

**STUDY SESSION – August 19, 2019**

**NO ACTION TAKEN DURING THE STUDY SESSION**

The Cape Girardeau City Council held a study session at the Cape Girardeau City Hall on Monday, August 19, 2019, starting at 5:00 p.m. with Mayor Bob Fox presiding and Council Members Ryan Essex, Robbie Guard, Stacy Kinder, Shelly Moore, and Dan Presson present.

**REGULAR SESSION – August 19, 2019**

**CALL TO ORDER**

The Cape Girardeau City Council convened in regular session at the Cape Girardeau City Hall on Monday, August 19, 2019, at 5:25 p.m., with Mayor Bob Fox presiding and Council Members Ryan Essex, Robbie Guard, Stacy Kinder, Shelly Moore, and Dan Presson present.

**ADOPTION OF THE AGENDA**

A Motion was made by Robbie Guard, Seconded by Shelly Moore, to approve and adopt the Agenda as amended with Bill No. 19-123 removed from the Consent Agenda. Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

**APPEARANCES**

None.

**CONSENT AGENDA**

Approval of the August 5, 2019, City Council regular session and closed session minutes, and of the August 12, 2019, City Council special meeting minutes.

BILL NO. 19-118, an Ordinance authorizing the City Manager to execute a State Block Grant Agreement with the Missouri Highways and Transportation Commission to fund the Promotion of Scheduled Passenger Air Service at the Cape Girardeau Regional Airport. Second and Third Readings.

BILL NO. 19-119, an Ordinance approving the Record Plat of LaFont's First Amended. Second and Third Readings.

BILL NO. 19-120, an Ordinance approving the Record Plat of Sabella's First Subdivision. Second and Third Readings.

BILL NO. 19-124, an Ordinance amending Schedule F of Section 26-247 of the City Code, by establishing no parking anytime on the north side of Jim Drury Way. Second and Third Readings.

BILL NO. 19-125, an Ordinance amending Schedule A of Section 26-228 of the City Code, by repealing certain speed limits on South West End Boulevard and establishing new speed limits on South West End Boulevard, in the City of Cape Girardeau, Missouri. Second and Third Readings.

BILL NO. 19-121, a Resolution authorizing the City Manager to execute an Agreement with Koehler Engineering and Land Surveying, Inc., for general engineering and infrastructure projects, in the City of Cape Girardeau, Missouri. Reading and Passage.

BILL NO. 19-122, a Resolution authorizing the City Manager to execute an Agreement with Bowen Engineering and Land Surveying, Inc., for general engineering and infrastructure projects, in the City of Cape Girardeau, Missouri. Reading and Passage.

Bill No. 19-128, a Resolution authorizing application to the Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2019 Local Solicitation, and authorizing the City Manager to execute all necessary grant program documents. Reading and Passage.

BILL NO. 19-134, a Resolution authorizing the City Manager to execute an Agreement with M-B Companies, Inc., for snow removal equipment at the Cape Girardeau Regional Airport, in the City of Cape Girardeau, Missouri. Reading and Passage.

BILL NO. 19-135, a Resolution of support for the proposal from MACO Development Company, LLC, for the Silver Springs II Apartments housing development. Reading and Passage.

Bill No. 19-136, a Resolution authorizing the City Manager to submit a letter of recommendation to the United States Department of Transportation for SkyWest Airlines to provide air carrier service under the Essential Air Service Program at the Cape Girardeau Regional Airport. Reading and Passage.

A Motion was made by Ryan Essex, Seconded by Dan Presson, to approve and adopt. Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

BILL NO. 19-118 will be Ordinance No. 5214; BILL NO. 19-119 will be Ordinance No. 5215; BILL NO. 19-120 will be Ordinance No. 5216; BILL NO. 19-124 will be Ordinance No. 5217; BILL NO. 19-125 will be Ordinance No. 5218; BILL NO. 19-121 will be Resolution No. 3277; BILL NO. 19-122 will be Resolution No. 3278; BILL NO. 19-128 will be Resolution No. 3279; BILL NO. 19-134 will be Resolution No. 3280; BILL NO. 19-135 will be Resolution No. 3281; and BILL NO. 19-136 will be Resolution No. 3282.

#### **ITEMS REMOVED FROM CONSENT AGENDA**

BILL NO 19-123, 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, 2020. Second and Third Readings. (Council Report Amended)

City Council asked for an explanation of City staff's recommendation to amend the Ordinance from the First Reading. Finance Director Victor Brownlees spoke about the process required by State regulations, the assessment made by Cape Girardeau County, and the timing of the County's report to the City. He noted that the changes were marginal.

A Motion was made by Dan Presson, Seconded by Robbie Guard, to amend the Ordinance as recommended and to approve and adopt as amended.

Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

BILL NO. 19-123 will be Ordinance No. 5219.

T1706871KV

**NEW ORDINANCES**

Bill No 19-129, an Ordinance amending Chapter 7 of the Code of Ordinances of the City of Cape Girardeau, Missouri, regarding Automatic Pool Covers. First Reading.

Council Member Stacy Kinder asked when the automatic pool cover option was approved. Deputy City Manager Molly Mehner stated that automatic pool covers are allowed in the 2015 International Swimming Pool and Spa Code, which is referenced in the City Code. City staff and the Board of Appeals believe that the effectiveness of an automatic swimming pool cover depends on someone operating the device and having electricity. There have been no reported cases of faulty self-latching gates used with fences as pool barriers in the City. The proposed Ordinance prohibits the use of the automatic pool cover as the only barrier method.

A Motion was made by Robbie Guard, Seconded by Dan Presson, to approve.  
Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

Bill No 19-130, an Ordinance amending Chapter 7 of the Code of Ordinances of the City of Cape Girardeau, Missouri, regarding Storm Shelters. First Reading.

Council Member Ryan Essex asked staff to explain. City Manager Scott Meyer said that the School Board recently applied for a building addition, and with the current building code they would be required to provide a storm shelter with the addition. The School Board asked for a waiver of this requirement to the Board of Appeals based on undue hardship. Deputy City Manager Molly Mehner explained that this amendment would remove this requirement from the City's Building Code. Gary Hill added that this code amendment would also affect fire and police stations, and communication centers.

A Motion was made by Robbie Guard, Seconded by Stacy Kinder, to approve.  
Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

Bill NO. 19-131, an Ordinance of the City of Cape Girardeau, Missouri, extending the imposition of the present one-quarter of one percent Capital Improvement Sales Tax from its expiration date of December 31, 2019, to December 31, 2034. First Reading.

A Motion was made by Robbie Guard, Seconded by Dan Presson, to approve.  
Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

BILL NO. 19-132, an Ordinance authorizing the Mayor to execute a Special Warranty Deed to Jerry Collins and Brenda Collins, for property located at 3207 Bernice Street, in the City of Cape Girardeau, Missouri. First Reading.

A Motion was made by Ryan Essex, Seconded by Stacy Kinder, to approve.  
Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

BILL NO. 19-133, an Ordinance accepting a Temporary Construction Easement from Terry and Cynthia McDowell, for the Hopper Road Box Culvert Project, in the City of Cape Girardeau, Missouri. First Reading.

A Motion was made by Ryan Essex, Seconded by Robbie Guard, to approve.  
Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

**OTHER BUSINESS**

Consideration of Appeal of Denial for Liquor License Renewal Application for Ricky Lynn Werner, d/b/a River Valley Banquet Center, LLC 631 South Sprigg Street.

Mayor Bob Fox called for the appeal applicant to appear before the City Council. Ronald Garms appeared to represent Ricky Lynn Werner. Mr. Garms began his statement to rescind the denial for Liquor License Renewal for Ricky Lynn Werner, d/b/a River Valley Banquet Center, LLC. He argued that the City Code of Ordinance regulating Liquor Licenses, included the Liquor License Review Board, may violate State and Federal laws. He also disputed the facts present to the City Manager cited as the reason for denial. Mayor Fox called upon the Police Department representative to appear regarding the Department's recommendation to the City Manager to deny the Liquor License renewal. Lieutenant Bradley Smith appeared. He read the information that had been presented to the City Manager stating reasons that the department recommended the denial of liquor license renewal.

City Council discussed the information presented and asked clarifying questions of both parties that appeared. Mr. Garms noted that the City Council could direct issuance of a provisional license such as a six-month license to be re-evaluated at its expiration. City Attorney Eric Cunningham confirmed that the City Council could do something like the suggested provisional license, it could move to uphold the denial, or it could rescind the denial and direct that an annual license be issued.

A Motion was made by Dan Presson, Seconded by Shelly Moore, to direct the issuance of a six-month Liquor License so that Mr. Werner could correct the cited problems.

Motion failed roll call vote: 3-2. Ayes: Fox, Moore, Presson. Nays: Essex, Kinder. Abstain: Guard, for financial reasons, due to his employment with MRV Bank.

Mr. Cunningham pointed out that pursuant to Section 3.13 of the City Charter, all actions of the Council shall require an affirmative vote of at least four (4) members. City Attorney Eric Cunningham further advised the City Council that since the Motion for the provisional license had failed, the Council must act to either uphold or rescind the denial of Liquor License.

A Motion was made by Ryan Essex, Seconded by Stacy Kinder to uphold the denial for Liquor License.

Motion failed: 2-3. Ayes: Essex, Kinder. Nays: Fox, Moore, Presson. Abstain: Guard, for financial reasons, due to his employment with MRV Bank.

[Pursuant to City Charter, all actions of the Council shall require an affirmative vote of at least four (4) members.]

City Attorney Eric Cunningham explained that since the Motion to uphold the denial failed, the denial was reversed, and the Liquor License would be renewed.

Appointment of Ward 3 unexpired term

Mayor Bob Fox spoke about the process, and he discussed that they had received nine applicants that the Council had narrowed down to three finalists. Council Member Ryan Essex spoke about going through a similar process just last year, and that he could relate to them. He thanked them for putting themselves out for public service. The Mayor noted that in an informal tally vote, Christina Mershon and Nate Thomas had tied. City Attorney Eric Cunningham noted that a vote following a Motion and Second would determine who would be appointed.

Proceedings of the City Council, City of Cape Girardeau, Mo.  
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T1706871KV

A Motion was made by Robbie Guard, Seconded by Ryan Essex, to appoint Nate Thomas as Council Member Ward 3, for a term expiring April 2020.

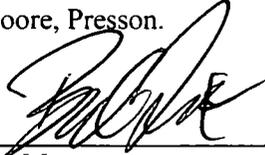
After Council discussion, the Motion passed by roll call. 5-1. Ayes: Essex, Fox, Guard, Kinder, Moore. Nays: Presson.

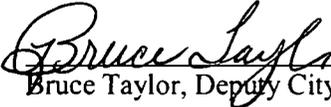
**MEETING ADJOURNMENT**

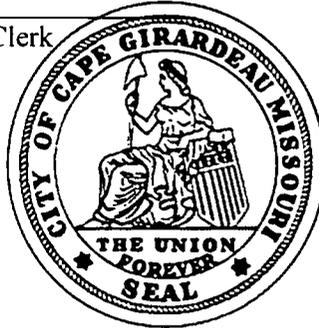
A Motion was made by Ryan Essex, Seconded by Stacy Kinder to adjourn from regular session and to convene to closed session for legal actions and litigation, confidential communications with legal counsel, and property transactions, pursuant to RSMo. Sections 610.021(1), and (2).

Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

The Regular Session ended at 6:30 p.m.

  
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Bob Fox, Mayor

  
Bruce Taylor, Deputy City Clerk



Proceedings of the City Council, City of Cape Girardeau, Mo.  
Session \_\_\_\_\_

