

REGULAR SESSION – JANUARY 10, 2011

The Cape Girardeau City Council convened in regular session on Monday, January 10, 2011, at 7:00 p.m., with Mayor Harry E. Rediger presiding and Council Members Meg Davis Proffer, Mark Lanzotti, Loretta Schneider, Kathy Swan, Debra Tracy and John Voss present.

Reverend Dan Johnson, of the Evangelical United Church of Christ, presented the invocation, and the Pledge of Allegiance was recited.

Mrs. Swan made a motion, seconded by Mrs. Schneider, to remove Item No. 11, conditional approval of a retail liquor by the drink and Sunday sales license for Erin M. Bragg, d/b/a Dino's Pizza, 1034 Broadway, from the Consent agenda, and to adopt the amended Agenda. The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

COMMUNICATIONS/REPORTS

Mayor Rediger said that he was honored to attend the City Employee Service Awards Dinner at the River Campus, recognizing employees with 25 and 30 years of service with the City of Cape Girardeau. Our employees are our City's most important asset, he said. He also recognized the spouses of those employees for their support. City Manager Scott Meyer said that the dinner was intended to be a special evening for the employees. Public service is a special calling and attracts people who don't seek attention. He thanked the Mayor and the employees' spouses for attending and enjoying the evening.

Mayor Rediger commended Coach Tony Samuel and the Southeast Missouri State University Redhawks football program for Mr. Samuel's receipt of the Eddy Robinson Award for Coach of the Year. He said that he had presented Coach Samuel with the Coin to the City after the Redhawks' Ohio Valley Conference win. Mayor Rediger said that he will invite the coaching staff to come to the next City Council meeting and speak about their contributions to the City's status as a regional hub in Southeast Missouri.

Mayor Rediger noted that six months ago, the structure of the City Council meeting had changed, with public comment on items not on the City Council meeting agenda moved to the Council Study Session on a test basis. The change has worked well, and it has given City staff the opportunity to research issues for possible inclusion on future Council agendas. He said that the open Study Session comments will continue, with one adjustment. If residents wish to address the Council at a Regular Session about an issue not on the agenda, they may call their Council representative or the Mayor prior to the meeting, and they will be recognized and asked to address the Council with their concern. The Mayor said that the meetings' comment structure would be reviewed again later.

Mr. Voss recognized Mr. Lanzotti for his service over the past year as Chair of the Cape Girardeau Area MAGNET Board of Directors and for his help in bringing new industry to the area and expanding existing City industries. He said that 2010 was a banner year for economic development in Cape Girardeau.

Mr. Meyer reviewed the Council Memoranda included in the City Council agenda packets for the Council. He spoke about two upcoming Missouri sales tax holidays. "Show Me Green" occurs between April 19 – 25, 2011, which the Council must vote to opt into if they want to exempt local purchases as well, and the "Back to School" sales tax holiday which occurs in August. Currently,

the City does not participate by exempting purchases from local sales taxes for the Back to School tax holiday. The Council would have to change the City's current status of having opted out of this holiday. The sales tax revenue lost by participating would be approximately \$50,000-\$70,000.

Mr. Meyer said that he wanted to inform the Council of these upcoming Missouri sales tax holidays, and where the City stands on them, at the beginning of the year. He also reviewed the Council Memoranda informing the Council of appointments to be made to the Historic Preservation Commission and the Golf Course Advisory Board, which will be on the next City Council meeting agenda.

Mr. Meyer indicated that City staff is scheduling public presentations regarding the proposed new wastewater treatment facility. Groups can contact City staff to schedule a tour and a presentation. A public meeting is scheduled for Wednesday, January 12, 2011, at the Public Works facility which will include a tour of the existing facility and the future site of the new wastewater treatment plant at 6:00 p.m., followed by a meeting at 7:00 p.m. to discuss the facility plan, rate study and environmental impact. Mr. Voss suggested the City erect a sign at the proposed location so residents unable to attend can view the location during the day.

PUBLIC HEARINGS

This being the date set for a public hearing regarding the request of the City of Cape Girardeau to rezone the property located at 225, 226, 229, 230 and 234 North Sprigg Street and 625 and 701 Bellevue from the RUMD, Residential Urban Mixed Density District, to the CBD, Central Business District, the hearing was opened. There being no appearances, the hearing was closed.

This being the date set for a public hearing regarding the request of IOC-Cape Girardeau, LLC to rezone approximately 23 acres located at approximately 800 North Spanish Street to the PD, Planned Development District, and to approve a Preliminary Development Plan, the hearing was opened.

Mr. Richard Meister of Isle of Capri appeared before the Council in support of the rezoning request. He said that there have been revisions to the preliminary plan presented to the Planning and Zoning Commission, and he reviewed the details of the Planned Development District. Mr. Meister introduced members of his design group and project team working on the Isle of Capri casino. He reviewed the land acquired for the project and the relocated Main Street.

Mrs. Kelly Green, City Engineer, introduced City staff participating in the development process: Ms. Martha Brown, Planning Supervisor; Mr. Tim Gramling, Public Works Director; Mr. Eric Cunningham, City Attorney; and Mr. Dan Vogel, with Cunningham Vogel & Rost. Mrs. Green said that the new Main Street will be a public street, and City staff is working with IOC-Cape Girardeau to finalize the design for the relocation. Contracts for the work will be advertised in mid-February of 2011, and the contract should be awarded in March or April, taking 6 to 9 months to construct.

Mr. Meister said that they are working with City staff to finalize the design to re-route Main Street around the current levee, and the levee will be closed. He reviewed for the Council the initial site plan and the revised site plan, which moved the casino to the East side of the property near the railroad due to utilities and other issues. He reviewed the green space on the site, parking, signage plan, and the initial and new renderings of the development. Mr. Meister reviewed the timeline for the property. They are working on a contractor RFQ and said it would take approximately five months to select a contractor. The casino is projected to open in December of 2012.

Mrs. Green and Mr. Meyer reviewed the purpose of the new Planned Development District under the new zoning code and how it affects the different aspects of a development this size.

There being no further appearances, the hearing was closed.

BILL NO. 11-06 was given first reading as follows:

AN ORDINANCE AMENDING ZONING REGULATIONS OF THE CITY OF CAPE GIRARDEAU BY ESTABLISHING A PLANNED DEVELOPMENT DISTRICT PURSUANT TO THE CITY OF CAPE GIRARDEAU ZONING ORDINANCE AND APPROVING THE APPLICATION AND REVISED PRELIMINARY DEVELOPMENT PLAN FOR A PROPOSED CASINO COMPLEX

A motion was made by Mr. Voss, seconded by Mr. Lanzotti, to approve the first reading of BILL NO. 11-06. The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. Mayor Rediger said that Isle of Capri was moving ahead with the project in concert with the City. He commended City staff for the work they have done and commended Isle of Capri for their cooperation.

APPEARANCES

Mr. Don Howard, of 1100 Ranney Avenue, appeared in opposition to the Ordinance calling an election on the question of issuing sewerage system revenue bonds, and the Ordinance calling an election on extending the ¼ of 1% capital improvement sales tax to fund a new wastewater treatment facility. He said that the Council should find other ways to partially fund this project and take the burden off the back of the people. Mr. Howard said that the money should be taken from the general fund and combined with half of the projected revenue from the casino. Many people, he said, could not afford the proposed increase. Mr. Howard encouraged everyone to vote against both the revenue bonds and extending the capital improvement sales tax until the Council changes its attitude toward the people.

Mayor Rediger replied that City staff is looking at ways to fund construction of the wastewater treatment facility. The project itself will happen because the City is out of compliance with the Department of Natural Resources regulations. More information about the issue will be presented through public sessions and citizen input, he said.

CONSENT AGENDA

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

Approval of the City Council December 20, 2010, regular and closed sessions minutes.

BILL NO. 10-180, AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A TRANSPORTATION ENHANCEMENT FUNDS PROGRAM AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR THE SOUTH SIDE TRAIL CONNECTION PROJECT, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Second and Third Readings.

BILL NO. 10-181, AN ORDINANCE CALLING AN ELECTION IN THE CITY OF CAPE GIRARDEAU, MISSOURI, ON THE QUESTION OF ISSUING SEWERAGE SYSTEM REVENUE BONDS. Second and Third Readings.

BILL NO. 10-182, AN ORDINANCE CALLING AN ELECTION IN THE CITY OF CAPE GIRARDEAU, MISSOURI, ON THE QUESTION OF WHETHER TO EXTEND THE PRESENT ONE-QUARTER OF ONE PERCENT CAPITAL IMPROVEMENT SALES TAX FOR THE PURPOSE OF FUNDING CAPITAL IMPROVEMENTS. Second and Third Readings.

BILL NO. 10-183, AN ORDINANCE APPROVING THE RECORD PLAT OF JULIE SUBDIVISION NO. 5. Second and Third Readings.

BILL NO. 10-184, AN ORDINANCE AMENDING SCHEDULE F OF SECTION 26-247 OF THE CITY CODE, BY ESTABLISHING A NO PARKING ZONE ON A PORTION OF PACIFIC STREET, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Second and Third Readings.

A motion accepting the City Audit for the fiscal year ending June 30, 2010, prepared by Beussink, Hey, Roe, Seabaugh and Stroder, L.L.C.

BILL NO. 11-01, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ADDENDUM NO. 2 TO AMENDMENT NO. 1 TO THE GENERAL ENGINEERING SERVICES AGREEMENT WITH HORNER & SHIFRIN, INC., FOR THE CAPE GIRARDEAU LEVEE SYSTEM CERTIFICATION, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

BILL NO. 11-02, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AND INDEMNITY AGREEMENT WITH ATLAS PLASTICS CORPORATION, D/B/A SPARTECH PLASTICS, FRED R. WILFERTH AND JUDITH R. WILFERTH TO MAINTAIN EXISTING STRUCTURES LOCATED ON SPARTECH DRIVE RIGHT-OF-WAY IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. BILL NO. 10-180 is ORDINANCE NO. 4185; BILL NO. 10-181 is ORDINANCE NO. 4186; BILL NO. 10-182 is ORDINANCE NO. 4187; BILL NO. 10-183 is ORDINANCE NO. 4188; BILL NO. 10-184 is ORDINANCE NO. 4189; BILL NO. 11-01 is RESOLUTION NO. 2588; and BILL NO. 11-02 is RESOLUTION NO. 2589.

ITEMS REMOVED FROM CONSENT AGENDA

Mr. Lanzotti made a motion, seconded by Mrs. Tracy, to conditionally approve a retail liquor by the drink and Sunday sales license for Erin M. Bragg, d/b/a Dino's Pizza, 1034 Broadway. Mr. Lanzotti stated that during the Study Session the Council had asked City Attorney Eric Cunningham what latitude the Council had in evaluating and approving this liquor license application. The Council was told that the application for a liquor license is a ministerial act, and if that application meets the qualifications, the Council must grant the license. Failing to approve the application might expose the Council to additional action by the applicant. The basic application has met the City's guidelines. Mr. Cunningham affirmed that City staff has reviewed the application, and it met all qualifying criteria. Mr. Lanzotti noted that the Fire and Health Department inspections had not yet

been conducted, but the Council has conditionally approved applications in the past based on the satisfactory completion of these inspections. The only aspect the Council has latitude in considering is the question of whether the applicant can run a neat and orderly business. In this instance, he said, other than a misdemeanor, the applicant has not demonstrated that she cannot run a neat and orderly business. The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

NEW ORDINANCES

BILL NO. 11-03 was given first, second and third readings as follows:

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF CAPE GIRARDEAU, MISSOURI, ON THE QUESTION OF WHETHER TO ADOPT AN INITIATIVE ORDINANCE KNOWN AS THE "CAPE GIRARDEAU SMOKE-FREE AIR ACT" TO PROHIBIT SMOKING IN INDOOR WORKPLACES AND PUBLIC PLACES; DESIGNATING THE TIME OF HOLDING THE ELECTION; AUTHORIZING AND DIRECTING THE CITY CLERK TO GIVE NOTICE OF THE ELECTION

Mrs. Tracy made a motion, seconded by Mrs. Schneider, to approve the first, second and third readings of BILL NO. 11-03 and to adopt the ordinance.

Mr. Lanzotti stated that during the Study Session the Council had a discussion as to why they are conducting an emergency reading of this Ordinance and the timing requirements of the City Charter. He asked Mr. Cunningham to explain the time issues and said that if the issue was not addressed during this Council meeting, they would be in conflict with the City Charter because the election in June was outside the time frame. Mr. Cunningham replied that this Ordinance was eligible for an emergency reading under Section 3.15 of the Charter, calling for submission of a ballot proposition. The deadline for submission of an election notice to the County Clerk for the April election is January 25, at 5:00 p.m.

Mr. Lanzotti said that the next scheduled Council meeting is January 25, 2011, at 7:00 p.m., and it would miss the deadline for the issue to be placed on the April ballot. He asked if the Council voted on the Ordinance at the January 25 meeting, if the issue could be placed on the ballot of the June election. Mr. Cunningham answered that it could, but the Charter says that the election must be held not before 30 days, or after 120 days after the Council's last action on the issue. The only election date that falls within those parameters is the April election.

Mr. Lanzotti said that if the Council does not approve an Ordinance calling a special election on this issue in April, they will miss the 120 day requirement of the City Charter. Mr. Cunningham replied that Mr. Lanzotti was correct. The Council would miss meeting the requirement of the Charter to have the election within the specified timeframe.

The first, second and third readings of BILL NO. 11-03 were not approved upon the following roll-call vote: Davis Proffer, nay; Lanzotti, aye; Rediger, aye; Schneider, aye; Swan, nay; Tracy, aye; and Voss, nay. Mr. Cunningham stated that under Section 3.15 of the City Charter, the motion failed without a super-majority vote.

BILL NO. 11-04 was given first reading as follows:

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A FEDERAL AID PROGRAM AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR THE EXTENSION OF THE RIVERWALK TRAIL ALONG THE MISSISSIPPI RIVER, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 11-04 was approved upon Mr. Lanzotti's motion, Mr. Voss' second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. Mr. Meyer said that this agreement would extend the trail both North and South from Sloan Creek to the River Campus. Mr. Ken Eftink, Development Services Director, said that this Federal Aid Program agreement is a special budget appropriation and does not include funding for the bridge over Sloan Creek.

OTHER BUSINESS

BILL NO. 11-07 was presented as follows:

A RESOLUTION APPROVING THE JANUARY 1, 2011, DEBT STATEMENT OF THE CITY OF CAPE GIRARDEAU, MISSOURI

The reading of BILL NO. 11-07 was approved and the Resolution adopted upon Mrs. Schneider's motion, Mrs. Proffer's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. BILL NO. 11-07 is RESOLUTION NO. 2590. Mr. Meyer stated that the debt statement was a necessary part of having the election for funding of the wastewater treatment plant.

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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