

REGULAR SESSION – OCTOBER 18, 2010

The Cape Girardeau City Council convened in regular session on Monday, October 18, 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 Bob Towner, of the Christ Episcopal Church, presented the invocation, and the Pledge of Allegiance was recited.

The City Council convened in closed session prior to the regular session for purposes of discussing legal actions, causes of action or litigation, pursuant to RSMo. Section 610.021(1), upon Mrs. Swan's motion, Mr. Voss' second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

A motion to remove Consent Agenda Item No. 7, a Resolution authorizing the City Manager to execute an Agreement with Prestige Development Company, LLC, for the rehabilitation of 635-637 Broadway was approved and the amended Agenda 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.

The Mayor presented a Proclamation to Mr. Jim Maginel, of the Community Caring Council, commending the Southeast Missouri Youth Substance Abuse Prevention Coalition for their work in the community. Mr. Maginel stated that the Coalition received a Drug-Free Communities Grant to help combat substance abuse in Cape Girardeau County. They will be scheduling three town hall meetings in November at the Public Library, Jackson Middle School, and Oak Ridge Elementary School, and will share the grant results at those meetings and at presentations at civic organizations.

COMMUNICATIONS/REPORTS

Mayor Rediger announced that he and City Manager, Mr. Scott Meyer, would appear at the official hearing before the Missouri Gaming Commission with three other candidate Cities vying for Missouri's 13th casino license this week. He has also scheduled a Mayors' Forum on Tuesday, October 26, 2010, 6:30 p.m. at the River Campus. The Mayors of the cities of Boonville, St. Charles, Maryland Heights, and Alton, Illinois have been invited to attend and speak. Each of these communities have had gaming licenses for an extended period. Mayor Rediger said that the purpose of the Mayors' Forum was to solicit outside information and provide answers to questions and a perspective about how gaming has positively and negatively affected those communities.

Mr. Lanzotti noted that members of the Whispering Oaks Land Owners Association were present at the Council meeting and asked Mr. Meyer to update the Council on communications with the Association. Mayor Rediger invited all parties involved to meet and have a positive discussion about the issue at a meeting scheduled for Wednesday, October 27, 2010.

Mr. Meyer said that the Council had instructed City staff to contact other single-family homeowners on Silverado Trail and ask that they voluntarily annex into Cape Girardeau City limits. Mr. Ken Eftink, Planning Services Director, stated that the City had contacted the attorney representing the owners of two properties and was told that they intended to wait until after the meeting on October 27 to discuss annexation. Mr. Meyer said that he had contacted the Bank of Missouri, and representatives of the Bank will come to the meeting as well. He said that the City is currently cataloguing every parcel with City services that is not annexed and creating a strategy to

to bring them into the City.

Mr. Voss requested a copy of the list and said that he had heard of an area outside of City limits receiving City water. Mr. Meyer replied that the list includes approximately 40 parcels at this time. When staff has it completed, it will be provided to the Council.

Mr. Voss stated that on October 15 he presented a Proclamation to Notre Dame Regional High School recognizing their sixth consecutive year of being named as a top 50 Catholic high school in the United States. He commended Notre Dame for being the only school in Missouri to receive the honor all six years since its creation. Mr. Lanzotti noted that Saint Vincent High School in Perryville was also recognized for the first time this year.

Mrs. Tracy stated that she was disappointed to read in the Southeast Missourian that Isle of Capri had donated \$50,000 to the Yes for Gaming Committee. She said that when Capital Partners and Isle of Capri had presented their casino plans to the City, Capital Partners had said that they would actively campaign for a "yes" vote, but Isle of Capri had made the statement that they would not try to influence the vote. Isle of Capri had said that they did not want to be where the citizens do not want them.

Mr. Voss said that he had attended the Third Annual Ghost Storytelling Event on Friday, October 15, and he thanked the Cape Girardeau Convention and Visitors Bureau for bringing it to Cape Girardeau.

Mr. Voss also acknowledged the comments of Mr. Don Howard about Cape Girardeau citizens losing their ability to provide comments for other residents in this forum. He said that Mr. Howard made a good point that some residents may not be able to attend the Study Meeting at 5:00 p.m. to make comment on items not on the agenda, and then return at 7:00 p.m. to comment on items that are listed on the agenda. Mr. Voss said that he does not advocate a return to the old way, but that consideration should be given to what Mr. Howard said about the impact on citizens. He thanked Mr. Howard for his comments.

Mayor Rediger said that the change in format of the Council meetings' comments was a test. The Council will discuss how comfortable they are with it at the end of the year. It was never the intention to limit resident input, and if the present format is doing that, they can revert to the way it was. Mayor Rediger said that the matter would be placed on the agenda at the end of the year.

Mr. Meyer said that the Safe House for Women has announced in their newsletter that October is domestic violence awareness month, and purple ribbons are worn to recognize that recognition.

PUBLIC HEARINGS

This being the date set for a public hearing to discuss an application to be submitted to the Missouri Department of Economic Development under the Community Development Block Grant Program, requesting \$250,000 in CDBG funds for an Action Fund Loan to assist a company in locating to the area, the hearing was opened.

Mr. Mitch Robinson, of the Cape Girardeau Area MAGNET, addressed the Council in support of the application. He stated the proposed project will cost approximately \$450,000, and the loan is available through the Missouri Department of Economic Development. The company's name has not been released, but it should create between 75-100 new jobs and put a downtown building back into service. Mayor Rediger noted that the Community Development Block Grant application

application would pose no direct financial risk to the City. Mr. Lanzotti stated that this application was not related to the proposed waterfront casino.

Mr. Don Howard, of 1100 Ranney Avenue, appeared before the Council. He asked if the unnamed company wanted money from the Community Development Block Grant before they would release information about the business, and he asked how the Grant Program works. Mayor Rediger replied that the City was investing no money in the company. Mr. Meyer said that the business has to disclose information in the Grant application, but due to competition, they cannot disclose that information until after the funds have been committed.

There being no further appearances, the hearing was closed.

APPEARANCES

Mr. Bo Shantz, of 2303 Hunters Lane, appeared before the Council regarding the request to rezone property located to the West of Brentwood from R-1 to C-1. He said that he was disappointed by the City's past decisions in rezoning various properties, including areas at Perryville and Lexington Avenues, and along Kingshighway. Now he is trying to rezone property along the interstate, and he was told by the Planning and Zoning Commission that they do not recommend approval of rezoning requests based on best use. He asked for an explanation of why his request was denied by the Planning and Zoning Commission. Mayor Rediger responded that a representative from the Commission had said that they had no objection to the landscaping business, however, they were not comfortable with zoning the property as C-1 without a completed site plan.

Mr. Shantz continued that his intended use was for a landscaping business. The only property owner who appeared at the Commission meeting had concerns about an issue with Holigan Homes, but that situation is unrelated to his intended use. Mrs. Tracy asked why he had not submitted a site plan. Mr. Shantz replied that the property has a ridge at the back and a saddle down the center. A site plan would only include a small office and checkout area, and the rest would be landscaping items. There will be minimal development of the property.

Mayor Rediger confirmed that Mr. Shantz would like to set a date for a public hearing. Mr. Lanzotti expressed concerns with rezoning the property now, because no protection is offered to area residents if the landscaping business moves and another business moved in. He asked about the schedule for construction of the road. Mayor Rediger answered that TTF-4 included Veterans Memorial Drive from Scenic Drive to Hopper Road in the plans for between 2011 and 2016, but it would probably be closer to 2016.

Mr. Lanzotti said that he would not be comfortable approving the rezoning request without a detailed site plan in place to protect surrounding property owners. Mayor Rediger noted that the Planning and Zoning Commission chair had said much the same thing.

Ms. Katie Liley, of Koehler Engineering and Land Surveying, appeared on behalf of Mr. Dutch Meyer regarding the request of Fruitland Livestock Market to zone the property located on Baldwin Drive to R-3 and C-2. She reviewed the sketch submitted by Mr. Dutch Meyer. In addition, she clarified that another developer had submitted a sketch showing senior housing, but Mr. Dutch Meyer wanted to present a sketch of a convenience store, bank, and similar businesses. Mr. Eftink stated that the Planning and Zoning Commission had received a sketch showing senior housing. Mr. Lanzotti asked why the request had been denied by the Planning and Zoning Commission if both uses complied with the commercial zoning requested. Ms. Liley said that the

request was denied because there were two sketches submitted. Her client submitted only the sketch showing apartments, and not senior housing.

A motion to set a public hearing regarding the request of Fruitland Livestock Market to zone the property located on Baldwin Drive to R-3 and C-2, Highway Commercial District for November 15, 2010, 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. Lanzotti requested a presentation from the developer and additional comments by the Planning and Zoning Commission at the public hearing.

Ms. Jene Hampton, of 323 Good Hope, appeared in opposition to the proposed amendment to the City Code relating to keeping chickens within City limits. She stated she is Mr. Nelson Sparks' neighbor. With the new improvements in the area, including the extension of Fountain Street and the River Campus, she was not opposed to pets but felt that chickens are farm animals. She asked where the line would be drawn between pets and farm animals. Ms. Hampton said she understood the benefits of keeping chickens, but markets in Cape Girardeau offer organic foods of comparable value without the risk of viruses such as avian flu and issues for people with lung problems.

Mr. Nelson Sparks, of 301 South Lorimier, appeared in support of the Ordinance and presented an example of the eggs laid by his hens. He thanked the Council for their efforts to be progressive in the City and to write an Ordinance allowing chickens in City limits. He said that he has raised chickens on his property since 2003, and his neighbors have not been aware of his chickens. He noted that similar Ordinances have been passed in most large cities in Missouri. The City of Cape Girardeau would be following their path by approving this Ordinance. Mrs. Proffer asked how Mr. Sparks controls the smell of the chicken coop. Mr. Sparks responded that Patrolman Ty Metzger had noted that there was no smell from the chickens in his report. An officer from Springfield has said the same thing. Since rain dissolves the waste into the soil, this is not an issue with the small coops of ten hens proposed in the Ordinance.

Mr. Terry Lee, of 1738 Westrich, appeared in support of the proposed animal ordinance amendment. He said that his liberties should not be abridged by banning chickens within City limits. He noted that many large cities like New York and Los Angeles have approved Ordinances allowing chickens to be raised in City limits.

Mr. Don Howard addressed the Council and asked about other sections of the proposed amendment to Chapter 6. He asked if other farm animals could be raised within City Limits. Mr. Eric Cunningham, City Attorney, said that there were three sections in the dog/cat Ordinance that are general provisions relating to all animals, and those were moved to the general section and renumbered. Mr. Howard asked about fencing as mentioned in the Ordinance. Mr. Meyer and Mayor Rediger discussed how the proposed Ordinance defines containment areas, food, setbacks, cleaning and other provisions.

BILL NO. 10-139 was given first reading as follows:

AN ORDINANCE AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU RELATING TO CHICKENS AND OTHER ANIMAL REGULATIONS

Mrs. Tracy made a motion, seconded by Mr. Voss, to approve the first reading of BILL NO. 10-139.

Mrs. Schneider stated that the feedback she had received from City residents had been negative, and that she was concerned with the risk of histoplasmosis infection from the hens' droppings. She suggested that subdivision covenants could include regulations of shelters and coops. Mayor Rediger said that he, too, had received several negative comments on the issue. He stated that while he appreciated Mr. Sparks' situation, he was concerned about additional enforcement issues, City staff time, and other complaints that might come before the City as a result.

Mrs. Tracy said that she felt only a small number of Cape Girardeau residents would be interested in raising chickens within City limits, and she did not feel the issue merited prohibition. She said she would like to know the stance of the Animal Task Force. This Ordinance could be amended or removed at a later date, if it becomes a problem. Mr. Lanzotti said that a neighborhood or subdivision covenant would take precedence over a City Ordinance in this case. Mr. Cunningham noted that the City does not enforce property covenants.

Mr. Voss thanked Mr. Sparks for educating the Council about this issue, and he said that residents that wish to raise hens could be asked to register with the City so the number can be monitored. He said that he supported the approval of the Ordinance, the Council should consider requiring registration so the City can monitor and inspect to ensure the Ordinance is followed.

Mr. Voss made a motion, seconded by Mr. Lanzotti, to amend the Ordinance to require residents who raise chickens within City limits to register with the City.

Mrs. Swan questioned the Council's intent with adoption of this Ordinance. Is the Council changing the Ordinance for an individual's need, or is it changing the Ordinance to allow any resident to raise chickens within City limits. Mr. Meyer responded that he did not pursue the issue with specific consideration for one individual's health, but as a move to a "green" environment that would allow citizens to raise chickens for their family needs.

The motion to amend BILL NO. 10-139 to require residents who raise chickens within City limits to register with the City was approved by the following roll call vote: Rediger, nay; Schneider, nay; Swan, aye; Tracy, aye; Voss, aye; Proffer, nay; and Lanzotti, aye.

Mr. Lanzotti requested City staff to report back to the Council in six months about the chicken registration, and he asked the Nuisance Abatement Officer to make a report to the Council about complaints. Upon questioning, Mr. Cunningham explained that if the keeping of chickens proves to be a nuisance, the Ordinance can be amended. Mr. Voss stated that it should be clear to residents registering their chickens that the Ordinance can be removed and the right to raise chickens within City limits can be taken away.

The first reading of BILL NO. 10-139 was approved as amended upon the following roll call vote: Schneider, nay; Swan, aye; Tracy, aye; Voss, aye; Proffer, nay; Lanzotti, aye; Rediger, nay.

CONSENT AGENDA

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

Approval of the City Council October 4, 2010, regular session minutes.

BILL NO. 10-131, AN ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU, MISSOURI, BY CHANGING

THE ZONING OF 1904 WEST CAPE ROCK DRIVE, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, MISSOURI, FROM R-1 TO PD. Second and Third Readings.

BILL NO. 10-130, AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO GOOD SHEPHERD LUTHERAN CHAPEL AND WIRELESS ASSET GROUP, LLC, FOR PURPOSES OF CONSTRUCTING, MAINTAINING AND OPERATING A TELECOMMUNICATION TOWER AND FENCED COMPOUND AT 1904 WEST CAPE ROCK DRIVE, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, MISSOURI. Second and Third Readings.

BILL NO. 10-132, AN ORDINANCE AMENDING SCHEDULE C OF SECTION 26-121 OF THE CITY CODE, BY REPEALING STOP SIGNS AT FOUNTAIN STREET AND MORGAN OAK STREET, AND ESTABLISHING STOP SIGNS AT WILLIAM STREET AND FOUNTAIN STREET, AND GOOD HOPE STREET AND FOUNTAIN STREET, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Second and Third Readings.

BILL NO. 10-133, AN ORDINANCE AMENDING SCHEDULE K OF SECTION 26-121 OF THE CITY CODE, BY PLACING YIELD SIGNS AT THE INTERSECTIONS OF MORGAN OAK STREET AND FOUNTAIN STREET, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Second and Third Readings.

BILL NO. 10-134, AN ORDINANCE AMENDING SCHEDULE J OF SECTION 26-135 OF THE CITY CODE, ESTABLISHING A ONE-WAY ROUNDABOUT, AT MORGAN OAK STREET AND FOUNTAIN STREET, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Second and Third Readings.

BILL NO. 10-135, AN ORDINANCE AMENDING SCHEDULE C OF SECTION 26-121 OF THE CITY CODE, BY ESTABLISHING A STOP SIGN ON DUNKLIN STREET AT PENNY AVENUE, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Second and Third Readings.

BILL NO. 10-137, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR ELECTRONIC WASTE COLLECTION AND DISPOSAL WITH MIDWEST RECYCLING CENTER. Reading and Passage.

BILL NO. 10-141, A RESOLUTION OF THE CITY OF CAPE GIRARDEAU, MISSOURI, STATING INTENT TO SEEK FUNDING THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AND AUTHORIZING THE MAYOR TO PURSUE ACTIVITIES IN AN ATTEMPT TO SECURE FUNDING. Reading and Passage.

The motion was approved upon the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. Mrs. Swan abstained for financial reasons from voting on BILL NOs. 10-131 and 10-130, due to owning a competing business. BILL NO. 10-131 is ORDINANCE NO. 4159; BILL NO. 10-130 is ORDINANCE NO. 4160; BILL NO. 10-132 is ORDINANCE NO. 4161; BILL NO. 10-133 is ORDINANCE NO. 4162; BILL NO. 10-134 is ORDINANCE NO. 4163; BILL NO. 10-135 is ORDINANCE NO. 4164; BILL NO. 10-137 is RESOLUTION NO. 2567; and BILL NO. 10-141 is RESOLUTION NO. 2568.

ITEMS REMOVED FROM CONSENT AGENDA

BILL NO. 10-140 was presented as follows:

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH PRESTIGE DEVELOPMENT COMPANY, LLC, FOR REHABILITATION OF 635-637 BROADWAY, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

Mr. Lanzotti stated that he would vote against this Resolution, as he had on June 7, 2010. He said that he had no problem with downtown redevelopment on Broadway. However, he had concerns about investing funds into the street when a traffic study related to the proposed casino had shown a possible need for an improved intersection at this location due to the casino project. This rehabilitation could result in a traffic issue if the development comes in.

Mr. Voss asked if this agreement was time-sensitive and if the vote on this Resolution could be delayed until after the gaming vote. Mr. Meyer stated that he had met with consultants for Prestige Development Company, and the only traffic concern was the truck route. He said that both Prestige and IOC-Cape Girardeau recommend that trucks take the existing truck route to get to the proposed gaming site rather than taking Sprigg Street to Broadway. The existing truck route from Southern Expressway is north on Sprigg Street, right onto Morgan Oak, left onto Spanish Street to Broadway, Broadway to Main Street, and North on Main. Mr. Lanzotti said that Prestige Development Company applied for the agreement in June, and he did not feel the matter was urgent.

Mrs. Marla Mills, of Old Town Cape, addressed the Council. She said that she could not speak about the specifics of the grant, but this community development agreement allows the developer to move forward with the project as soon as the grant is approved. Mrs. Mills said that the agreement with Prestige Development Company is meant to finish the process of the grant already approved by the City in June, and would solidify the developer's plans for the grant funds. This agreement is only effective if the grant is approved by the State.

The reading of BILL NO. 10-140 was approved and the Resolution adopted upon Mrs. Schneider's motion, Mrs. Proffer's second, and the following vote: Ayes, Proffer, Rediger, Schneider, Swan, and Tracy. Nays, Lanzotti and Voss. BILL NO. 10-140 is RESOLUTION NO. 2569.

NEW ORDINANCES

BILL NO. 10-138 was given first reading as follows:

AN ORDINANCE AUTHORIZING ACCEPTANCE OF PERMANENT DRAINAGE EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FROM VARIOUS PROPERTY OWNERS FOR THE DOROTHY STREET DRAINAGE PROJECT

The first reading of BILL NO. 10-138 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.

BILL NO. 10-142 was given first reading as follows:

AN ORDINANCE AUTHORIZING EXECUTION OF AN AIR TRAFFIC CONTROL TOWER OPERATING ASSISTANCE GRANT AGREEMENT WITH THE MISSOURI HIGHWAYS

AND TRANSPORTATION COMMISSION

The first reading of BILL NO. 10-142 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.

BILL NO. 10-143 was given first reading as follows:

AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU, MISSOURI, ENTITLED "THE URBAN REDEVELOPMENT ORDINANCE"; AND CONTAINING A SEVERABILITY CLAUSE

Mr. Meyer presented a summary of the change and explained that this would streamline the process the City currently uses in Chapter 353 economic development, a tax abatement for blighted areas. If the property is not required to be rezoned, review by the Planning and Zoning Commission would not be required, thereby eliminating 45 days from the process. Mrs. Tracy asked why the 45 day wait was a problem to the process. Mr. Cunningham stated that State statute does not require a preliminary development plan or a public hearing on a preliminary plan. This proposed change to the Ordinance was recommended by the City's bond counsel to simplify the process of redevelopment projects. Extended time makes projects more difficult, and this change would make the City's rules consistent with Missouri statute. Upon questioning by Mr. Voss, Mr. Cunningham stated that in the last five years, the Marquette Hotel, another project downtown, and Town Plaza went through the Chapter 353 process. The Council further discussed the 353 process.

The first reading of BILL NO. 10-134 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.

APPOINTMENTS

Mr. Scott McClanahan, Mr. Trae Bertrand, and Mr. Ralph Maxton were reappointed to the Planning and Zoning Commission for terms expiring November 1, 2014, and Mr. Thomas Welch was appointed for a term expiring November 1, 2013, upon Mr. Voss' motion, Mrs. Schneider's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. Mr. Lanzotti said that the Planning and Zoning Commission expects to have more openings in the near future, and he encouraged more people to submit applications and get involved.

OTHER BUSINESS

A motion to set a public hearing regarding the request of Bo Shantz, Bruce Hacker, and Ritha Hacker to rezone the west 10 acres of the property located to the west of Brentwood from R-1, Single Family Suburban Residential District, to C-1, Local Commercial District for November 15, 2010, 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.

There being no further business, the City Council adjourned upon Mr. Voss' motion, Mr. Lanzotti's second, and the following vote: Ayes, Lanzotti, Proffer, Rediger, Schneider, Swan,

Regular

October 18, 2010

HH-163

Tracy and Voss. Nays, none.

Harry E. Rediger, Mayor

Gayle L. Conrad, City Clerk

THIS PAGE INTENTIONALLY LEFT BLANK.