

REGULAR SESSION – AUGUST 2, 2010

The Cape Girardeau City Council convened in regular session on Monday, August 2, 2010, at 7:00 p.m., with Mayor Harry E. Rediger presiding and Council Members Mark Lanzotti, Loretta Schneider, Kathy Swan and Debra Tracy present. Council Members Meg Davis Proffer and John Voss were absent.

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

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 Mrs. Schneider's motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Rediger, Schneider, Swan and Tracy. Nays, none.

COMMUNICATIONS/REPORTS

Mayor Rediger noted that this will be the last City Council meeting attended by Mr. Rudi Keller, journalist with the Southeast Missourian. He will be moving back to Columbia, Missouri. He thanked Mr. Keller for his service to Cape Girardeau and wished him well in his new venture.

City Manager Scott Meyer noted that the Central Municipal Pool is scheduled to reopen on September 30, 2010. Mrs. Schneider announced that two Senior Days are scheduled at the Cape Splash Family Aquatic Center on August 6th and 9th from 9:00 to 11:00 a.m.

PUBLIC HEARINGS

This being the date set for a public hearing to consider revisions to five sections of the City Development Code, regarding signs, billboards, landscaping and bufferyards, retaining walls and fences, the hearing was opened. There being no appearances, the hearing was closed. Mayor Rediger stated that the first reading of the proposed Ordinance adopting these sections of the development code will be on the August 16, 2010, City Council meeting agenda. Mr. Lanzotti noted that there will be a modification to the fencing regulations as discussed at the Study Session.

This being the date set for a public hearing regarding the property tax rates proposed to be set by the City of Cape Girardeau for the fiscal year beginning July 1, 2010, and the real property tax rate proposed to be set for the Special Business District No. 2 for the fiscal year beginning July 1, 2010, the hearing was opened. There being no appearances, the hearing was closed.

BILL NO. 10-101 was given first reading as follows:

AN ORDINANCE PROVIDING FOR THE LEVYING OF THE ANNUAL CITY REVENUE TAX; PUBLIC HEALTH TAX; SPECIAL BUSINESS DISTRICT NO. 2 TAX; FOR THE FISCAL YEAR ENDING ON THE 30TH DAY OF JUNE, 2011

The first reading of BILL NO. 10-101 was approved upon Mrs. Schneider's motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Rediger, Schneider, Swan and Tracy. Nays, none.

APPEARANCES

Mr. Mike Ingram, President of the Whispering Oaks Property Owners Association, appeared before the Council regarding the annexation petition from Arnold Equity Properties, L.C. for a tract of land along Silverado Trail in the Whispering Oaks Subdivision. He stated that approximately three years ago, a petition was submitted for annexation of peripheral areas of Whispering Oaks Subdivision, but it was not acted on by City staff. Mr. Ingram said that the developer is now developing approximately 13 acres of adjoining land, and he is not building infrastructure in compliance with City standards. He said that he wants an orderly process for the development of this land, and he wasn't sure how to proceed.

Mr. Mark Jackson, Treasurer of the Whispering Oaks Property Owners Association, addressed the Council. He said that he had met with City staff about a week ago with specific questions, but he had not yet received answers to his concerns. He said the developer continues to develop the property, and they need definitive answers about that development. One of his primary concerns, he said, was that the property is being developed for uses other than R-1 zoning. Streets are not being built to City standards for proper runoff.

Mr. Meyer noted that the City of Cape Girardeau cannot enforce current zoning Ordinances on property until it is annexed. The City has now put measures in place that requires property to be developed to City standards before City services can be extended. City Attorney Eric Cunningham noted that City staff had met with the Subdivision's attorney, Mr. Rick Kunze, last week and they had given him the answers to Mr. Jackson's concerns. Mr. Meyer said that it is appropriate for neighbors to attend the public hearing that will be held September 7. However, if the City does not annex the Subdivision, it cannot control development of the property.

Mr. Ken Eftink, Development Services Director, stated that the City had received a request from the developer to re-zone the current property that is the subject of this annexation. Seven lots are to be zoned R-1 and four lots located South of the existing homes are to be zoned R-3. The re-zoning request will be on the Planning and Zoning Commission meeting agenda in August. Mr. Eftink noted that the developer has already started building duplexes on the property that he requested to be zoned R-3. All the new annexations must be re-zoned, he said, and the Planning and Zoning Commission prefers the land be developed after it has been annexed. Mr. Lanzotti stated that the City does not have the legal authority to inspect the developer's current construction, and asked if he is constructing to City's current standards. Mr. Eftink replied that City staff has not seen the construction plans and does not know if the buildings are being constructed to City standards.

Mr. Ingram stated that the City received letters from the land developer indicating that he was constructing duplexes, but the annexation petition submitted three years ago included several of the lots currently being developed. Mr. Cunningham stated that under the voluntary annexation statutes, the City must provide services to the area within a reasonable time. In the case of an involuntary annexation, the City would be required to conduct two elections in order to complete the annexation. Mr. Lanzotti asked if the current petition would qualify as consent to the City's jurisdiction. Mr. Cunningham answered that it would not until annexation is complete. Mr. Lanzotti stated that he felt City staff should meet with the developers and accelerate the timeframe.

Mr. Eftink said that the City requires a petition for annexation in order to allow for connection to City utilities and the City acts on those petitions when those properties become contiguous to City limits. Mr. Meyer said that from now on, if property owners sign the annexation petition, they must also sign an agreement that they will develop the property to City standards. Mr. Lanzotti

asserted that he felt the 2007 annexation petition does amount to consent to the City's jurisdiction. Mr. Cunningham stated that this is the kind of problem that would be avoided if the City had extra-territorial planning and zoning, or if the County had planning and zoning itself.

Mayor Rediger said that the City of Cape Girardeau, Cape Girardeau County, and the City of Jackson have been meeting to draft Subdivision regulations to address Subdivisions in the County. This would require a County vote. Mr. Lanzotti said that he wants to see an original record plat and overlay of the current development, and if the current development does not conform to proper zoning, he felt it should be removed.

Mr. Meyer stated staff will contact the developer and review this matter further.

Mr. David Zimmer, of 125 Cloverdale Ranch Road in the Whispering Oaks Subdivision, addressed the Council and said that he had the petitions signed by over 70% of the homeowners. Residents of Whispering Oaks Subdivision only want properties zoned R-1 in their neighborhood. If the City had acted on the annexation petition when it was received three years ago, this problem would not have occurred now.

Mr. Felix Kinsley, of 325 North Sprigg Street, addressed the Council and spoke in support of the Transportation Trust Fund-4 (TTF-4) on the ballot on Tuesday. Mayor Rediger reminded everyone to exercise their right to vote on August 3, 2010.

Mr. Don Howard, 1100 South Ranney Avenue, addressed the Council in opposition to the TTF-4 tax extension that is on the ballot, especially since the Council did not approve the back to school sales tax holiday. Mayor Rediger replied that \$8.2 million in the TTF-4 is allotted for general projects, not specific streets, but street overlays, curbs, gutter repairs and new sidewalks. TTF-1 to TTF-3 have been completed on time and on budget on a pay-as-you-go basis.

CONSENT AGENDA

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

Approval of the July 19, 2010, City Council regular session minutes.

BILL NO. 10-90, AN ORDINANCE VACATING THE CITY'S INTEREST IN UTILITY EASEMENTS LOCATED ALONG 5809 AND 5839 LANGHOLM DRIVE, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Second and Third Reading.

BILL NO. 10-93, AN ORDINANCE APPROVING THE RECORD PLAT OF A MINOR SUBDIVISION MARQUETTE CENTRE. Second and Third Reading.

BILL NO. 10-94, AN ORDINANCE APPROVING THE RECORD PLAT OF RESUBDIVISION OF LOTS L352, L353, AND L354 OF THE HIGHLANDS AT DALHOUSIE – PHASE IV. Second and Third Reading.

BILL NO. 10-95, AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF CAPE GIRARDEAU, MISSOURI, ON THE QUESTION OF WHETHER THE CITY OF CAPE GIRARDEAU SHALL ALLOW THE LICENSING OF EXCURSION GAMBLING BOATS OR FLOATING FACILITIES IN THE CITY; DESIGNATING THE TIME OF

HOLDING THE ELECTION; AUTHORIZING AND DIRECTING THE CITY CLERK TO GIVE NOTICE OF THE ELECTION. Second and Third Reading.

BILL NO. 10-96, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A HOUSING AGREEMENT WITH THE HUMANE SOCIETY OF SOUTHEAST MISSOURI, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

Accepting the improvements completed on the Shawnee Park Center and Shawnee Park Sports Complex, and authorizing final payment to Nip Kelley Equipment Company, Inc.

Accepting the improvements completed for the Mount Auburn and Hopper Road traffic signalization and authorizing final payment to Fronabarger Concreters, Inc.

BILL NO. 10-103, A RESOLUTION ACKNOWLEDGING RECEIPT OF AN ANNEXATION PETITION FROM ARNOLD EQUITY PROPERTIES, L.C. AND SETTING A PUBLIC HEARING. Reading and Passage.

Conditional approval of a retail liquor by the drink and Sunday sales license for Jessup Community Developments, d/b/a The Venue, 80 S. Plaza Way.

The motion was approved upon the following vote: Ayes, Lanzotti, Rediger, Schneider, Swan and Tracy. Nays, none. BILL NO. 10-90 is ORDINANCE NO. 4141; BILL NO. 10-93 is ORDINANCE NO. 4142; BILL NO. 10-94 is ORDINANCE NO. 4143; BILL NO. 10-95 is ORDINANCE NO. 4144; BILL NO. 10-96 is RESOLUTION NO. 2550; and BILL NO. 10-103 is RESOLUTION NO. 2551.

NEW ORDINANCES

BILL NO. 10-97 was given first reading as follows:

AN ORDINANCE ACCEPTING A GRANT FROM THE MISSOURI DEPARTMENT OF TRANSPORTATION FOR THE SAFE ROUTES TO SCHOOL PROGRAM, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

The first reading of BILL NO. 10-97 was approved upon Mrs. Tracy's motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Rediger, Schneider, Swan and Tracy. Nays, none. Mayor Rediger noted that this Ordinance would expand the current Safe Routes to School Program to Blanchard and Franklin Elementary Schools.

BILL NO. 10-98 was given first reading as follows:

AN ORDINANCE REPEALING SECTIONS OF CHAPTER 30 AND REPEALING AND ENACTING NEW SECTIONS OF CHAPTER 25 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU, MISSOURI, REGARDING DEVELOPMENT REGULATIONS

The first reading of BILL NO. 10-98 was approved upon Mr. Lanzotti's motion, Mrs. Tracy's second, and the following vote: Ayes, Lanzotti, Rediger, Schneider, Swan and Tracy. Nays, none. Mr. Lanzotti said that per the discussion at the Study Session, the fence Ordinance will be

amended to allow discretion on placing fences within right-of-way and easements. Mrs. Swan also noted that City staff will propose wording clarifying the lighting Ordinance.

BILL NO. 10-99 was given first reading as follows:

AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT AND BINDING UNILATERAL AGREEMENT WITH T-MOBILE RELATING TO PAYMENT OF BUSINESS LICENSE TAXES

The first reading of BILL NO. 10-99 was approved upon Mrs. Schneider's motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Rediger, Schneider, Swan and Tracy. Nays, none.

BILL NO. 10-100 was given first reading as follows:

AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT AND BINDING UNILATERAL AGREEMENT WITH CRICKET COMMUNICATIONS, INC., AND RELATED ENTITIES RELATING TO PAYMENT OF BUSINESS LICENSE TAXES

The first reading of BILL NO. 10-100 was approved upon Mrs. Schneider's motion, Mrs. Tracy's second, and the following vote: Ayes, Lanzotti, Rediger, Schneider, Swan and Tracy. Nays, none.

BILL NO. 10-102 was given first reading as follows:

AN ORDINANCE APPROVING THE RECORD PLAT OF DEEVERS COVE

The first reading of BILL NO. 10-102 was approved upon Mrs. Tracy's motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Rediger, Schneider, Swan and Tracy. Nays, none.

APPOINTMENTS

Mayor Rediger explained that at the last Council meeting, Mr. Harold Hager was appointed to the Public Library Board of Trustees, but it was determined that he was ineligible because of term limits. He proposed that Mr. Kevin Greaser be appointed. Mr. Greaser was appointed to the Public Library Board of Trustees for a term expiring June 30, 2013, upon Mrs. Schneider's motion, Mrs. Swan's second, and the following vote: Ayes, Lanzotti, Rediger, Schneider, Swan and Tracy. Nays, none.

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

Harry E. Rediger, Mayor

Gayle L. Conrad, City Clerk

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