

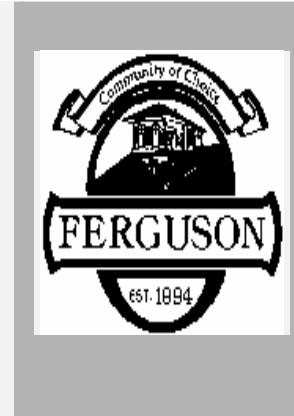
Approved 2/27/07

FERGUSON CITY COUNCIL

**Council Meeting Minutes
February 20, 2007**

COUNCIL MEETING, 8:00 P.M.

**CITY HALL
110 Church Street**



The regular meeting of the Ferguson City Council was called to order at 8:00 p.m. on February 20, 2007 by Mayor Brian P. Fletcher, in the Council Chamber of City Hall, 110 Church Street, Ferguson, Missouri. Mayor Fletcher requested that everyone stand for a moment of silent prayer, after which the Pledge of Allegiance was recited. On roll call, the following Council members were present:

Mayor Brian P. Fletcher
John Corson
Michael Salant
James W. Knowles III
James Hines
Peggy Faul
Tim Larson

Also present were Interim City Manager De'Carlon Seewood, City Attorney Stephanie Karr, and City Clerk Debbie Matthies. Mrs. Matthies declared a quorum was present.

Mayor Fletcher welcomed all present and explained the Council meeting would have the Public Comment Portion at which time you are invited to speak on matters of general concern; and the Business Portion in which you are welcome to listen but not participate.

PUBLIC COMMENTS

The following residents were in attendance and are opposed to amending the zoning ordinance and the zoning map to reflect a change in the zoning classification from R-1A Single Family Residential District to C-2 Planned Commercial District for the property located at 10768/10770 West Florissant

Approved 2/27/07

Road; Harry Neiner – 67 Harneywold Drive; Loretta Gerdine – 65 Harneywold Drive; Dr. Stuart Shafer – 57 Harneywold Drive; Gloria Neiner – 67 Harneywold Drive; Erika Marks – 10 Harneywold Drive; Jim Schneider – 3 Harneywold Drive; Kathy Shaffstall – 71 Harneywold Drive; Roberta - 3101 Somerset Green Court; Bill Muenz – 69 Harneywold Drive; and Kevin Fazazzo – 27 Harneywold Drive.

The residents in opposition of the re-zoning voiced their comments and concerns regarding additional traffic and congestion, noise, smell, and light pollution, trash, already too many restaurants, located too close to the existing residences and green-space. Residents felt that a more compatible development i.e. bank, flower shop, or eat-in restaurant is needed - no more drive-through restaurants.

Gloria Neiner – 67 Harneywold Drive presented to Council a Petition (61 signatures) and letters opposing the rezoning of property located at 10768/10770 West Florissant for the purpose of a Sonic drive-through restaurant.

Linda McAllister – 339 Suburban – had comments and concerns regarding the closing of Shirley and Hern and only doing patch repairs on the street instead of resurfacing it.

Jean Stoll – 412 Hern – had a petition with signatures opposing the closing of Hern.

David Geiger – 347 Suburban – requested there be no road blocks on Hern or Shirley. With regard to the rezoning issue is concerned with the retaining wall and height and the cutting down of grown trees and the cutting of their roots.

Patrick Bennett - reviewed the proposed Sonic plan with Council and answered questions. He is aware of the residents concerns with noise, loitering and trash.

Council discussed the retaining wall and aesthetics, landscaping materials, creating a buffer, and utilization of the other plat involved and setback.

Joseph McAllister - 339 Suburban – thanked Council for taking the time to listen to the residents.

The Public Comments portion closed at 8:45 p.m.

Approved 2/27/07

BUSINESS PORTION
MINUTES

Council Meeting Minutes – January 23, 2007. A motion was made by Council Member Knowles, seconded by Council Member Hines and carried to approve and receive as presented the Council Meeting Minutes of January 23, 2007 and file as appropriate.

Council Special Meeting Minutes – February 2, 2007. A motion was made by Council Member Larson, seconded by Council Member Knowles and carried to approve and receive as presented the Council Meeting Minutes of February 2, 2007 and file as appropriate.

RESOLUTIONS

#2007-04 - A RESOLUTION TRANSFERRING FUNDS FROM THE GENERAL FUND AND CAPITAL IMPROVEMENTS SALES TAX FUND FOR THE PURPOSE OF AMENDING THE 2006-07 BUDGET was introduced by Council as a whole and read by City Attorney, Stephanie Karr.

Interim City Manager, De'Carlon Seewood explained this Resolution will transfer funds from the General and Capital Improvements sales tax fund for the purpose of amending the 2006-07 Budget. The amendment will fund a new Administrative Assistant position in the City Manager's Office and a new fuel center at the municipal garage facility.

On roll call vote, the motion carried as follows:

AYES: 7 – Corson, Salant, Knowles, Hines, Fletcher, Faul, Larson

NOES: 0

Resolution passes

#2007-05 - A RESOLUTION APPROVING A RECORD PLAT FOR A 2.5 ACRE PARCEL ON WEST FLORISSANT AVENUE DIVIDING THE PARCEL INTO TWO LOTS TO BE KNOWN AND NUMBERED AS 10768 AND 10770 WEST FLORISSANT was introduced by Council Member Corson and read by City Attorney, Stephanie Karr.

Council discussed the rezoning and, if approved, the Special Use Permit for Sonic Restaurant.

Approved 2/27/07

Mr. Seewood explained that if the rezoning is approved it would be rezoned C-2 Planned Commercial District, which means any project would have to first go to the Plan Commission, hold a Public Hearing then to the Council for approval. Council does have a say so on the permitted uses. If approved any project in C-2 Planned Commercial has to go before the Council and Council can deny the project.

City Attorney, Ms. Karr explained that the Council has discretion with regard to C-2 Planned. Council does not have discretion with regard to this plat. The Resolution only approves the division of the one parcel into two. It has absolutely no discretion with that. If the plat meets the ordinance requirement you must approve it. If the plat does not meet your ordinance requirement Council can not approve it.

When it comes to the rezoning the Council has absolute discretion with regard to that. Council can consider the character of the neighborhood and the abutting properties. When it comes to approving a Special Use Permit under the C-2 because it is planned there may be uses that are permitted uses, but if Council does not think the plan is appropriate for that particular parcel i.e. traffic layout, parking spaces, etc. then the Council has the discretion to deny the plan. The plan itself although it contains development for a permitted use, the Council has the discretion to reject the plan. A new plan can come back.

Council is concerned that at some point this parcel will be a commercial use of some sort and the concern is what type of use. It would be much more marketable if it were zoned Commercial.

Mayor Fletcher is concerned, as are the residents, about what will be developed on the parcel. Mayor also wants to help nourish and encourage the proper development. With the two hurdles to reach it is more difficult for a developer to move the property and to attract developers.

Council discussed the development - one approach would be to rezone and not approve the site plan.

Mayor wants Council to understand the sequence of what can happen with the two options.

Ms. Karr explained that if the plat meets the requirements of the ordinance Council has to approve it. Council will utilize its discretion when it comes to the rezoning and the Special Use Permit.

Approved 2/27/07

On roll call vote, the motion carried as follows:

AYES: 6 – Salant, Knowles, Hines, Fletcher, Larson, Corson

NOES: 1 – Faul

Resolution passes

#2007-06 - A RESOLUTION APPROVING AN AGREEMENT WITH JOHN SHAW RELATING TO THE POSITION OF CITY MANAGER was introduced by Council as a whole and read by City Attorney, Stephanie Karr.

On roll call vote, the motion carried as follows:

AYES: 7 – Knowles, Hines, Fletcher, Faul, Larson, Corson, Salant

NOES: 0

Resolution passes.

BILLS REQUIRING FIRST READING

BILL NO. 6780 – AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI, AMENDING CERTAIN PROVISIONS OF ARTICLE II OF TITLE 37 RELATING TO THE STORAGE OF SOLID WASTE was introduced by Council as a whole and read the first time.

Mr. Seewood explained this Bill was developed per Council discussion on City ordinances regulating temporary construction dumpsters. This Bill will enact a permit process, set a time frame for use and establish a rate for the permit.

BILL NO. 6781 – AN ORDINANCE LEVYING SPECIAL TAX BILLS AGAINST CERTAIN PROPERTIES FOR COSTS OF CUTTING AND REMOVING WEEDS AS PROVIDED UNDER CHAPTER 46. VEGETATION, ARTICLE III. WEEDS AND VINES, OF THE CODE OF THE CITY OF FERGUSON, MISSOURI was introduced by Council as a whole and read the first time.

Mr. Seewood explained Bills 6781, 6782 and 6783 charges fees associated with property nuisances in the form of a special tax Bill.

BILL NO. 6782 - AN ORDINANCE LEVYING SPECIAL TAX BILLS AGAINST CERTAIN PROPERTIES FOR COST OF REMOVING TRASH AND DEBRIS AS PROVIDED UNDER CHAPTER 28. NUISANCES, OF THE CODE OF THE CITY

Approved 2/27/07

OF FERGUSON, MISSOURI was introduced by Council as a whole and read the first time.

BILL NO. 6783 – AN ORDINANCE LEVYING SPECIAL TAX BILLS AGAINST CERTAIN PROPERTIES FOR COSTS OF BOARDING UP BUILDINGS AS PROVIDED UNDER CHAPTER 7. BUILDINGS AND BUILDING REGULATIONS, OF THE CODE OF THE CITY OF FERGUSON, MISSOURI was introduced by Council as a whole and read the first time.

BILL NO. 6784 – AN ORDINANCE AMENDING CHAPTERS 3 AND 49 OF THE MUNICIPAL CODE ESTABLISHING ADDITIONAL REGULATIONS FOR ADULT-RELATED BUSINESSES AND CLARIFYING THE DISTRICTS IN WHICH THESE BUSINESSES MAY BE LOCATED was introduced by Council as a whole and read the first time.

BILLS REQUIRING SECOND READING

BILL NO. 6777 AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI AMENDING THE ZONING ORDINANCE AND THE ZONING MAP TO REFLECT A CHANGE IN THE ZONING CLASSIFICATION FROM R-1A SINGLE FAMILY RESIDENTIAL DISTRICT TO C-2 PLANNED COMMERCIAL DISTRICT FOR THE PROPERTY LOCATED AT 10768/10770 WEST FLORISSANT ROAD, was introduced by Council Member Corson and read the first time.

Council discussed on how to proceed on this issue, the properties along West Florissant being prime commercial, advantages of creating the C-2 Planned Commercial District because of the corridor, traffic generated and the Special Use process.

Ms. Karr read the criteria upon which the Council decision must be based when looking at a plan for a Special Use Permit, which does have quite a bit of discretion.

Council discussed other commercial uses being more adequate i.e. bank, and less encroaching businesses than a fast food restaurant.

Ms. Karr explained the freedom benefit with a planned district whether it is residential or commercial, you are looking at a plan and a particular business use, you determine whether that particular commercial use fits in with the surrounding neighborhood. That is the freedom you have with a planned development.

Council discussed if properties are more marketable commercial versus residential and if approved as commercial possibly could not approve the

Approved 2/27/07

Special Use Permit.

Mr. Seewood commented that it does make it easier to find a developer if the property is already rezoned to commercial.

A motion to read the Bill a second time and place it upon its passage was made by Council Member Corson, seconded by Council Member Hines.

On roll call vote, the motion carried as follows:

AYES: 3 – Fletcher, Corson, Salant,
NOES: 4 – Hines, Faul, Larson, Knowles
Motion fails.

Bill No. 6777 - failed 4-3.

BILL NO. 6778 AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI GRANTING A SPECIAL USE PERMIT FOR THE PROPERTY LOCATED AT 10768 WEST FLORISSANT SUBJECT TO THE CONDITIONS, RESTRICTIONS AND REQUIREMENTS SET FORTH HEREIN, was introduced by Council Member Salant and read the first time.

Mayor Fletcher announced that due to the failure of Bill No. 6777 – Bill No. 6778 is now rendered moot and removed.

BILL NO. 6779 AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI GRANTING A WATER UTILITY EASEMENT ON CITY-OWNED PROPERTY NEAR THE NORTHPARK DEVELOPMENT TO MISSOURI AMERICAN WATER COMPANY FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF A WATER MAIN, was introduced by Council Members Knowles and Larson and read the first time.

Mr. Seewood explained that this Bill will give Missouri American Water Company an easement to install, operate and maintain a water main on property currently owned by the City of Ferguson for the NorthPark Development.

A motion to read the Bill a second time and place it upon its passage was made by Council Member Larson, seconded by Council Member Corson.

Approved 2/27/07

On roll call vote, the motion carried as follows:

AYES: 7 – Fletcher, Faul, Larson, Corson, Salant, Knowles, Hines
NOES: 0

Bill No. 6779 was declared passed and sent to the Mayor for signature. Bill No. 6779 thus became Ordinance No. 2007-3297 and is permanently recorded in Book 29 on page 11.

MISCELLANEOUS

Ms. Faul – announced the various fish fry's around town and for everyone to spread their dollars. Questioned if the Florissant Road Bid opening happened. Requested staff place public hearing signs visible to residents when a hearing is scheduled. Questioned the repairs at 71 Harneywold Drive and if staff would look into them. The status on the dumpster on Spot Drive.

Mr. Larson – questioned the status on the Florissant Road bid opening. Mr. Larson and staff members will create an ad hoc committee to review the City website quotes.

Mr. Knowles – announced several fish fry's around town and for everyone to attend at Guadalupe, Blessed Teresa of Calcutta and Zion which is all season long.

Mr. Corson – would like a work session regarding the possible relocation of the Fire Department and expansion of the Police Department. Mr. Corson would also like see Court held in the Police Department instead of City Hall.

Mayor Fletcher – Asked Council consensus as to not block off roads within the Suburban Road project. Council agreed to wait until the presentation and update from Horner & Shifrin.

Interim City Manager, De'Carlon Seewood – commented that the engineers will be present at the February 27th Council meeting to review and update Council.

ADJOURNMENT

There being no further business to consider, Council Member Corson, moved

Approved 2/27/07

to adjourn, seconded by Council Member Knowles. The meeting adjourned at 9:35 p.m.

Deborah L. Matthies, City Clerk