

REGULAR SESSION – MAY 4, 2009

The Cape Girardeau City Council convened in regular session on Monday, May 4, 2009, at 7:00 p.m., with Mayor Jay B. Knudtson presiding and Council Members Charlie Herbst, Mark Lanzotti, Marcia Ritter, Loretta Schneider, Debra Tracy and John Voss present.

Reverend Phil Roop of Bethel Assembly of God Church presented the invocation, and the Pledge of Allegiance was recited.

Prior to the regular session, the City Council convened in closed session for purposes of discussing litigation, personnel and confidential communications with the City Attorney pursuant to RSMo. Sections 610.021(1) and (3) upon Mrs. Schneider's motion, Mrs. Tracy's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

The minutes of the April 20, 2009, regular and closed sessions were approved upon Mrs. Schneider's motion, Mr. Voss' second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

The agenda was approved as distributed upon Mrs. Schneider's motion, Mrs. Tracy's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

COUNCIL COMMUNICATIONS

Mayor Knudtson noted that City staff is scheduled to meet with Free Flow Power Company representatives on Wednesday, May 6, 2009. Mr. Lanzotti remarked that Cape Girardeau Area MAGNET has requested the City prepare a letter of support, which will be drafted after that meeting.

Mayor Knudtson announced that the "Back to School Sales Tax Holiday" had been discussed by the Council in the study session. Mrs. Tracy stated that the Council was considering opting out of this sales tax holiday, and that City staff has been directed to place an Ordinance on the May 18, 2009, City Council meeting agenda for consideration. Mayor Knudtson noted that the City's participation can be reviewed on an annual basis and could opt back in at a later date.

Mayor Knudtson asked how the Council intended to proceed regarding the Girardeau Goes Green Advisory Board. Mr. Voss stated that either a deadline should be set for accepting board member applications, or the City Clerk could determine when enough applications have been received for consideration, and a date could be set for action. Mr. Lanzotti proposed that the Board member appointments be made at the second City Council meeting in June.

Mayor Knudtson recognized the Cape Girardeau Fire Department on its 100th anniversary as a paid fire department. He introduced family members of Cape Girardeau's first Fire Chief Barney Kraft, including his son Fred Kraft and a great-grandson. Fire Chief Rick Ennis said that on May 4, 1909, the Good Intent Fire Company was reorganized as the City's first paid municipal fire department and Mr. Kraft was appointed as Cape Girardeau's first Fire Chief.

CITY MANAGER COMMUNICATIONS

Mr. Ken Eftink, Interim City Manager, stated that a 38' flood crest was expected on Thursday, May 7, 2009, and the flood gates will be closed. He said that the H1N1 flu virus outbreak was

being monitored by appropriate staff, and that the City is taking precautions and will be ready to act, if necessary.

PUBLIC HEARINGS

This being the date set for a public hearing regarding the petition to consider vacating the City's interest in a portion of Flad Avenue right-of-way, the hearing was opened. There being no appearances, the hearing was closed.

BILL NO. 09-75 was given first reading as follows:

AN ORDINANCE VACATING THE CITY'S INTEREST IN A PORTION OF RIGHT-OF-WAY ON FLAD AVENUE, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 09-75 was approved upon Mr. Herbst's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. Upon questioning by Mr. Herbst, City Engineer Mrs. Kelly Green stated that the lot noted as "Flad Avenue" on the drawing will not have public access. However, the owner of the lot signed the petition and is agreeable to the vacation.

BILL NO. 09-76 was given first reading as follows:

AN ORDINANCE VACATING THE CITY'S INTEREST IN A PORTION OF RIGHT-OF-WAY ON MARQUETTE DRIVE, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 09-76 was approved upon Mr. Voss' motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

This being the date set for a public hearing regarding the petition to consider vacating the recreational trail easement through North Pointe Center First Addition, located in the City of Cape Girardeau, to North Pointe Center, LLC, the hearing was opened. There being no appearances, the hearing was closed.

BILL NO. 09-81 was given first reading as follows:

AN ORDINANCE VACATING THE RECREATIONAL TRAIL EASEMENT THROUGH NORTH POINTE CENTER FIRST ADDITION, LOCATED IN THE CITY OF CAPE GIRARDEAU, TO NORTH POINTE CENTER, LLC

The first reading of BILL NO. 09-81 was approved upon Mr. Lanzotti's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. Mr. Lanzotti noted that the City is relocating the recreation trail behind the North Point Center property, and the City needs to vacate this platted easement in order to obtain an easement in the new location.

APPEARANCES

Mr. Stan Wicks appeared in opposition to the proposed increase in the waste hauling fee, stating that he felt it should be a graduated increase instead of a full increase implemented at one time. He said that for a 1,000 gallon load, the fee would increase from \$10 to \$70 per load. There were

four other businesses also represented at the meeting which were in opposition to this increase. Mrs. Debbie Wicks stated that these business owners would like to sit down with the City staff and discuss an agreeable amount to increase the fee, without it being such a drastic increase.

Mr. Eftink stated that the City has looked at the actual cost to provide this service as well as what other companies charge, and \$.07 per gallon is appropriate for this service. Mr. Tim Gramling, Public Works Director, noted that most cities of similar size to Cape Girardeau are charging \$.07 per gallon. The closest alternate site was in metropolitan St. Louis, and this company is charging \$.07 now and will increase that fee to \$.08 on July 1, 2009. St. Joseph, Missouri, was charging \$2.50 per load and is increasing the fee to \$.07 per gallon this summer. Mr. Gramling stated that based on the cost of the service, this is an appropriate fee. A letter will be sent out on Tuesday, May 5, 2009, with information about the fee increase and setting a meeting on May 11, 2009, with haulers and City staff to discuss the issue. Mayor Knudtson added that a public hearing will be held at the City Council meeting on June 1, 2009, to discuss the budget, and this issue can be discussed again at that time.

Mr. Norman Shelby appeared and said that he had spoken with customers about passing on this increase in cost, and they were very upset. With four people in a household, a septic tank would need to be pumped every four years. Mr. Shelby said that grease traps at restaurants are another concern. If prices are too high, he feels they will dump the traps into the sanitary sewer system. Restaurant grease traps are pumped on average every three months, yielding at between 1,000 – 2,000 gallons each.

Mrs. Maggie Shelby stated that their business covers a 50-mile radius, and she is concerned for residents who don't have the money to pay for this service. She said that they may let their septic lines fill up, and that will cost the resident more in the long run.

CONSENT ORDINANCES

The following bills were given second and third readings:

- BILL NO. 09-59 AN ORDINANCE ANNEXING LAND TO THE CITY OF CAPE GIRARDEAU, MISSOURI, UPON THE REQUEST OF JOHN A. DRURY, TRUSTEE OF THE JOHN A. DRURY REVOCABLE TRUST AGREEMENT DATED JUNE 29, 2009, ANITA DRURY AND MIDAMERICA HOTELS CORPORATION

- BILL NO. 09-60 AN ORDINANCE ANNEXING LAND TO THE CITY OF CAPE GIRARDEAU, MISSOURI, UPON THE REQUEST OF BRYAN AND NANCY GREASER

- BILL NO. 09-68 AN ORDINANCE AUTHORIZING THE ACQUISITION OF PROPERTY FOR THE BEND ROAD – MASON STREET – MAIN STREET IMPROVEMENT PROJECT

- BILL NO. 09-69 AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A QUIT CLAIM DEED FOR A SECTION OF A RAIL SPUR IN THE NASH ROAD INDUSTRIAL PARK TO BIOKYOWA, INC., IN THE COUNTY OF CAPE GIRARDEAU, MISSOURI

BILL NO. 09-72 AN ORDINANCE AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A STATE BLOCK GRANT AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR THE PURPOSE OF ACCEPTING A GRANT FOR PAVEMENT REHABILITATION AT THE CAPE GIRARDEAU REGIONAL AIRPORT

The second and third readings of BILL NOs. 09-59, 09-60, 09-68, 09-69, and 09-72 were approved and the Ordinances adopted upon Mr. Herbst's motion, Mrs. Tracy's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-59 is ORDINANCE NO. 4020; BILL NO. 09-60 is ORDINANCE NO. 4021; BILL NO. 09-68 is ORDINANCE NO. 4022; BILL NO. 09-69 is ORDINANCE NO. 4023; and BILL NO. 09-72 is ORDINANCE NO. 4024.

NEW ORDINANCES

BILL NO. 09-73 was given first reading as follows:

AN ORDINANCE AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU REGARDING ADDITIONAL COURT COSTS

The first reading of BILL NO. 09-73 was approved upon Mr. Herbst's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti (abstain), Ritter, Schneider, Tracy and Voss. Nays, none.

BILL NO. 09-78 was given first reading as follows:

AN ORDINANCE AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A SALES AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR DISPOSAL OF EXCESS REALTY ON STATE ROUTE 74

The first reading of BILL NO. 09-78 was approved upon Mr. Herbst's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

BILL NO. 09-85 was given first reading as follows:

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF CAPE GIRARDEAU, MISSOURI, TO EXECUTE AND DELIVER A PROMISSORY NOTE AND A DEED OF TRUST TO THE BANK OF MISSOURI; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

The first reading of BILL NO. 09-85 was approved upon Mr. Voss' motion, Mr. Herbst's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

RESOLUTIONS

BILL NO. 09-77 was presented as follows:

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT FOR PARKING LOT MODIFICATIONS WITH THE MISSOURI DEPARTMENT OF TRANSPORTATION FOR CONSTRUCTION OF VETERAN'S MEMORIAL DRIVE, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The reading of BILL NO. 09-77 was approved and the Resolution adopted upon Mrs. Schneider's motion, Ms. Ritter's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-77 is RESOLUTION NO. 2446.

BILL NO. 09-79 was presented as follows:

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A GENERAL ENGINEERING SERVICES AGREEMENT WITH HORNER AND SHIFRIN, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The reading of BILL NO. 09-79 was approved and the Resolution adopted upon Mrs. Schneider's motion, Mr. Herbst's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-79 is RESOLUTION NO. 2447.

BILL NO. 09-80 was presented as follows:

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO A GENERAL ENGINEERING SERVICES AGREEMENT WITH HORNER AND SHIFRIN, FOR PRELIMINARY ENGINEERING FOR RIVER FLOOD PROTECTION/LEVEE SYSTEM CERTIFICATION, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The reading of BILL NO. 09-80 was approved and the Resolution adopted upon Mrs. Tracy's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-80 is RESOLUTION NO. 2448.

BILL NO. 09-82 was presented as follows:

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO ACCEPT A NEIGHBORHOOD STABILIZATION PROGRAM GRANT FROM THE MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT TO ACQUIRE, REHABILITATE AND RE-SELL FORECLOSED HOMES, IN THE CITY OF CAPE GIRARDEAU, MISSOURI, AND TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

The reading of BILL NO. 09-82 was approved and the Resolution adopted upon Mr. Voss' motion, Mrs. Tracy's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-82 is RESOLUTION NO. 2449. Mr. Eftink noted that the intent is to purchase, remodel and resell at least four homes to low income people in the community within the next 18 months.

BILL NO. 09-83 was presented as follows:

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AVIATION PROJECT CONSULTANT SUPPLEMENTAL AGREEMENT NO. 1 WITH CRAWFORD, MURPHY AND TILLEY, INC., FOR APRON REHABILITATION AND OTHER PROJECTS AT THE CAPE GIRARDEAU REGIONAL AIRPORT

The reading of BILL NO. 09-83 was approved and the Resolution adopted upon Mrs. Tracy's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-83 is RESOLUTION NO. 2450.

BILL NO. 09-84 was presented as follows:

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A CONTRACT AGREEMENT WITH R. L. PERSONS CONSTRUCTION, INC. FOR APRON REHABILITATION AND MISCELLANEOUS IMPROVEMENTS AT THE CAPE GIRARDEAU REGIONAL AIRPORT

The reading of BILL NO. 09-84 was approved and the Resolution adopted upon Mrs. Schneider's motion, Mr. Herbst's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-84 is RESOLUTION NO. 2451.

Mr. Herbst asked why the bid was so much lower than others received. Mr. Bruce Loy, Cape Municipal Airport Manager, responded that there was a question on new federal requirements for concrete aggregate, and some of the proposals had bid higher because they were skeptical that they could meet those requirements.

LIQUOR LICENSES

Mr. Herbst made a motion, seconded by Mr. Voss, to conditionally approve the listed liquor license renewals. The motion was approved on the following vote: Aye, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

Retail Liquor by the Drink:

Heckler's, LLC, d/b/a Heckler's Beer Barn & Grill, 1000 N. Sprigg, Robert Foeste, Managing Officer

Mark Weber d/b/a Rude Dog Pub, 123 N. Main, Mark Weber, Managing Officer

Retail Liquor by the Drink and Sunday Sales:

Ray Drury d/b/a Cape Elks Lodge #639, 639 Elks Lane, Ray Drury, Managing Officer

O'Charley's, Inc. d/b/a O'Charley's #376, 3093 William, Timothy Blake, Managing Officer

Applebee's Restaurant West, LLC d/b/a Applebee's Neighborhood Grill & Bar, 202 S. Broadview, Gary Tauscher, Managing Officer

William D. Stoffel d/b/a Fraternal Order Eagles, 321 N. Spring, William Stoffel, Managing Officer

Original Package Liquor:

Pajco, Inc. d/b/a Rhodes 101 Stop, 1620 N. Kingshighway, Paul Dirnberger, Managing Officer

Original Package Liquor and Sunday Sales:

Kurt M. Schimmer d/b/a Discount Smoke Shop, 340 S. Sprigg, Kurt Schimmer, Managing Officer

Lorene Samson d/b/a Wal-Mart Supercenter #188, 3439 William

Lorene Samson d/b/a Sams Club #6479, 232 Shirley

Lorene Samson, Managing Officer

Pajco, Inc. d/b/a Jaspers, 407 Morgan Oak

Pajco, Inc. d/b/a Jaspers, 1008 N. Kingshighway

Pajco, Inc. d/b/a Rhodes 101 Stop, 1126 N. Sprigg

Pajco, Inc. d/b/a Rhodes 101 Stop, 449 S. Kingshighway

Pajco, Inc. d/b/a Rhodes 101 Stop, 1624 N. Kingshighway
Pajco, Inc. d/b/a Rhodes 101 Stop, 546 S. Sprigg
Pajco, Inc. d/b/a Rhodes 101 Stop, 10 S. West End
Pajco, Inc. d/b/a Rhodes 101 Stop, 2109 William
Paul Dirnberger, Managing Officer

Original Package Liquor, Wine Tasting and Sunday Sales:

Schnuck Markets, Inc. d/b/a Schnucks, 19 S. Kingshighway, Robert Wiegert, Managing Officer

Wholesalers of Intoxicating Liquor – All Kinds:

Major Brands, Inc. d/b/a Major Brands, 2100 Themis, Suite 101, Todd Epsten, Managing Officer

Thilenius Distributing Co., Inc. d/b/a River Eagle Distributing Co., 2346 Rust Ave., Gene Patterson, Managing Officer

OTHER

Mr. Herbst made a motion, seconded by Mrs. Schneider, to accept the improvements completed as part of the Town Plaza Redevelopment Project and to authorize the Interim City Manager to execute the Certificate of Reimbursable Costs and release a payment of \$3,203,307.94 to Greater Missouri Builders pursuant to the Development Agreement dated August 13, 2007. The motion was approved upon the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

Mayor Knudtson remarked that he had received a telephone call from Reverend Larry Rice about the disposition of the federal courthouse at 339 Broadway. Reverend Rice has filed formal papers for the use of this building as a shelter for homeless individuals and families and must now establish that there is a need for such housing. Mayor Knudtson stated that it is his position that the City is meeting the needs of homeless families in Cape Girardeau, and that a homeless shelter is not needed because the City has coordinated with several groups working on the issue.

Mr. Dan Muser, Parks and Recreation Director, noted that numerous ground-breakings are scheduled throughout Cape Girardeau over the next two weeks for various Parks projects.

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

Jay B. Knudtson, Mayor

Gayle L. Conrad, City Clerk

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