

REGULAR SESSION – MAY 17, 2010

The Cape Girardeau City Council convened in regular session on Monday, May 17, 2010, at 7:00 p.m., with Mayor Harry E. Rediger presiding and Council Members Mark Lanzotti, Meg Davis Proffer, 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.

The agenda was approved as distributed upon Mr. Lanzotti's motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

PRESENTATIONS

Mayor Rediger presented a Proclamation to Cape Girardeau Public Works Department employees, declaring May 16-22, 2010, as National Public Works Week. Mr. Tim Gramling, Director of Public Works, commended his staff for their hard work and dedication.

Mr. Scott Meyer, City Manager, presented a program on the Transportation Trust Fund 4 which will be on the August 3, 2010, ballot for approval.

COMMUNICATIONS/REPORTS

Mrs. Tracy announced the 10th Annual ArtsCape Community Arts Festival will take place on Saturday, May 22, 2010, at Capaha Park. Mayor Rediger reminded everyone that the Fountain Street Project groundbreaking will be on Wednesday, May 19, 2010, and the Cape Splash Family Aquatic Center ribbon cutting will be on Thursday, May 20, 2010.

Mr. Meyer stated that the Law Enforcement Officer Memorial Service was held on Friday, May 14, at the Missouri Conservation Campus Auditorium in Cape County Park North to honor all fallen officers.

APPEARANCES

Reverend Paul Kabo appeared before the Council representing Cape Girardeau Citizens for Quality of Life. He stated that their focus was to place the riverboat gambling issue on the ballot for vote. Rev. Kabo said that the Citizens for Quality of Life would be led by a steering committee of seven people and they have organized volunteers to distribute a petition for citizens to sign to have the issue placed on an upcoming ballot. Mayor Rediger thanked Rev. Kabo and the Cape Girardeau Citizens for Quality of Life for conducting themselves professionally with the Council.

Mr. Doug Austin appeared before the Council on behalf of Seniors and Lawmen Together (SALT) and said that three monuments have been placed and dedicated in Cape County Park North honoring 47 Safety Officers who gave their lives in the line of duty in Southeast Missouri.

Mr. Eric Gooden, operator of Cape Bicycle, appeared before the Council with objections to the Parks and Recreation Department bid process for purchasing fitness equipment. He said that he felt the specifications were written in a way so that only one vendor could successfully bid on the products. Mr. Gooden then reviewed his company's history of bids over the last ten years, including comparing the products he bid to the products the City had ultimately purchased. He

asserted that the specifications had been written so only a specific company could meet all of the requirements.

Mayor Rediger asked if Cape Bicycle had been awarded a contract for some of the equipment in this most recent bid process. Mr. Gooden replied that they had, but not the treadmill or elliptical machines. He then discussed the history of the last three bids, including the current bid, and expressed opposition to the fact that they hadn't won the bid for the treadmill due to the specifications. He said that his overall bid was \$3,810.00 cheaper than the competitor's bid for the entire package. Mr. Gooden asked who wrote the City's specifications for equipment, he asked why the City is bidding out for a brand name that is only available from out of the state, and he asked why the City is not buying from local vendors.

Mrs. Schneider asked if the City has a policy for buying from local vendors when possible and how many pieces of equipment were bid. Mayor Rediger said that the Council will take the issue under consideration. Mr. Voss agreed that the City should buy from local vendors when possible and thanked Mr. Gooden for bringing the matter before the Council's attention. Mr. Gooden said that his bid was 10% lower than his competitor's bid and that he had given the City a \$1500.00 package discount. Mrs. Swan said that a bid process can be a very frustrating procedure to navigate for a small business owner if there is any perception that the procedure may not be conducted fair or equitably.

Mr. Don Howard, of 1100 Ranney Avenue, appeared before the Council and said that he did not think that the Council should overturn the will of the citizens of Cape Girardeau by putting the issue of riverboat gambling on the ballot again, though he personally did not want gambling in the City. He asked if the Corps of Engineers had not previously deemed Cape Girardeau unsafe to dock a riverboat because of the bend in the Mississippi river. Mr. Meyer replied that the regulations of gambling boats have changed. Previously they were required to cruise the river, but now they can stay moored on shore. Mr. Howard also spoke in opposition to the Transportation Trust Fund 4 tax, and he complained of gravel washing onto his street and nothing being done about it. He then complained that Fort D needs a new roof installed. The project was included in the Parks tax, but it still has not been done.

Mr. Gooden, of 1617 Oxford Drive, addressed the Council again and said that the sewer serving 229 S. Henderson is collapsed from the Broadway/Henderson project that was completed by the City and the University.

CONSENT AGENDA

A motion was made by Mr. Lanzotti and seconded by Mrs. Schneider to remove BILL NO. 10-60, BILL NO. 10-61, and BILL NO. 10-65 from the Consent Agenda to allow for discussion. The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

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

Approval of the May 3, 2010, regular session minutes.

BILL NO. 10-55, AN ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU, MISSOURI, BY ZONING 2952 PERRYVILLE ROAD, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, MISSOURI,

AS AN R-1 SINGLE FAMILY SUBURBAN RESIDENTIAL DISTRICT. Second and Third Readings.

BILL NO. 10-56, AN ORDINANCE AMENDING THE BOUNDARIES OF WARD 4 TO INCLUDE PROPERTIES ANNEXED BY THE CITY OF CAPE GIRARDEAU. Second and Third Readings.

BILL NO. 10-62, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH NIP KELLEY EQUIPMENT COMPANY, INC., FOR THE BIG BEND WIDENING AND IMPROVEMENT PROJECT, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

BILL NO. 10-63, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT WITH THE STATE OF MISSOURI OFFICE OF HOMELAND SECURITY FOR THE 2009 CITIZEN CORPS PROGRAM. Reading and Passage.

BILL NO. 10-64, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ADDENDUM NO. 1 TO AMENDMENT NO. 2 TO THE ENGINEERING SERVICES CONTRACT WITH BOWEN ENGINEERING AND SURVEYING, INC., FOR THE VETERANS MEMORIAL DRIVE EXTENSION, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

BILL NO. 10-66, A RESOLUTION DETERMINING THE INTENT OF THE CITY OF CAPE GIRARDEAU, MISSOURI, TO REIMBURSE ITSELF FOR CERTAIN CAPITAL EXPENDITURES RELATED TO THE WASTEWATER TREATMENT PLANT PROJECT. Reading and Passage.

A motion accepting the improvements to the A. C. Brase Arena Building and authorizing final payment to Zoellner Construction, Inc.

Conditional approval of the following new liquor licenses:

- Earl Bennett, d/b/a Roxy's Country Saloon, 107 N. Main, retail liquor by the drink
- Brendan Sullivan, d/b/a The Billiard Center, 26 N. Main, retail liquor by the drink and Sunday sales

Approval of the following temporary retail liquor by the drink licenses:

- Rodger Brown, d/b/a USA Veterans, Trail of Tears Chapter, for an event to be held at the Cape Girardeau Regional Airport June 18-21, 2010.
- Rodger Brown, d/b/a USA Veterans, Trail of Tears Chapter, for an event to be held at the A.C. Brase Arena South and North Ends July 2-5, 2010.
- Mirrandra Fickert, d/b/a Kiwanis Club of Poplar Bluff, for an event to be held at the A.C. Brase Arena May 28-30, 2010.

Approval of the following liquor license renewals:

Original Package Liquor and Sunday Sales:

- Semo Mart, LLC, d/b/a Semo Mart, 40 N. Sprigg
- Super Target Liquor of Missouri, Inc., d/b/a Target Store T-0992, 202 Siemers
- DSW Development Corp., d/b/a Shell-Cape, 3425 William
- Aldi, Inc., d/b/a Aldi #98, 2145 Independence
- Kurt M. Schimmer, d/b/a Discount Smoke Shop, 340 S. Sprigg
- Marishah, LLC, d/b/a Cape Mart, 102 Mason

Bi-State Southern Oil Co., d/b/a Bi-State Southern, Too, 920 N. Kingshighway
Bi-State Southern Oil Co., d/b/a Bi-State/Southern Oil, 612 S. Sprigg

Wholesalers of Intoxicating Liquor-All Kinds

Major Brands, Inc., d/b/a Major Brands, 2100 Themis, Suite 101
Bluff City Beer Co., Inc., d/b/a Bluff City Beer Co., 450 Siemers

Retail Liquor by the Drink:

Catherine Thompson, LLC, d/b/a The Library, 10 S. Spanish
Janet Bierschwal, d/b/a Recovery Room Lounge, 1611 Independence

Retail Liquor by the Drink and Sunday Sales:

Edwin E. Rhodes, d/b/a VFW Post 3838, 1049 N. Kingshighway
Ray Drury, d/b/a Cape Elks Lodge #639, 639 Elks Lane
Zellmer, LLC, d/b/a Buffalo Wild Wings, 2136 William Suite 120
Logan's Roadhouse, Inc., d/b/a Logan's Roadhouse, 3012 William
Breakaways Bar & Billiards, Inc., d/b/a Breakaways, 15 N. Main
Drury Hotels Company, LLC, d/b/a Drury Suites, 3303 Campster
GMRI, Inc., d/b/a The Olive Garden Italian Restaurant #1676, 3259 William
GMRI, inc., d/b/a Red Lobster #0707, 3269 William

5% Beer by the Drink:

Glinda Seabaugh, d/b/a Mississippi Mud House, 811 Broadway
James Nguyen, d/b/a Café 'N' Me, 820 N. Sprigg Suite 5

5% Beer by the Drink and Sunday Sales:

R & V Enterprises, Inc., d/b/a Pagliai's Pizza & Pasta, 1129 Broadway
QMG Cape Girardeau, LLC, d/b/a Qdoba Mexican Grill, 3019 William Suite 101

Conditional approval of the following liquor license renewals:

Original Package Liquor and Sunday Sales:

Food Giant Supermarkets, Inc., d/b/a Food Giant #73, 1120 N. Kingshighway
Capeland, LLC, d/b/a Quick & Save, 2861 Themis
Capeland, LLC, d/b/a AM PM, 1101 William
Westside Investments, LLC, d/b/a Winks Convenience Store, 2017 Perryville

Original Package Liquor, Sunday Sales, & Wine Tasting:

Schnuck Markets, Inc., d/b/a Schnucks, 19 S. Kingshighway

5% Beer the Drink:

Sandy Ladd d/b/a Sandy's Place, 860 Rush Limbaugh, Jr. Memorial Drive
James Nguyen, d/b/a King Nails & Spa, 1131 N. Kingshighway Suites A & B

Retail Liquor by the Drink:

Marx, LLC, d/b/a D'Ladium, 1127 Broadway
NRG Entertainment, LLC, d/b/a Slingers Nightclub & Lounge, 820 N. Sprigg, Suite 6
Diamond Wireless, Inc., d/b/a Mixing 10, 2 N. Main
Rodney Pobst, d/b/a Pour House Pub, 113 Broadway

Retail Liquor by the Drink & Sunday Sales:

RT St. Louis Franchise, LLC, d/b/a Ruby Tuesday, 3069 William
Gary Helwege, d/b/a B.G.'s Olde Tyme Deli, 205 S. Plaza Way
Shogun Japanese Sushi & Grill Restaurant, 289-A S. Broadview
ESVR, Inc., d/b/a El Alcapulco Mexican Restaurant, 202 S. Mt. Auburn
Cape Girardeau Country Club Trust, d/b/a Cape Girardeau Country Club, 250 Country
Club Drive
Outback/Missouri-II Limited Partnership, d/b/a Outback Steakhouse #2615, 101 Cape
West Parkway
O'Charley's, Inc., d/b/a O'Charley's #376, 3093 William

Drury Hotels Company, LLC, d/b/a Drury Lodge, 104 S. Vantage
PHC Cape, LLC, d/b/a The Pasta House Company, 2406 William

The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. BILL NO. 10-55 is ORDINANCE NO. 4124; BILL NO. 10-56 is ORDINANCE NO. 4125; BILL NO. 10-62 is RESOLUTION NO. 2532; BILL NO. 10-63 is RESOLUTION NO. 2533; BILL NO. 10-64 is RESOLUTION NO. 2534; and BILL NO. 10-66 is RESOLUTION NO. 2535.

ITEMS REMOVED FROM CONSENT AGENDA

BILL NO. 10-60 was presented as follows:

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH MARKEY AND ASSOCIATES, INC., FOR IMPROVEMENTS TO THE CAPE GIRARDEAU CENTRAL MUNICIPAL POOL, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

Mr. Dan Muser, Parks and Recreation Department Director, stated that Amendment #1 to the agreement with Markey and Associates, Inc. provided the scope and budget for renovations to the pool, including a new bubble, and renovations to the mechanical system and the bath house. Amendment #2 to that agreement provides for the design of the renovation of the bathhouse, and for some repairs, as well as restructuring the entryway to better accommodate pool patrons. Also included will be a family changing area, a classroom area, cosmetic resurfacing of the non-slip deck, and partitions in the shower area.

Mrs. Schneider asserted that the pool needed more than just cosmetic improvements; all showers should be separate and private. She asked that the design be presented to the Council when it is prepared. Mr. Muser replied that the bubble will cost approximately \$378,000.00 of the approximately \$1,000,000.00 needed for renovation of the structure and all mechanical and HVAC.

Mr. Lanzotti asked if renovations of the bathhouse will cost \$600,000.00, why are only cosmetic renovations being done. He stated that he felt the bathhouse could be torn down and rebuilt for that amount. Mr. Voss said that building a new bathhouse should be an option considered. Mr. Lanzotti said that a concerted effort should be made to educate the public on the timelines of the project with information posted at the facility.

Mr. Muser said that a change in the scope of the project could change the timeframe and delay reopening. Mr. Voss asked if the City had secured an agreement with Cape Central School to participate in the upkeep and maintenance of the pool. Mr. Meyer replied that an agreement had not yet been finalized.

Mrs. Tracy asked what the classroom would be used for. Mr. Muser responded that the classroom would be used by the City for lifeguard training and by the Cape Swim Team. Mrs. Tracy said that this was the first time she had heard any discussion about constructing a new bathhouse.

The reading of BILL NO. 10-60 was approved and the Resolution adopted upon Mr. Lanzotti's motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. BILL NO. 10-60 is RESOLUTION NO. 2536.

BILL NO. 10-61 was presented as follows:

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH ARIZON AIRSTRUCTURES WORLDWIDE, LLC, FOR IMPROVEMENTS TO THE CAPE GIRARDEAU CENTRAL MUNICIPAL POOL, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The reading of BILL NO. 10-61 was approved and the Resolution adopted 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. 10-61 is RESOLUTION NO. 2537.

BILL NO. 10-65 was presented as follows:

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NUMBER 2 TO THE GENERAL SERVICES AGREEMENT WITH JACOBS ENGINEERING GROUPS, INC., FOR THE WASTEWATER TREATMENT FACILITY PROJECT, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

Mr. Tim Gramling, Director of Public Works, presented background information on the Wastewater Treatment Facility Project. He explained that the current wastewater plant was built in 1962 with a capacity of 7 million gallons of water per day, and was constructed to last for approximately 50 years. In 2006, the City received a compliance schedule from the Department of Natural Resources to eliminate all wet weather by-pass of the plant. He said that there had been plans to expand the current plant, but due to the emergence of sinkholes in the area, it was necessary to change location. Mr. Gramling said that City staff is currently negotiating with the Department of Natural Resources on the terms of a compliance schedule for all by-pass. This Amendment #2 is for the design and bid phase of the wastewater treatment plant. It will take approximately two years to design plans for a plant that can handle 11 million gallons of water per day.

Mr. Lanzotti asked if the current plant could be expanded for less expense if sinkholes were not present in the area. Mrs. Tracy noted that the cost at the current location was expected to be up to \$30,000,000, and this design is expected to be approximately \$60-\$70,000,000. Mr. Gramling said that they are now looking at a location on Corporate Circle that is already owned by the City, and that it would be easy to pump City sewage to that location.

The reading of BILL NO. 10-65 was approved and the Resolution adopted upon Mr. Voss' motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. BILL NO. 10-65 is RESOLUTION NO. 2538.

NEW ORDINANCES

BILL NO. 10-58 was given first reading as follows:

AN ORDINANCE AUTHORIZING THE ACQUISITION OF PROPERTY FOR THE BLOOMFIELD ROAD IV PROJECT

The first reading of BILL NO. 10-58 was approved upon Mrs. Schneider's motion, Mr. Lanzotti's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 10-59 was given first reading as follows:

AN ORDINANCE APPROVING THE RECORD PLAT OF WELTER SUBDIVISION

The first reading of BILL NO. 10-59 was approved upon Mrs. Schneider's motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 10-67 was given first reading as follows:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A GENERAL WARRANTY DEED FOR A TRACT OF LAND LOCATED AT 216 MASON STREET IN THE CITY OF CAPE GIRARDEAU TO THE CAPE GIRARDEAU MUNICIPAL DEVELOPMENT FOUNDATION

The first reading of BILL NO. 10-67 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.

BILL NO. 10-68 was given first reading as follows:

AN ORDINANCE APPROVING THE RECORD PLAT OF W.A. AND ZOLA HUCKSTEP SUBDIVISION

The first reading of BILL NO. 10-68 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. 10-69 was given first reading as follows:

AN ORDINANCE ACCEPTING AN EASEMENT FOR INGRESS AND EGRESS FROM GORDON HUCKSTEP AND CHRIS HUCKSTEP, TRUSTEES OF THE BETTY J. HUCKSTEP TRUST, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 10-69 was approved upon Mr. Voss' motion, Mrs. Tracy's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

APPOINTMENTS

Mr. David Pfeiffer was re-appointed to the Board of Appeals for a term expiring June 4, 2015, upon Mr. Voss' motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

OTHER BUSINESS

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.

Regular

May 17, 2010

HH-76

Harry E. Rediger, Mayor

Gayle L. Conrad, City Clerk

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