mr. Voss' motion, Mrs. Schneider's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 11-43 was given first reading as follows:

AN ORDINANCE AMENDING CHAPTER 30 OF THE CITY CODE BY CHANGING THE ZONING OF 604, 608 AND 620 JEFFERSON AVENUE, CITY AND COUNTY OF CAPE GIRARDEAU, MISSOURI, FROM R-3 TO CBD

The first reading of BILL NO. 11-43 was approved upon Mrs. Schneider's motion, Mrs. Proffer's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

APPEARANCES

Mr. Dick Meister, of Isle of Capri, appeared in support of BILL NOs. 11-41, 11-55, 11-53, and the motion approving the Main Street relocation. He updated the Council on the status of the Isle of Capri Planned Development District. The street construction contract was awarded to Fronabarger Concreters, Inc. and they will be working in conjunction with Apex Paving Co., Cotner Electric Co., Nip Kelly Equipment Co., Monroe Plumbing & Heating and Road Runner Safety Services, Inc., all from Cape Girardeau County. Mr. Meister reviewed the roadway plan for relocating Main Street and said that the traffic detour will start in the next several days.

CONSENT AGENDA

A motion was made by Mr. Voss, seconded by Mrs. Swan, to approve the following items on the Consent Agenda:

City Council March 21, 2011, regular and closed session minutes

BILL NO. 11-33, AN ORDINANCE APPROVING THE RECORD PLAT OF BALDWIN PLACE PHASE I. Second and third readings.

BILL NO. 11-34, AN ORDINANCE APPROVING THE RECORD PLAT OF KELLER SECOND SUBDIVISION. Second and third readings.

BILL NO. 11-31, AN ORDINANCE ACCEPTING FEE SIMPLE INTEREST, PERMANENT TRAIL EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FROM VARIOUS PROPERTY OWNERS FOR THE BLOOMFIELD ROAD 4 PROJECT. Second and third readings.

BILL NO. 11-40, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ESCROW AGREEMENT WITH FRUITLAND LIVESTOCK MARKET, AND MONTGOMERY BANK, FOR SIDEWALK AND STREET IMPROVEMENTS IN BALDWIN PLACE PHASE I SUBDIVISION, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

A motion accepting into the City system the water main extension, sanitary sewer and Winterfield Circle for Baldwin Place Phase I.

BILL NO. 11-41, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ESCROW AGREEMENT WITH IOC-CAPE GIRARDEAU LLC, AND CAPE GIRARDEAU COUNTY ABSTRACT AND TITLE COMPANY, INC., FOR PUBLIC IMPROVEMENTS IN THE ISLE OF CAPRI PLANNED DEVELOPMENT DISTRICT, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

A motion approving the improvement plans for Isle of Capri Main Street relocation.

BILL NO. 11-45, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR TRANSPORTATION TRUST FUND 4 (TTF4) PROJECTS WITH BFA, INC., IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

BILL NO. 11-46, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR TRANSPORTATION TRUST FUND 4 (TTF4) PROJECTS WITH BOWEN ENGINEERING AND SURVEYING, INC., IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

BILL NO. 11-47, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR TRANSPORTATION TRUST FUND 4 (TTF4) PROJECTS WITH CDG ENGINEERS ARCHITECTS PLANNERS, INC., IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

BILL NO. 11-48, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR TRANSPORTATION TRUST FUND 4 (TTF4) PROJECTS WITH HORNER & SHIFRIN, INC., IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

BILL NO. 11-49, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR TRANSPORTATION TRUST FUND 4 (TTF4) PROJECTS WITH HURST-ROSCHE ENGINEERS, INC., IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

BILL NO. 11-50, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR TRANSPORTATION TRUST FUND 4 (TTF4) PROJECTS WITH KOEHLER ENGINEERING AND LAND SURVEYING, INC., IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

BILL NO. 11-51, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR TRANSPORTATION TRUST FUND 4 (TTF4) PROJECTS WITH KUHLMANN DESIGN GROUP, INC., IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

BILL NO. 11-52, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR TRANSPORTATION TRUST FUND 4 (TTF4) PROJECTS WITH WATERS ENGINEERING, INC., IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

BILL NO. 11-54, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE AGREEMENT FOR PROFESSIONAL SERVICES WITH MITCHELL B. MALONE FOR RENOVATIONS TO CENTRAL MUNICIPAL POOL, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

BILL NO. 11-55, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH CODE CONSULTANTS, INC. FOR PLAN REVIEW AND INSPECTION SERVICES FOR THE ISLE OF CAPRI CORPORATION CASINO DEVELOPMENT, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and passage.

A motion accepting the improvements completed to the water booster pump station on Route W, waiving the assessment of liquidated damages, and authorizing final payment to K & K Electric Company.

The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. BILL NO. 11-33 is ORDINANCE NO. 4209; BILL NO. 11-34 is ORDINANCE NO. 4210; BILL NO. 11-31 is ORDINANCE NO. 4211; BILL NO. 11-40 is RESOLUTION NO. 2598; BILL NO. 11-41 is RESOLUTION NO. 2599; BILL NO. 11-45 is RESOLUTION NO. 2600; BILL NO. 11-46 is RESOLUTION NO. 2601; BILL NO. 11-47 is RESOLUTION NO. 2602; BILL NO. 11-48 is RESOLUTION NO. 2603; BILL NO. 11-49 is RESOLUTION NO. 2604; BILL NO. 11-50 is RESOLUTION NO. 2605; BILL NO. 11-51 is RESOLUTION NO. 2606; BILL NO. 11-52 is RESOLUTION NO. 2607; BILL NO. 11-54 is RESOLUTION NO. 2608; and BILL NO. 11-55 is RESOLUTION NO. 2609.

ITEMS REMOVED FROM THE CONSENT AGENDA

BILL NO. 11-56 was presented as follows:

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR PROFESSIONAL DESIGN SERVICES WITH PHILLIP B. SMITH ARCHITECT, LLC, FOR FACILITY ASSESSMENT OF THE FORMER FEDERAL COURTHOUSE LOCATED AT 339 BROADWAY, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

Mrs. Schneider made a motion, seconded by Mr. Voss, approving the reading of BILL NO. 11-56 and adopting the resolution. Mr. Lanzotti explained that the rates for services performed under this contract are determined by the existing professional services agreement with Mr. Smith. Mr. Meyer continued that the City has an agreement with the architect who has developed a list of items to look at in the building. The City will then pick the items for the architect to review. The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. BILL NO. 11-56 is RESOLUTION NO. 2610.

NEW ORDINANCES

BILL NO. 11-37 was given first reading as follows:

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR THE SAFE ROUTES TO SCHOOL PROGRAM, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

Following Council comments, the first reading of BILL NO. 11-37 was approved upon Mrs. Tracy's motion, Mrs. Schneider's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 11-38 was given first reading as follows:

AN ORDINANCE AMENDING SCHEDULE C OF SECTION 26-121 OF THE CITY CODE BY PLACING A STOP SIGN AT THE INTERSECTION OF COMMERCIAL STREET AND RUSMAR STREET, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 11-38 was approved upon Mrs. Schneider motion, Mr. Voss' second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 11-39 was given first reading as follows:

AN ORDINANCE AMENDING SCHEDULE C OF SECTION 26-121 OF THE CITY CODE BY ESTABLISHING A STOP SIGN AT VETERANS MEMORIAL DRIVE AND SCENIC DRIVE; AMENDING SCHEDULE A OF SECTION 26-228 ESTABLISHING SPEED LIMITS ON VETERANS MEMORIAL DRIVE; AND AMENDING SCHEDULE F OF SECTION 26-247 BY ESTABLISHING NO PARKING ON VETERANS MEMORIAL DRIVE, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 11-39 was approved upon Mr. Lanzotti's motion, Mrs. Schneider's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 11-44 was given first reading as follows:

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A COST APPORTIONMENT AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR IMPROVEMENTS TO THE INTERSECTION OF ROUTE W AND LEXINGTON AVENUE, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

Mrs. Tracy made a motion, seconded by Mrs. Schneider, to approve the first reading of BILL NO. 11-44. Upon questioning by the Mayor, Mr. Meyer said that the City is working to design the intersection for the best flow of traffic and has discussed a possible roundabout design. The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 11-53 was given first reading as follows:

AN ORDINANCE PROVIDING FOR THE VACATION OF PORTIONS OF PEARL STREET, SPANISH STREET, MILL STREET, MASON STREET, CERTAIN PUBLIC ALLEYS AND RIGHTS OF WAY, RELATING TO THE ISLE OF CAPRI PLANNED DEVELOPMENT DISTRICT

The first reading of BILL NO. 11-53 was approved upon Mr. Voss' motion, Mr. Lanzotti's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

APPOINTMENTS

Mr. William Tucker, Jr. was appointed to the Airport Advisory Board for a term expiring April 30, 2013, and Mr. Craig Bohnsack, Mr. John Dissauer, and Mr. Mr. Brian Ozark were reappointed for terms expiring April 30, 2014, upon Mr. Voss' motion, Mrs. Tracy's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

Mr. Dan Barnard was appointed to the Town Plaza Community Improvement District Board of Directors for a term expiring April 2, 2014, upon Mayor Rediger's motion, Mr. Voss' second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

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There being no further business, the City Council adjourned upon Mr. Lanzotti's motion, Mr. Voss' second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

Harry E. Rediger, Mayor

Gayle L. Conrad, City Clerk

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