

FERGUSON CITY COUNCIL

**Regular Council Meeting
March 8, 2005**

**Work Session, 7:00 P.M.
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 March 8, 2005 by Mayor Steven Wegert, in the Council Chambers of City Hall, 110 Church Street, Ferguson, Missouri. Mayor Wegert requested that everyone stand for a moment of silent prayer, after which the Pledge of Allegiance was recited. The following Council members were present:

Mayor Steven Wegert
John Corson - ABSENT
Keith Kallstrom
Mark Crinnion
James Hines
Peggy Faul
Bill Duncan

Also present were City Manager A.J. Krieger, City Attorney Stephanie Karr and City Clerk, Debbie Matthies. Mrs. Matthies declared a quorum was present. Mayor Wegert welcomed all present and explained the meeting would be the Public Hearing, Public Portion and the Business Portion.

8:00 PUBLIC HEARING - SPECIAL USE PERMIT

City Manager, A.J. Krieger explained that the City is required to conduct a Public Hearing for the purpose of considering a Special Use Permit to allow the construction of a 106' telecommunications cell tower and an accessory equipment shelter in January Wabash Memorial Park, 501 N. Florissant Road. The proposed site is zoned R-1C and a communication tower is a Special Use. The Plan Commission reviewed and recommended approval of a Special Use Permit with conditions in Attachment B. Petitioner is present for questions and comments.

Attorney John King representing Cingular Wireless gave an overview of the request for a Special Use Permit to allow the construction of a wireless tower at January Wabash Memorial Park. Mr. King presented a map showing the location of the service area. Discussion ensued.

Sara Perry, Radio Frequency Engineer for Cingular Wireless gave an overview and explanation of the coverage problem in the area and why the tower is needed at the park location. Discussion ensued with regard to the improved coverage area, and the possibility of co-hosting with Nextel.

City Manager, A.J. Krieger explained that the City has a ground lease with Nextel who has economic interest in the ground. It would be Nextel's decision, if the opportunity occurred, to co-locate with Cingular. The City does not have the ability to force Nextel.

Discussion ensued with regard to ground lease and structure requirements.

The City Manager explained the staff recommendations and Special Use Permit requirements. Prior to the issuance of any building permit, a copy of the Special Use Permit, lease agreement, legal description, and site plan be recorded with the St. Louis County Recorder of Deeds.

Mr. Krieger stated as the final element of control and requirement of the Special Use Permit, the City and Cingular would enter into a ground lease, which is not presented to Council at this meeting because staff wanted to deal first with the land use element and neighborhood concerns. The Special Use Permit includes a requirement for a performance bond. Staff recommends approval subject to conditions in Attachment B. Discussion ensued.

There being no public comments, Mayor declared the public hearing portion closed at 8:20 p.m.

PUBLIC COMMENTS

Theresa Carper – 401 Wesley – resident and former City Liaison for the Train Depot Committee. Mrs. Carper had comments and concerns regarding the Train Depot Committee, advocate that the Council continue to fund the Committee (approximately \$2,500), continue committee meetings and proceed with on-going and new projects. Committee members are Ruth Brown, Historical Society; Michael Grady, Four Seasons; Alan Mueller, Historical Architect; Sergeant Craig Retke, Ferguson Police Department; Dave Halloran, Fire Department and Historical Society member; and Chuck James, owner of the Whistle Stop.

Ed Krueger – 425 Darst – Welcomed Mr. Hines back and congratulated Council on passing the refinancing of the Hallsferry TIF and the interest saved.

Mr. Krueger stated he had questions regarding the City's involvement with ICS Diversified for a mailing in the spring of 2003 in an effort to market the Splash facility. Mayor Wegert commented Mr. Krueger could make a statement but there will be no discussion.

Mr. Krueger's questions related to whether or not there were competitive bids, who wrote the bid specifications, who approved the contracts and expenditures, the mailing contract and why the City approved a contract with a company that employs the Mayor referencing Section 11.2 of the City Charter.

Terri House – 11 Lakeview Court – Commented that ICS Diversified records are public because she was informed about it. She stated there have been many occasions when people who sat on the Council were also involved in receiving funds from the City. Even though she was not involved with the Splash project, she felt a great deal of discussion regarding every piece of marketing took place.

Ms. House stated she feels there seems to be a great deal of maneuvering going on and none of it seems to be in the best interest of the citizens of this community and that people who have worked very hard in this community as volunteers have been forced out because of the politics. She further stated that if the people in this community were aware of the maneuvering, angling and politics taking place they would be appalled, she is. Ms. House went on to say this Council has a responsibility to the citizens of this community to hold everyone accountable. The people of this community deserve more from this Council than what they are receiving and Council need not play partisan politics that serve no purpose for the average citizen.

There being no further public comments, Mayor declared the public portion closed at 8:30 p.m.

APPROVAL OF MINUTES

Council Meeting Minutes – February 22, 2005. A motion was made by Mr. Crinnion seconded, and carried to accept the minutes as presented.

Closed Council Meeting – February 22, 2005. A motion was made by Mr. Crinnion seconded, and carried to accept the minutes as presented.

Landmarks Commission Meeting – January 10, 2005. A motion was made by Mr. Crinnion seconded, and carried to accept the minutes as presented.

FNIP Meeting – January 24, 2005. A motion was made by Mr. Crinnion seconded, and carried to accept the minutes as presented.

Board of Adjustment – October 18, 2004. A motion was made by Mr. Crinnion seconded, and carried to accept the minutes as presented.

Ferguson Municipal Library Meeting – January 24, 2005. A motion was made by Mr. Crinnion, seconded, and carried to accept the minutes as presented. The policy and procedure of copying minutes/packets for Council distribution was discussed. The City will make the Library copies. Motion approved unanimously 6-0.

Senior Citizens Commission Meeting – March 3, 2005. A motion was made by Mr. Crinnion seconded, and carried to accept the minutes as presented.

APPOINTMENTS - No appointments were made.

MANAGER'S REPORT - City Manager, A.J. Krieger explained the items on the agenda.

RESOLUTIONS

2005-06 – Resolution commending Police Officer Harry Dilworth for his service in Iraq was introduced by Council as a Whole and read by Chief Tom Moonier.

On roll call vote, the motion carried as follows:

AYES: 6 – Kallstrom, Crinnion, Hines, Wegert, Faul, Duncan
NOES: 0
ABSENT: Corson

Resolution passes.

2005-07 – Resolution commending Police Officer Jonathan Brannan for his service in Iraq was introduced by Council as a Whole and read by Chief Tom Moonier.

On roll call vote, the motion carried as follows:

AYES: 6 – Kallstrom, Crinnion, Hines, Wegert, Faul, Duncan
NOES: 0
ABSENT: Corson

Resolution passes.

Chief Tom Moonier, Mayor Wegert and City Manager A.J. Krieger congratulated and

presented the Resolutions to the Officers.

2005-08 – Resolution to authorize the City Manager to notify Midwest Waste that the City desires to enter into and execute a new contract with Midwest Waste was introduced by Council as a Whole and read by City Attorney Stephanie Karr. On roll call vote, the motion carried as follows:

AYES: 6 – Crinnion, Hines, Wegert, Faul, Duncan, Kallstrom
NOES: 0
ABSENT: Corson

Resolution passes.

PROCLAMATION

Ferguson Day of Prayer was read by City Attorney Stephanie Karr.

APPROVAL OF SPECIAL USE PERMIT

Approval of a Special Use Permit to construct a one hundred six (106) foot telecommunications tower and an accessory equipment shelter at January Wabash Memorial Park, 501 N. Florissant Road. The proposed site is zoned for R-1C Residence District and a communication tower is a special use. Discussion ensued regarding the communications tower.

Discussion regarding the lease on the property. Mr. Crinnion questioned that someone may come in and obtain a Special Use Permit without having a lease on the property? Mr. Krieger explained yes, the City's Zoning Ordinance does not require ownership as a condition precedent to submitting for a Special Use Permit. In this case, as the owner of the property, the City allowed it. Mr. Crinnion asked the City Manager to review why staff is proceeding without negotiating the lease first and then applying for Special Use.

Mr. Krieger explained that it was anticipated that there might be some opposition to the tower, after reviewing the 2001 Council Minutes when the Nextel Tower was approved. Staff did not want to spend the time negotiating a ground lease until staff knew the Council's position on the general land use matter. Staff divided the land use and the ground lease. Mr. Crinnion has concerns by using a limited amount of park land in the community for two cell towers.

Mr. Krieger discussed that if the Cingular tower were constructed at 106' there would be an opportunity for Nextel to become one of the co-locators at 96'. Mr. Krieger questioned would Council be interested in Staff pursuing some resolution whereby the City would terminate the Nextel ground lease if Nextel would locate on the Cingular tower. Council concurred.

A motion to approve the Special Use Permit was made by Keith Kallstrom, seconded. After discussion, a motion was made by Mark Crinnion, seconded, to postpone the approval of the Special Use Permit until the City held further discussion with Nextel regarding the possibility of co-locating on the proposed Cingular tower and terminating their existing ground lease. Motion to postpone carried 5-1 (Kallstrom).

Mr. Krieger questioned if Nextel would forfeit their position and rights to the ground lease, would Council be inclined to approve Cingular's request.

Mr. Crinnion feels that if Nextel would agree to co-locate on the existing tower, he would approve the request to avoid building another tower.

BILLS REQUIRING FIRST READING

BILL NO. 6708 AN ORDINANCE ADOPTING A NEW SECTION 29-39 RELATING TO DOMESTIC AND FAMILY VIOLENCE, introduced by Council as a Whole.

BILLS REQUIRING SECOND READING

BILL NO. 6704 AN ORDINANCE AMENDING CHAPTER 30 - PARKS AND RECREATION, ARTICLE IV - USE REGULATIONS, SECTION 30.66 - ALCOHOLIC BEVERAGES, OF THE CODE OF THE CITY OF FERGUSON, MISSOURI, BY REPEALING SECTION 30.66 (a) (4) CONCERNING ALCOHOLIC BEVERAGES IN FORESTWOOD PARK AND CONTAINING A SUNSET CLAUSE FOR SAID ORDINANCE AND ENACTING A NEW SECTION 30.66(a) (4); EFFECTIVE WHEN, introduced by Council Members Keith Kallstrom and Mark Crinnion and read the first time.

A motion was made by Mark Crinnion, seconded and carried to read the Bill a second time and place it upon its passage. On roll call vote, the motion carried as follows:

AYES: 6 – Hines, Wegert, Faul, Kallstrom, Crinnion
NOES: 1 - Duncan
ABSENT: Corson

Bill No. 6704 was declared passed and sent to the Mayor for signature. Bill No. 6704 thus became Ordinance No. 2005-3231 permanently recorded in Book 26 on page 287.

BILL NO. 6705 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, EFFECTIVE WHEN, introduced by Council as a Whole and read the first time.

A motion was made by Keith Kallstrom, seconded and carried to read the Bill a second time and place it upon its passage. On roll call vote, the motion carried as follows:

AYES: 6 – Wegert, Faul, Duncan, Kallstrom, Crinnion, Hines
NOES 0
ABSENT: Corson

Bill No. 6705 was declared passed and sent to the Mayor for signature. Bill No. 6705 thus became Ordinance No. 2005-3232 permanently recorded in Book 26 on page 289.

BILL NO. 6706 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; EFFECTIVE WHEN, introduced by Council as a Whole and read the first time.

A motion was made by Mark Crinnion, seconded and carried to read the Bill a second time and place it upon its passage. On roll call vote, the motion carried as follows:

Ms. Faul questioned the extra cost of painting the boards to blend in with the houses. Discussion regarding the cost, time spent painting the boards, the timeframe involved and number of yearly board-ups. Mr. Krieger offered to place the cost of painting the board-ups as a Special Tax bill. Mayor questioned if Ms. Faul wanted to discuss an ordinance change and Ms. Faul felt it would not be necessary.

AYES: 6 – Faul, Duncan, Kallstrom, Crinnion, Hines, Wegert
NOES: 0
ABSENT: Corson

Bill No. 6706 was declared passed and sent to the Mayor for signature. Bill No. 6706 thus became Ordinance No. 2005-3233 permanently recorded in Book 26 on page 298.

BILL NO. 6707 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 OF FERGUSON, MISSOURI; EFFECTIVE WHEN, introduced by Council as a Whole and read the first time.

A motion was made by Mark Crinnion, seconded and carried to read the Bill a second time and place it upon its passage. On roll call vote, the motion carried as follows:

AYES: 6 – Duncan, Kallstrom, Crinnion, Hines, Wegert, Faul
NOES: 0
ABSENT: Corson

Bill No. 6707 was declared passed and sent to the Mayor for signature. Bill No. 6707 thus became Ordinance No. 2005-3234 permanently recorded in Book 26 on page 301.

MISCELLANEOUS

Peggy Faul – welcomed back and thanked Officers Dilworth and Brannan for their service and is glad Ferguson has them back. Questioned if the City monitors excess trash and lights regarding commercial buildings. Mr. Krieger commented the code is enforced Citywide. Public Works Director, Terry O’Neil explained the replacing of certain lights and trash is inspected and enforced. Ms. Faul thanked Dwayne Ingram for his work and time spent on the Park Board. Thanked Council Member Kallstrom for the Legislative Conference update. Commented that Dellwood is working on a W. Florissant/Chambers TIF project and would like to see Ferguson join in their discussion to improve W. Florissant to Lucas & Hunt. Ms. Faul requested to be informed of future Nesbit Newton Neighborhood meetings. Happy St. Patrick’s Day.

Bill Duncan – Regarding Midwest Waste would like to see the residents well educated and informed so there would be a smooth transition.

Keith Kallstrom – Congratulated Officers Harry Dilworth and Jonathan Brannan. He attended a Legislative Conference in Jefferson City and telecommunication ordinances were discussed. Mr. Kallstrom requested Staff to review the City’s telecommunication ordinance. Congratulations to the Fire Department, in using the new AED they were able to revive a patient. Florissant Valley Symphony Orchestra is having a free concert on Sunday, March 13 at 3:00 p.m. at the Florissant Valley Community College Theatre.

Mr. Kallstrom asked for a review of the Lambert-Airport letter Council received regarding the Suburban Road alignment. Mr. Krieger explained when the portion of Suburban improvement was discussed when Horner & Shifrin were hired to design that portion of the redevelopment project area boundary east to Florissant Road, there was discussion of the \$500,000. At the time, Mr. Krieger was not a part of the negotiations but understood what the City's expectations were with respect to how the City would directly benefit from the project. Mr. Krieger reviewed the language in the Agreement and concluded it was not what the Council thought it was. It is a situation where the City has executed the Agreement and it would be somewhat difficult to reopen, but there would be opportunities in the future as this development takes shape and progresses, for the City to revisit points in the Agreement. Mr. Krieger would expect Council's direction to Staff would be to get as much money as possible for Suburban Road improvements from the redevelopment project.

Mayor summarized the recollection of the original Agreement from the County where the City wanted improvements of Suburban Road all the way through and including the realignment of Hanley. Council was under the impression that is what the City received. Council was first to sign the document of the three municipalities but held out signing the final documents because of the importance of Suburban Road. There was community pressure to move along for the sake of cooperation. County offered the \$500,000 to make improvements on Suburban Road. The alignment is the key to this whole project and was never off the table. Now it seems to be either the \$500,000 or the realignment. Mayor wants to pursue with the parties involved in the negotiations because that is not what Council initially agreed to.

Mr. Krieger explained there are two possible ways to proceed, formally or informally and because it involves an Agreement, it would be a closed session item. Mr. Krieger suggested future discussion with Council and City Attorneys.

Mark Crinnion – Welcomed Mr. Hines back and congratulated Officers Harry Dilworth and Jonathan Brannan.

Mr. Crinnion wanted to review the Comprehensive numbers for the year ended June 30, 2004. He stated that last August Council was told the actual revenue was going to be \$9,242,611. The audited report showed audited revenue at \$9,514,625 Mr. Crinnion questioned the difference. Mr. Krieger responded by saying Council was sent an email telling them the fund balance was going to be \$1,499,700 and it ended up being \$1,930,602 the difference is because the City now accounts for July and August receivables differently. The difference of \$430,902 was posted in October 2004.

Mr. Krieger stated that Council was made aware at that time, there was no Finance

Director and every communication Mr. Krieger gave Council indicated he was working through it and his numbers were subject to some degree of fluctuation and as soon as there was a final number, it would be given to Council. The beginning fund balance that was reported to Council and the difference between the actual can be accounted for in receivables.

Mr. Crinnion questioned if the \$9,242,611 represented 10 or 12 months worth of revenue and to make sure it is verified against the proper information from prior years. Mr. Krieger will review.

Mr. Krieger asked Mr. Crinnion if there was a particular document he is referring to with the \$9,242,611. A January email referenced it and Council was told in August of last year. Mr. Krieger explained that the difference in revenue could be accounted for in receivables. Mr. Crinnion wants to confirm that the number in review is 12 months of revenue.

James Hines – Appreciated and thanked everyone for their get-well cards and letters, it worked because he is feeling better. He hopes to stay until his term is up. Congratulated Police Officers Harry Dilworth and Jonathan Brannan.

A.J. Krieger – Requested Council approval for Staff to proceed with Robert Superior survey work and preliminary engineering. Council concurred.

There being no further business to consider, the meeting adjourned at 9:20 p.m.

Debbie Mathies, City Clerk