

REGULAR SESSION – JUNE 21, 2010

The Cape Girardeau City Council convened in regular session on Monday, June 21, 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 Wiley Reed from Mt. Moriah Missionary Baptist 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 personnel pursuant to RSMo. Section 610.021(3) upon Mr. Voss' motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

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

COMMUNICATIONS/REPORTS

Mayor Rediger commended airport staff, volunteers, and the Airport Advisory Board for their work in hosting a successful Cape Girardeau Regional Air Festival. Mayor Rediger also said that he had played the renovated Jaycee Municipal Golf Course, and he was proud of staff for developing a great new course.

Mrs. Swan also thanked Mr. Bruce Loy, Airport Manager, and the airport staff for the great show. Mrs. Schneider commended the Air Festival volunteers for working in the heat over the weekend.

City Manager Scott Meyer reminded the Council that the Planning and Zoning Commission will be holding a study session on Tuesday, July 13, 2010, to address new provisions in the Development Code regarding electronic signs and new sign technology. The meeting will be open to the public, and demonstrations of the new sign technology will be available.

Mr. Meyer stated he met last week with City Engineer Kelly Green regarding traffic routes for possible future casino developments. It was determined that the current city truck routes will accommodate the traffic. The only possible issue may be the turn radius at Sprigg and Independence, which could be widened if necessary. Mr. Lanzotti requested staff provide a more specific report regarding proposed traffic routes for future casino development. Mr. Meyer responded that the City is currently looking at several available routes, and a report would be provided in the future.

Upon questioning by Mr. Voss, Parks and Recreation Director Dan Muser stated that the attendance at Cape Splash as of June 20, 2010, was approximately 34,000 visitors, averaging approximately 1,400 per day.

APPEARANCES

Ms. Sirena Bridwell, 109 Mill Street, addressed the Council regarding Agenda Item No. 19, liquor license applications for businesses owned by Mr. Ben Burch. In January Ms. Bridwell presented a petition to the City seeking to close Margarita Mamas. Since then, the violent activity has gotten worse. She stated that high school kids are being served at the bar, and she complained that the

music continues playing loudly after the bar closes. Mr. Burch has security personnel, but nothing is being done to curtail illegal and disruptive activity. Ms. Bridwell said that she had contacted the Missouri Division of Alcohol and Tobacco Control, but she had been told that they did not have the staff to respond.

Mr. David Kilburn, 710 North Spanish Street, addressed the Council and spoke in opposition to the liquor licenses sought by Mr. Burch. Mr. Kilburn said that he had lived in his home since 1977, and the disruptions and illegal activity associated with the bar at 701 North Main Street, now called Margarita Mamas, continues to get worse. His yard is covered in trash from the bar, and on June 13, 2010, gunfire was heard directly outside his residence. Mr. Kilburn said he wants the bar shut down.

Mr. Mike Hanebrink, 623 North Spanish, spoke in opposition to the liquor licenses being reviewed for Mr. Burch. He said that when college is in session, Margarita Mamas will be packed with between 200 and 300 students, and besides the crowd, parking is also a problem to surrounding residents. Mr. Hanebrink said that he felt the neighborhood's character is negatively affected by the bar's presence, and the building is deteriorating with the sheer volume of people in the bar all the time.

Mr. Richard Niswanger, 727 North Spanish, opposed the liquor licenses sought by Mr. Burch, saying that he had lived in this residence for 38 years, and the trash, the parking issues, and the violence has gotten worse. He said that the Cape Girardeau Police Department is doing its best, but Margarita Mamas needs to be closed.

Mr. Eric Probst, 701 North Spanish, also addressed the Council in opposition to the liquor licenses under review. He said that he lives directly behind Margarita Mamas and has an eight-month old infant in his home. Mr. Probst said that he had observed patrons at the bar display weapons and talk of shooting people.

Mr. Don Howard, 1100 Ranney Avenue, addressed the Council in opposition to BILL NO. 10-74, an Ordinance establishing utility rates in the City. He said that he is opposed to any increase in utility rates. Mayor Rediger responded that there is no increase in the solid waste collection fee. Mr. Howard replied that the elderly and families with low incomes cannot afford these rate increases.

Mr. Phil Roop of the Quality of Life in Cape Girardeau Steering Committee addressed the Council and spoke about his organization, whose mission is to promote the activities and attractions promoting quality of life in Cape Girardeau. One goal of the Quality of Life in Cape Girardeau Committee is to ensure a November vote on casino gambling in Cape Girardeau. Mr. Roop said that the Committee intends to deliver petitions with more than the 2,635 signatures needed to place the issue on the ballot.

Mayor Rediger replied that he had met with the Quality of Life in Cape Girardeau Committee last Friday, and that the County Clerk will begin verifying the signatures on currently completed petitions once they are submitted. All petition sheets should be brought to City Hall and submitted to the City Clerk. She will then process them and forward them to the County Clerk. Mr. Doug Austin, also of the Quality of Life in Cape Girardeau Committee, agreed to present petitions with 1,500 signatures to the City Clerk on Tuesday.

Mr. Pat Wissman, a Cape Girardeau County resident and Democratic candidate for Presiding Commissioner in the upcoming election, addressed the Council and said that the November vote

on riverboat gaming sought by the Quality of Life in Cape Girardeau Committee would cost tax dollars that could be better used elsewhere. He noted the Committee's claim to have 37 local churches supporting their petition drive, and he said that he wants to have the names and addresses of those churches. Mr. Wissman said that he would have information about the gambling issue on Tuesday available to anyone who e-mailed him. He alleged that it is a violation of RSMo. 501(c)(3) for churches to campaign for this election because they cannot participate in political activities as a non-profit entity.

Mr. Eric Gooden of Cape Bicycle appeared before the Council regarding the City's bid process on exercise equipment for the Parks and Recreation Department. He said that he had spoken with Mr. Muser, and though they had a difference of opinion regarding this matter, he appreciated Mr. Muser's time in speaking with him. Mr. Gooden said his concerns were about three issues: a treadmill bid from approximately ten years ago, bids he believed to be written for a single source, and a current bid. Regarding the first matter, Mr. Gooden asked why ten years ago, the City purchased treadmills from an out-of-state vendor that he said had worse reviews, higher prices, and did not meet the City's specs. Mrs. Proffer replied that for that particular bid, two treadmills were placed side-by-side and patrons were allowed to select the treadmill they preferred. He again wanted to know why the City purchased this product from an Illinois vendor ten years ago. Secondly, Mr. Gooden asked why the City was doing a single-source bid from out-of-state. Mr. Meyer responded that the treadmills were placed in the facility side-by-side and customers chose the other brand. The brand Mr. Gooden offered also had more downtime than the out-of-state brand. Concerning the current bid, Mr. Gooden claimed that the City had a bad bid history, and he complained that he was not happy because he wasn't awarded the bid. He alleged that he was the low bidder on the cardio equipment since he offered a discount if all the equipment was purchased from him. Mayor Rediger replied that due to a change in the vendor, that equipment will be re-bid. Mr. Gooden answered that he was already the lowest bidder for the cardio equipment, and he didn't understand why it should be re-bid. Mr. Gooden then asked why the Parks and Recreation Department had re-written the bid for a single-source vendor product. Mr. Gooden was provided with data on usage of the treadmills at the Osage Centre. He said that he still had lower prices and better quality products. Mayor Rediger answered that Mr. Gooden's comments will be taken into consideration, but the equipment will be re-bid.

Mr. Howard addressed the Council again and spoke about fireworks issues on the South side of Cape Girardeau. He said that Police patrols need to be increased in the area to deal with the problems of people shooting fireworks everywhere. Mr. Howard also asserted that Cape Girardeau does not need a casino; rather, the City should focus on building inspections of older homes because too many of them are dangerous.

CONSENT AGENDA

Mr. Lanzotti made a motion, seconded by Mr. Voss, to remove Agenda Item No. 9, a Resolution authorizing a contract with the Cape Girardeau County Transit Authority, from the Consent Agenda and to place it with the New Ordinances as BILL NO. 10-83, an Ordinance authorizing the City Manager to execute a Contract with the Cape Girardeau County Transit Authority for public transportation services. The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

In addition, Mr. Rediger stated that under Agenda Item No. 12, the liquor license for Randy Entertainment d/b/a Show Me's, 1751 Independence Street, was included with the agenda packet, but it was not placed on the cover agenda. This license application should be included with the other liquor license approvals.

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

Approval of the June 7, 2010, City Council regular session minutes.

BILL NO. 10-70, AN ORDINANCE AUTHORIZING THE ACQUISITION OF PROPERTY FOR THE ARMSTRONG DRIVE PROJECT. Second and Third Readings.

BILL NO. 10-74, AN ORDINANCE ESTABLISHING UTILITY RATES FOR THE CITY OF CAPE GIRARDEAU, MISSOURI, BY AMENDING CHAPTER 22 RELATING TO SOLID WASTE FEES, AND CHAPTER 29 OF THE CITY CODE RELATING TO WATER RATES AND SEWER SERVICE CHARGES. Second and Third Readings.

BILL NO. 10-75, AN ORDINANCE ADOPTING THE ANNUAL OPERATING BUDGET FOR THE CITY OF CAPE GIRARDEAU, MISSOURI, FOR THE FISCAL YEAR BEGINNING JULY 1, 2010. Second and Third Readings.

BILL NO. 10-76, AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO RECIPROCAL EASEMENT AND RESTRICTIVE AGREEMENT PERTAINING TO THE CAPE CENTRE DEVELOPMENT, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Second and Third Readings.

BILL NO. 10-78, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH OLD TOWN CAPE, INC., FOR THE MAIN STREET PROGRAM AND FOR THE DOWNTOWN STRATEGIC PLAN CREATED THROUGH THE DREAM INITIATIVE, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

BILL NO. 10-79, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A RELEASE OF LIEN ON PROPERTY LOCATED AT 922 BLOOMFIELD STREET FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM. Reading and Passage.

BILL NO. 10-80, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A RELEASE OF LIEN ON PROPERTY LOCATED AT 922 BLOOMFIELD STREET FOR THE GOOD HOPE/JEFFERSON NEIGHBORHOOD RESTORATION PROJECT. Reading and Passage.

BILL NO. 10-81, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ADDENDUM NO. 1 TO AMENDMENT NO. 1 TO A GENERAL ENGINEERING SERVICES AGREEMENT WITH HORNER AND SHIFRIN, FOR THE CAPE GIRARDEAU LEVEE SYSTEM CERTIFICATION, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

Accepting the improvements completed on the parking lot reconstruction downtown at Broadway, Main and Water Streets, a/k/a North Riverfront, and authorizing final payment to Nip Kelley Equipment Company, Inc.

Conditional approval of the following liquor license renewals:

Retail Liquor by the Drink:

James T. Hudson, d/b/a Alexander's, 433 S. Sprigg Street
Whiskey Business, LLC, d/b/a Last Call, 632 Broadway
Independence Place, Inc., d/b/a Independence Place, 5 S. Henderson (Ricky Werner)
Earl Bennett, d/b/a Roxy's Country Saloon, 107 N. Main

Retail Liquor by the Drink and Sunday Sales:

Jessup Community Developments, d/b/a The Venue, 80 S. Plaza Way
Randy Entertainment, d/b/a Show Me's, 1751 Independence

Approval of the following liquor license renewals:

Retail Liquor by the Drink:

Gregory Castorena, d/b/a El Torero, 1740 Broadway
Amanda R. Hastinger (Ottinger), d/b/a The Billiard Center, 26 N. Main

Original Package Liquor & Sunday Sales:

Tamara Z. Buck, d/b/a B & H Convenience, 1021 Bloomfield

The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. BILL NO. 10-70 is ORDINANCE NO. 4131; BILL NO. 10-74 is ORDINANCE NO. 4132; BILL NO. 10-75 is ORDINANCE NO. 4133; BILL NO. 10-76 is ORDINANCE NO. 4134; BILL NO. 10-78 is RESOLUTION NO. 2542; BILL NO. 10-79 is RESOLUTION NO. 2543; BILL NO. 10-80 is RESOLUTION NO. 2544; and BILL NO. 10-81 is RESOLUTION NO. 2545.

Mr. Voss commended City staff for completing the 2010-2011 operating budget while including a cost of living raise for all City employees. He expressed appreciation to City staff for being good stewards of tax dollars.

NEW ORDINANCES

BILL NO. 10-77 was given first reading as follows:

AN ORDINANCE APPROVING THE RECORD PLAT OF A RESUBDIVISION OF LOTS 13, 14 & 15, ARBOR HEIGHTS SECOND ADDITION

The first reading of BILL NO. 10-77 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. 10-82 was given first reading as follows:

AN ORDINANCE ACCEPTING A QUIT CLAIM DEED FROM THE MISSOURI DEPARTMENT OF TRANSPORTATION FOR A PORTION OF RIGHT-OF-WAY ALONG ROUTE W TO THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 10-82 was approved upon Mrs. Tracy's motion, Mrs. Proffer's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 10-84 was given first reading as follows:

AN ORDINANCE APPROPRIATING FUNDS FOR OPERATING EXPENDITURES, DEBT SERVICE PAYMENTS, CAPITAL EXPENDITURES, AND TRANSFERS FOR THE FISCAL YEAR ENDING JUNE 30, 2010, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 10-84 was approved upon Mrs. Swan's motion, Mrs. Schneider's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

Mr. Voss made a motion, seconded by Mrs. Schneider, to amend BILL NO. 10-83 to be an Ordinance instead of a Resolution. The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 10-83 was given first reading as follows:

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE CAPE GIRARDEAU COUNTY TRANSIT AUTHORITY FOR PUBLIC TRANSPORTATION SERVICES, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 10-83 was approved upon Mrs. Schneider's motion, Mrs. Tracy's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

Mr. Voss requested that more details be given in Cape Girardeau County Transit Authority's formal budget report, and he requested that reports be submitted to the Council more frequently than just when the budget is approved. Mr. Meyer replied that the agreement with Cape Girardeau County Transit Authority dictates that they should report quarterly, and they can be asked to submit an expanded report. Mr. Voss said that he wanted a report from Cape Girardeau County Transit Authority similar to the report the Council receives from Old Town Cape. Mayor Rediger said that the City will request a quarterly written report.

Mrs. Tracy announced that Cape Girardeau County Transit Authority will be making a three month trial run to Procter and Gamble. Mrs. Swan noted that they are also providing services to Cape High School for after-school students.

APPOINTMENTS

Mr. Dru Reeves was re-appointed, and Mr. Glen Williams and Mr. Walter White were appointed to the Girardeau Goes Green Advisory Board for terms expiring July 1, 2013, upon Mr. Voss' motion, Mr. Lanzotti's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

Due to special expertise and lack of qualified candidates, Mr. Charles P. McGinty, Jr. was re-appointed to the Special Business District Advisory Commission for a term expiring June 30, 2013, upon Mrs. Swan's motion, Mr. Voss' second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

OTHER BUSINESS

The Council considered the following retail liquor by the drink licenses:

Renewal – Ben Burch, d/b/a Margarita Mamas, 701 N. Main

New – Cuatro B. Investments, LLC, d/b/a Independence Place, 5 S. Henderson

New – Ben Burch, d/b/a The Drunken Monkey LLC, 36 N. Spanish

Benjamin Burch, Managing Officer

Mr. Meyer stated that he, Police Chief Carl Kinnison, and City Attorney Eric Cunningham have discussed multiple instances of disturbances and illegal activity that have occurred at or around Margarita Mamas at 701 North Main Street. They do not feel the City has received cooperation from Mr. Benjamin Burch, the Managing Officer, in correcting these problems. They requested that the City Council note their conclusions when considering approving the above-listed liquor licenses.

Chief Kinnison gave a brief synopsis of the issues occurring at or involving Margarita Mamas over the past seven months. He noted that a cut in funding for the Missouri Division of Alcohol and Tobacco Control has eliminated the agency's ability to do field enforcement. He said the City has been reluctant to revoke or suspend liquor licenses, preferring that the State take the lead, but the State is no longer available to assist in disciplinary measures against non-compliant businesses selling alcohol. Chief Kinnison listed 12 specific instances, and he noted many other comments from residents.

Mr. Jeff Koch, of the Limbaugh Law Firm and attorney for Mr. Ben Burch, addressed the Council and said that the memorandum written by Chief Kinnison was based on hearsay. He stated that none of the accusations of violations were leveled against Mr. Burch or his establishment. Mr. Koch said that the City could impose a probationary period if Chief Kinnison felt there were violations, but he felt that Mr. Burch should be given a chance since there are no accusations of violations given against Mr. Burch personally. He stated that Mr. Burch is in compliance with State liquor laws.

Mayor Rediger asked for a motion to approve the liquor license renewal for Ben Burch, d/b/a Margarita Mamas, 701 N. Main, and the new liquor licenses for Cuatro B. Investments, LLC, d/b/a Independence Place, 5 S. Henderson, and Ben Burch, d/b/a The Drunken Monkey LLC, 36 N. Spanish. The issue failed for lack of a motion.

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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