

REGULAR SESSION – NOVEMBER 15, 2010

The Cape Girardeau City Council convened in regular session on Monday, November 15, 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.

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

Father Patrick Nwokoye, presented the invocation, and the Pledge of Allegiance was recited.

Mr. Lanzotti made a motion, seconded by Mrs. Swan to amend the Agenda as follows: (1) remove from the agenda Item No. 15, an Ordinance annexing land to the City of Cape Girardeau, upon the request of Lynwood Baptist Church; and (2) remove from the consent agenda Item No. 3, an Ordinance amending Chapter 6 of the Code of Ordinances relating to chickens and other animal regulations, 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

Mrs. Tracy reminded everyone of the Parks and Recreation Foundation's Spaghetti Day at the A.C. Brase Arena on Wednesday, November 17, 2010.

City Manager Scott Meyer announced that the Common Pleas Courthouse was placed on the National Register of Historic Places. He also noted that the e-cycling program was off to a great start with over a ton collected in the first week. He then stated that City staff is working on the City's ISO ratings and beginning the process of adopting new building codes.

Mrs. Gayle Conrad, City Clerk, discussed changing the dates of the 2011 January and February City Council meetings due to holidays.

PUBLIC HEARINGS

This being the date set for a public hearing to consider vacating the City's interest in an unused utility easement along 1533 Helmsdale Drive, in the City of Cape Girardeau, Missouri, the hearing was opened. There being no appearances, the hearing was closed.

APPEARANCES

Dr. Robert Sasha, an allergist and pharmacist at Premier Family Physicians, appeared before the Council regarding Agenda Item No. 14, an Ordinance amending Chapter 17 of the City Code by adding a new Article XI entitled "Regulation of Methamphetamine Precursor Drugs". He advised the Council that it would be in Cape Girardeau's best interest to make pseudoephedrine medications available only with a prescription. It is a good medication, but with the large number of sales in the City, especially at Walgreens, it is apparent that people are coming from the surrounding area to purchase in Cape Girardeau. Other medications will work just as well. He stated that there is no question that the Council should approve the Ordinance requiring a prescription for the purchase of medications containing pseudoephedrine. In the past, other drugs have moved from being over-the-counter to prescription medications, such as codeine and opium,

and this is a similar issue.

Ms. Kim Price, representing the Consumer Healthcare Products Association (CHPA), addressed the Council in opposition to the proposed Ordinance requiring prescriptions for medications containing pseudoephedrine. She said that she represented State Director Mandy Hagan, and that Ms. Hagan would answer any questions posed by the Council. CHPA is a trade association representing the sale of over-the-counter products and opposes placing medications containing pseudoephedrine on prescription status. Missouri law mandates electronic tracking of pseudoephedrine sales and requires pharmacies to participate. Right now, only one-half of retailers are in this system, but it will soon be in place state-wide.

Mr. Nelson Sparks, of 301 South Lorimier Street, addressed the Council in support of the Ordinance amending Chapter 6 of the Code of Ordinances, relating to chickens and nuisance animals.

Ms. Victoria Thomas, of 213 South Lorimier Street, appeared in support of the Ordinance relating to chickens and nuisance animals. She said that she has been a neighbor of Mr. Sparks since 2005 and has seen no problems resulting from his chickens.

Ms. Shelly Wood, of 1806 Recardo Drive, addressed the Council in support of the chickens and nuisance animals Ordinance. She said allowing chickens within City limits was common throughout Missouri, and it was beneficial for citizens.

Mr. Gavin Thomas, of 213 South Lorimier Street, appeared in support of the Ordinance relating to chickens and nuisance animals. He said that he was a neighbor of Mr. Sparks and had never had any problems with his chickens.

ITEMS REMOVED FROM CONSENT AGENDA

BILL NO. 10-139 was given second and third readings 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

The second and third readings of BILL NO. 10-139 failed upon the following roll call vote: Lanzotti, aye; Proffer, nay; Rediger, nay; Schneider, nay; Swan, nay; Tracy, aye; Voss, aye.

Mr. Lanzotti left the Council meeting at this time.

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 City Council November 1, 2010 regular session, and November 5, 2010, special session minutes.

BILL NO. 10-148, AN ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU, MISSOURI, BY CHANGING

THE ZONING OF 1629 AND 1631 KINGSWAY DRIVE, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, MISSOURI, FROM R-1 TO C-2. Second and Third Readings.

BILL NO. 10-149, AN ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU, MISSOURI, BY CHANGING THE ZONING OF 317, 319, 321, 325 AND 329 SOUTH ELLIS STREET, AND 814 MORGAN OAK STREET, IN THE CITY OF CAPE GIRARDEAU, MISSOURI, FROM R-4 TO RUMD. Second and Third Readings.

BILL NO. 10-152, AN ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU, MISSOURI, BY CHANGING THE ZONING OF 401, 409, 413, 419 AND 421 NORTH STREET, 323, 329 AND 333 NORTH FOUNTAIN STREET, AND 318, 326, 330, 332, AND 338 NORTH MIDDLE STREET, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, MISSOURI, FROM R-4 TO RUMD. Second and Third Readings.

BILL NO. 10-158, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GENERAL SERVICES AGREEMENT WITH RJN GROUP, INC. TO PROVIDE ENGINEERING SERVICES TO THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

BILL NO. 10-159, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE GENERAL SERVICES AGREEMENT WITH RJN GROUP, INC., TO PROVIDE ENGINEERING SERVICES FOR PHASE I INFLOW AND INFILTRATION INVESTIGATION, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

BILL NO. 10-160, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ADDENDUM NO. 2 TO AMENDMENT NO. 2 TO THE GENERAL ENGINEERING SERVICES AGREEMENT WITH MORRIS AND MUNGER ENGINEERS, LLC, FOR THE BRECKENRIDGE BRANCH STABILIZATION PROJECT, IN THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

BILL NO. 10-166, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE GIRARDEAU, MISSOURI, DIRECTING THE JACKSON/CAPE GIRARDEAU JOINT SUBDIVISION ADVISORY COMMITTEE TO REQUEST THE CAPE GIRARDEAU COUNTY COMMISSION TO TAKE ACTION TO ADOPT COUNTY SUBDIVISION AND STORMWATER REGULATIONS, PURSUANT TO THE PROVISIONS OF CHAPTER 64 OF THE REVISED STATUTES OF MISSOURI. Reading and Passage.

BILL NO. 10-168, A RESOLUTION AMENDING AND RESTATING THE INVESTMENT POLICY OF THE CITY OF CAPE GIRARDEAU, MISSOURI. Reading and Passage.

A motion approving the improvement plans for the construction of streets, water main, sanitary sewers, and storm sewers to serve Baldwin Place Subdivision Phase I, contingent upon the approval of the Subdivision.

The motion was approved upon the following vote: Ayes, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none. BILL NO. 10-148 is ORDINANCE NO. 4168; BILL NO. 10-149 is ORDINANCE NO. 4169; BILL NO. 10-152 is ORDINANCE NO. 4170; BILL NO. 10-158 is

RESOLUTION NO. 2577; BILL NO. 10-159 is RESOLUTION NO. 2578; BILL NO. 10-160 is RESOLUTION NO. 2579; BILL NO. 10-166 is RESOLUTION NO. 2580; and BILL NO. 10-168 is RESOLUTION NO. 2581.

NEW ORDINANCES

BILL NO. 10-106 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 BILLBOARDS, SIGNS, FENCES, RETAINING WALLS, LANDSCAPING AND BUFFERYARDS

A motion was made by Mrs. Schneider and seconded by Mrs. Tracy to approve the first reading of BILL NO. 10-106. A motion was made by Mr. Voss amend page 24, Section 25-603(c) of the Ordinance to strike the language after “responsibility” to end the sentence and replace it with “for building a fence within the utility easement.” Mrs. Swan seconded the motion to amend.

Mr. Voss stated that the intention of the amendment was to clarify that, while it is the responsibility of property owners when they construct in easements, the Ordinance should not give the utility company carte blanche to unduly remove private property. The language in the Ordinance is very broad. The amendment to BILL NO. 10-106 was approved upon the following vote: Ayes, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

Mrs. Swan asked about the procedure used when adopting new Ordinances or when significant revisions are made to existing Ordinances. She asked if the Council’s decision can be reviewed after an agreed period of time. Mr. Meyer answered that no formal procedure is noted in the City’s Charter, but a review can be requested by the Council. Mrs. Swan said that the proposed landscaping and signage requirements could be problematic for some building development, and she wanted to ensure some measure is taken to review the Ordinance after some time, so the Council could see if further revisions need be made. Mr. Meyer replied that the Comprehensive Plan Committee has been working on the Development Code, and further review and revisions could affect other issues they have on development.

Mr. Voss asked if City staff had reviewed the Cape Splash Family Aquatic Center sign. Mr. Eftink answered that staff had met with Parks Department employees to ensure that the sign was in compliance. Ms. Martha Brown, Community Planner, stated that adjustments have been made to the electronic sign controls, and Inspections Services staff would be returning to review. Mr. Voss said he was concerned that City staff had said that the new Ordinance might affect necessary staff levels. He said he doesn’t feel the Council should adopt the Ordinance if it could affect staff levels.

The first reading of BILL NO. 10-106 as amended was approved with the following roll call vote: Swan, aye; Tracy, aye; Voss, nay; Lanzotti, absent; Proffer, nay; Rediger, aye; and Schneider, aye.

BILL NO. 10-145 was given first reading as follows:

AN ORDINANCE AMENDING CHAPTER 17 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU, MISSOURI, BY ADDING A NEW ARTICLE XI ENTITLED “REGULATION OF METHAMPHETAMINE PRECURSOR DRUGS”

Mayor Rediger said that he appreciated Dr. Sasha's comments and the previous comments of Mrs. Swan. He said that the Council had discussed the issue at length, but with additional information received from the Missouri Highway Patrol during the study session, and with communities surrounding Cape Girardeau enacting similar Ordinances, he would be voting for the Ordinance requiring prescriptions for medications containing pseudoephedrine.

Mrs. Tracy said that her concern was for the cost to people who need the medication. She said she had attended a session at the Missouri Municipal League conference that addressed this issue, and after seeing statistics about what was actually happening in our community and the factors driving the market, she had changed her mind.

Mrs. Swan discussed the hazards associated with handling and managing methamphetamines manufactured from pseudoephedrine. She said meth use contributes to other crimes and has far-reaching ramifications for the area.

Mr. Voss stated that he opposes the Ordinance. He said that statistics from law enforcement agencies did not add up. Mr. Jason Grollner, of the Franklin County Drug Task Force, had appeared at the study session and had said that most pseudoephedrine purchases were made for illegal activities. If social-conscious pharmacies reported that they were in support of the Ordinance, Mr. Voss asked why they did not just stop selling the medication. Ms. Price, who spoke on behalf of the Missouri Consumer Healthcare Products Association, had pointed out that the State was implementing a tracking program to track drug purchases made above the legal quantity, and that tracking program has not yet been given the opportunity to succeed. Requiring prescriptions would only transfer the burden of cost from those with illegal intent, to those who want the medications for a legal purpose. Mr. Voss said that he felt that this Ordinance could move the manufacture of methamphetamines from small "shake and bake" labs in cars to more organized crime that could move into the community to meet the demand. He said that the demand for methamphetamine is the issue, and this Ordinance does not address that demand.

The first reading of BILL NO. 10-145 was approved upon Mrs. Swan's motion, Mrs. Tracy's second, and the following roll call vote: Lanzotti, absent; Rediger, aye; Schneider, aye; Swan, aye; Tracy, aye; Voss, nay; and Proffer, nay.

BILL NO. 10-165 was given first reading as follows:

AN ORDINANCE ANNEXING LAND TO THE CITY OF CAPE GIRARDEAU, MISSOURI, UPON THE REQUEST OF FRUITLAND LIVESTOCK MARKET, INC.

The first reading of BILL NO. 10-165 was approved upon Mrs. Schneider's motion, Mrs. Swan's second, and the following vote: Ayes, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 10-167 was given first reading as follows:

AN ORDINANCE AMENDING THE BOUNDARIES OF WARD 4 TO INCLUDE PROPERTIES ANNEXED BY THE CITY OF CAPE GIRARDEAU, MISSOURI

Mayor Rediger stated that the corrected Ordinance has been distributed and is before the Council for approval. Mr. Meyer said that the correction to the Ordinance is due to the removal of the Lynwood Baptist annexation request.

The first reading of BILL NO. 10-167 was approved upon Mrs. Schneider's motion, Mrs. Tracy's second, and the following vote: Ayes, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

Mrs. Tracy asked when the Census 2010 information would be released. Mr. Meyer answered that that the City was receiving the results in pieces. Mr. Ken Eftink, Planning Services Director, stated that the full results of the Census will be provided to the Council when they are available.

BILL NO. 10-163 was given first reading as follows:

AN ORDINANCE ACCEPTING A SANITARY SEWER EASEMENT ON THE CLIPPARD SCHOOL PROPERTY FROM DR. JAMES WELKER, SUPERINTENDENT OF CAPE GIRARDEAU PUBLIC SCHOOL DISTRICT NO. 63

The first reading of BILL NO. 10-163 was approved upon Mrs. Tracy's motion, Mrs. Schneider's second, and the following vote: Ayes, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 10-161 was given first reading as follows:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A QUIT CLAIM DEED TO THE STATE OF MISSOURI RELEASING INTEREST IN AN EASEMENT ON THE VETERAN'S HOME PROPERTY

The first reading of BILL NO. 10-161 was approved upon Mrs. Schneider's motion, Mrs. Swan's second, and the following vote: Ayes, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

BILL NO. 10-162 was given first reading as follows:

AN ORDINANCE ACCEPTING A QUIT CLAIM DEED, TEMPORARY CONSTRUCTION EASEMENTS, AND A PERMANENT SLOPE EASEMENT FROM THE STATE OF MISSOURI FOR VETERAN'S MEMORIAL DRIVE ON THE VETERAN'S HOME PROPERTY

The first reading of BILL NO. 10-162 was approved upon Mrs. Tracy's motion, Mrs. Schneider's second, and the following vote: Ayes, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

OTHER BUSINESS

There being no further business, the City Council adjourned into closed session for purposes of discussing legal actions, causes of action or litigation, and personnel pursuant to RSMo. Section 610.021(1) and (3) upon Mr. Voss' motion, Mrs. Schneider's second, and the following vote: Ayes, Proffer, Rediger, Schneider, Swan, Tracy and Voss. Nays, none.

Harry E. Rediger, Mayor

Gayle L. Conrad, City Clerk

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