

FERGUSON CITY COUNCIL

Council Meeting Minutes April 15, 2008



**COUNCIL MEETING, 7:00 P.M.
CITY HALL
110 CHURCH STREET**

The regular meeting of the Ferguson City Council was called to order at 7:00 p.m. on April 15, 2008 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
Kynan S. Crecelius
Michael Salant
James W. Knowles III
Dwayne James
Peggy Faul
Fran Grecco

Mrs. Matthies declared a quorum was present.

Also present were City Manager John Shaw, City Attorney Kevin O'Keefe and City Clerk Deborah Matthies.

Mayor Fletcher welcomed all present and explained the Council meeting would have a Public Hearing Portion at which time you are invited to speak on the specific request or proposal; a Public Portion at which 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 HEARING

Chapter 49 Zoning - for the purpose of considering a Special Use Permit to operate Ambiance Beauty Salon, 149 S. Florissant Road. The proposed site is zoned DB-2, and a beauty salon is a special use.

City Manager John Shaw explained that the Public Hearing is for a Special Use Permit at 149 S. Florissant Road. The petitioner is requesting a Special Use Permit to maintain a beauty salon in the same location and are purchasing the business from the current owner.

As an existing use, the applicant complies with all of the standards for a beauty salon except parking and the adequacy of the landscaping. There are five uses in the existing building.

Mr. Shaw further commented that the Plan Commission, at their April 2, 2008 meeting, accepted the revised staff report recommending approval of a Special Use Permit with conditions at 149 S. Florissant Road. The petitioners are purchasing the beauty salon business from the current owner, which is one of the four tenants in the building. As one of the conditions of approval, the owner of the property agreed to work with the Planning and Development Director on the location and type of landscaping for the site and submit a plan for approval before the occupancy permit is issued. The Plan Commission eliminated from the original staff report the need for any joint parking since the current parking arrangement has been deemed adequate when looking at the total amount of parking spaces for all of the businesses combined.

There being no public comments, Mayor Fletcher closed the Public Hearing Comments portion at 7:05 p.m.

PUBLIC COMMENTS

There being no public comments, Mayor Fletcher closed the Public Comments portion at 7:07 p.m.

BUSINESS PORTION

MINUTES

Council Meeting Minutes – March 25, 2008. A motion was made by Council Member Knowles, seconded by Council Member Faul, and carried to approve and receive as presented the Council Meeting Minutes of March 25, 2008 and file as appropriate

APPOINTMENTS –

Bob Bindbeutel appointed to the Building Board of Appeals.
Bill Duncan appointed to the Building Board of Appeals.
Tim Stoverink appointed to the Traffic Commission.
Doretha Nickson-Harris appointed to the Housing Board of Appeals.

Mayor Fletcher reminded everyone if they are interested in serving on a Board or Commission to please contact their Council Member or City Staff.

RESOLUTION

A motion was made by Council Member Knowles, seconded by Council Member James to read Resolution 2008-08. Motion carried.

2008-08 - A RESOLUTION APPROVING AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY MANAGER AND THE CITY OF FERGUSON, was introduced by Council as a whole and read by City Attorney, Kevin O'Keefe. On roll call vote, the motion carried as follows:

AYES: 7—Crecelius, Salant, Knowles, James, Mayor Fletcher, Faul, Grecco
NOES: 0

Resolution passes.

BILLS REQUIRING FIRST READINGS

BILL NO. 6839 - AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI GRANTING A SPECIAL USE PERMIT FOR THE PROPERTY LOCATED AT 149 SOUTH FLORISSANT ROAD SUBJECT TO THE CONDITIONS, RESTRICTIONS AND REQUIREMENTS SET FORTH HEREIN, was introduced by Council as a whole and read the first time.

BILL NO. 6840 - AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF FERGUSON, MISSOURI, TO ADD SECTION 29-93 TO PROHIBIT RESIDENCY OF SEX OFFENDERS IN PROXIMITY TO CERTAIN FACILITIES; TO PROHIBIT LOITERING AND PRESENCE IN CERTAIN AREAS BY SEX OFFENDERS, AND ESTABLISHING A PENALTY FOR VIOLATION THEREOF AND ALSO TO ADD SECTION 30-8 TO RESTRICT THE USE OF CITY PARKS AND THE CITY POOL AND RESTRICT THE PARTICIPATION IN CITY-SPONSORED RECREATIONAL EVENTS BY SEX OFFENDERS, was introduced by Council Member James W. Knowles, III and read the first time.

Council Member Knowles explained that the State establishes certain parameters in which sex offenders can live within a proximity to a school or other certain locations, the City Ordinances often mimic the State's law regarding that issue. This Ordinance expands the boundaries from 1,000 to 2,000 feet from a school and also has further prohibitions from allowing sex offenders to participate in recreational activities and bars them from entrance to the City's recreational facilities. Mr. Knowles commented that other cities have undertaken this and feels that it is a good step for the City in protecting Ferguson's younger citizens and citizens as a whole.

City Manager John Shaw mentioned that there were concerns regarding the liability that this would place on the City because of the specifics but that after speaking with the City Attorney, they will not be an issue.

City Attorney Kevin O'Keefe commented that with the passage of this Ordinance the City would not become a guarantor of the conduct of registered sex offenders within the City. Mr. O'Keefe does not foresee any potential for liability at least for the character that was talked about.

Council Member Grecco requested expounding on the character that was being discussed.

Mr. O'Keefe commented that the question was if the City has a residency prohibition and a sex offender violates it and then commits a crime could the City be liable. The answer would be, "no the City could not be liable."

Council Member Grecco questioned if the same answer applies with restrictions to access to the parks. If once the City has the regulations in place that are mandated by this Ordinance for the Parks Department to create restrictive regulations for access if somebody were somehow to fall through the cracks on that access provision and gain access to the Parks, would the City be exposing itself to liabilities?

Mr. O'Keefe responded that in his opinion, the City would not be liable.

Mayor questioned what requirements it puts on the staff when a person comes in to apply for an occupancy permit will this now require staff to run a police check to see if they are a sexual offender before issuing an occupancy permit?

Mr. O'Keefe explained that anyone who resides in the community and is a registered sex offender must register with the City. At that time, they can be informed of the constraints upon them in the community. Since they have to register with the Police Chief, that is the occasion to tell them the information as to the residency limits and the park use limitations, etc. It is their responsibility to comply.

Mayor questioned that since it is incumbent upon the sex offender to positively report, if not doing so it releases the City of any responsibility.

Mr. O'Keefe responded that is correct.

Council Member Grecco questioned for anyone who already resides in the community and has already established a residence in the community of a significant lengthy duration and if they have recently been adjudicated as a sex offender within the confines of the Missouri Statute, what does this Ordinance do, if anything, with regard to their ability to live. This is a purely hypothetical question and the person having already established a long time residence in the City.

Mr. O'Keefe commented that the Missouri Supreme Court recently ruled that an application of the State's residency limit retroactively to those convicted before it was adopted is unconstitutional, likewise here, if there is an individual who is a registered sex offender who is complying with the State law by the 1,000 foot residency prohibition from the trigger points and the City adopts an Ordinance which would make their current residence inappropriate under the City Ordinance they are not required to move and comply with this Ordinance.

Mr. O'Keefe explained that if they are a long time resident within the requisite proximity to the trigger point and now become subject to the Ordinance by conviction of a crime of the character contemplated by the Ordinance then they may indeed have to move.

Council Member Grecco commented that application of the Ordinance is prospective not retrospective. Ms. Grecco wanted to inform everyone that it is a very significant difference.

Council Member Crecelius commented that the lack of liability on the City's part by making it the City is not liable if they do not adhere to the City codes since they register with the Police Chief as a sex offender and are informed then. However, it is not a perfect world and people will not necessarily adhere automatically by themselves. Mr.

Crecelius has requested that staff look at how much more it would cost Staff to cross-reference against the State registrations at the time the occupancy permit is applied for. Staff may find that some people are not registering with the Chief and are in violation of the law.

Mr. Shaw can provide Council with an estimate of the cost. Mr. Shaw questioned if Council wants estimates for new applicants or checking periodically.

Council Member Knowles commented that the detective bureau probably does periodic check ups on new convictions.

Mr. Crecelius commented that just a one-time check of existing occupancy permits to verify that all State registered sex offenders are actually registered locally would be appropriate, then from here on out all new registrations would be checked. Mr. Crecelius would like the City to take a proactive approach to this.

Mr. Shaw will provide a cost estimate.

BILLS REQUIRING SECOND READINGS

BILL NO. 6837 - AN ORDINANCE OF THE CITY OF FERGUSON MISSOURI, AMENDING ARTICLE III OF TITLE 41, AMENDING SECTION 41-77 OF TITLE 41, AMENDING SECTION 28.0 OF TITLE 49, AND AMENDING ARTICLE I OF TITLE 7 OF THE MUNICIPAL CODE RELATING TO FEES FOR THE FILING AND REVIEW OF PLATS, PLANS FOR PLANNED DEVELOPMENTS AND SITE PLANS, AND PLANS AND APPLICATION MATERIALS FOR VARIOUS PERMITS, was introduced by Council as a whole and read the first time.

City Manager John Shaw explained that this amendment addresses the fees associated with the plan review contract the City entered into with Weis Design Group for plats, plans for developments, site plans, plans and applications for building permits, grading and other various permits. This amendment allows the City to recuperate the cost of the review from Weis Design Group by the applicant, property owner or developer.

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

AYES: 7 – Salant, Knowles, James, Mayor Fletcher, Faul, Grecco, Crecelius
NOES: 0

Bill No. 6837 was declared passed and sent to the Mayor for signature. Bill No. 6837 thus became Ordinance No. 2008-3351 and is permanently recorded in Book 30 on page 15.

MISCELLANEOUS

Ms. Faul – announced that the Ferguson Florissant School District is now registering for their 3 and 4-year-old preschool by calling the early education office. New statistics show that third graders that have been in both the Parents as Teachers Program and the preschool program are scoring in the 80 percent better on their MAP scores. Early learning is the start.

Ms. Grecco – Well wishes to Parks and Recreation Director Dave Smith. Extend congratulations to the City's very own business owner Farzad Faramarzi proprietor of the Thyme Table for his nomination from North County Inc. to receive the 2008 Business Development Award. It is wonderful that the City has local businesses and entrepreneurs who are being recognized.

Ms. Grecco promises everyone that April 26, 2008 will be a very busy Saturday in Ferguson – Farmers' Market opens for the season, the Home Improvement Fair is free with a number of vendors and proprietor exhibit booths set up. At 8:00 a.m. the Maline Creek cleanup begins at Forestwood Park, trash bags will be available but bring good shoes and gloves.

Ms. Grecco reminded everyone of April 15 tax day. If you are a resident or business owner in St. Louis County, both State and Federal Taxes have been granted, if you need, an automatic extension until May 19, 2008, there will be no penalties because the entire County was declared a disaster area because of the March floods and storms. If you need the extension be sure to write in red at the top of the tax return – *Flood and Disaster Relief Return* this way the IRS will know the reason they are not assessing penalties.

Ms. Grecco asked everyone to walk their neighborhoods one time at night and look to see if you can find your own house address and your neighbors house address then ask yourself if it is the middle of the night and you need to call the Fire Department, Police or ambulance can they readily identify your house. Please consider placing larger address numbers in obvious available places on your house.

Mr. James – reminded everyone to beautify your neighborhoods by cleaning them up, watch for children playing and to drive a little slower and be cautious of your surroundings. Also, until the stoplights are replaced along Florissant Road, to please drive cautiously and stop at the intersections. Please just be street smart.

Mr. Knowles – best wishes to Parks and Recreation Director Dave Smith.

Mr. Crecelius – well wishes to Parks Director Dave Smith and family. Requested Staff to add to the calendar, the proactive approach to the Sex Offender Ordinance.

Mr. Shaw – reminded Council of the questions he passed along in his Memorandum, to consider them and to let him know if there are any questions on the topics.

Mayor Fletcher – thanked the individuals who stepped forward to fill some of the Boards & Commission vacancies. July of each year members will be rotating off the Boards and Commissions so if there is anyone who is interested please check with Mayor Fletcher, Council or Staff. Please keep their yards cleaned up.

Mayor reminded Council of the closed session.

ADJOURNMENT

At 7:30 p.m. a motion was made by Council Member Grecco, seconded by Council Member Knowles, to enter into closed session in accordance with RSMo 610.021/610.022 Section(s) (1) and (2) and (11). Motion carried.

Having concluded the closed session at 9:00 p.m., a motion was made by Council Member Knowles, seconded by Council Member Grecco to convene to open session. On roll call vote, the motion carried.

A motion was made by Council Member Knowles, seconded by Council Member Grecco to adjourn the meeting at 9:00 p.m.

Brian P. Fletcher - Mayor
City of Ferguson, Missouri

ATTEST:

Deborah L. Matthies - City Clerk
City of Ferguson, Missouri

Approved: 4/22/08
