

Approved: 5/12/09

FERGUSON CITY COUNCIL
Council Meeting Minutes
APRIL 28, 2009, 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 28, 2009 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	(ABSENT)
James W. Knowles, III	(arrived 7:08)
Dwayne James	
Peggy Faul	
Fran Grecco	

Ms. Matthies declared a quorum was present.

Council Member Salant was an excused absence.

Also present were City Manager, John Shaw, City Attorney, Stephanie Karr 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; Public 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 HEARINGS

Mayor opened the Public Hearing at 7:00 p.m.

GOD'S CREATION DEVELOPMENT CENTER, to operate God's Creation Development Center located at 497-501 Airport Road. The proposed site is zoned DB-2 Downtown Area Business District, and a child day care center is a Special Use.

City Manager, John Shaw explained that the applicant is seeking a Special Use Permit and numerical limitation waiver for a daycare center in the DB-2 district and possibly a variance for the spatial requirement of 2,500 sq. ft. between child daycare centers. The applicant must prove that the use can be supported in the area and is not in competition with a diversity of retail uses in the districts.

At their April 15, 2009 meeting, Plan Commission recommended tabling a decision on a child daycare use at 497 & 501 Airport Road until their May 20, 2009 meeting, to allow the applicant additional time to provide substantial material and evidence of how the proposed use will enhance the DB-2 Zoning District.

Because of this decision, Staff recommends that the scheduled Public Hearing on April 28, 2009 be held open until its May 26, 2009 meeting.

Mayor continued the Public Hearing to May 26, 2009.

Mayor opened the Public Hearing at 7:05 p.m.

SAY WHEN LOUNGE 2, to operate Say When Lounge 2 located at 9181 W. Florissant Ave. The proposed site is zoned C-1, General Commercial District, and a bar is a Special Use.

City Manager, John Shaw explained that Mr. James Robinson submitted a Special Use Permit application to operate a bar & grill at 9181 W. Florissant Avenue. As conditions of the Special Use Permit, the property owner will be required to provide a detailed landscape plan to be approved by the Director of Planning and Development, before the commercial occupancy permit is issued.

Thomas Nellums, Deacon at Family of Faith Missionary Baptist Church had concerns and comments that a bar in that location takes away from what the Church is trying to do for the neighborhood. He feels that a bar brings a different crowd, and brings more traffic through the Church area.

Michael R. Anders, Deacon at Family of Faith Missionary Baptist Church and executive Director of Michael Anders Prison Ministry concurs with Deacon Nellum's comments and concerns with the bar in that location.

Bob Meyer, Owner of buildings 9161-9231 W. Florissant, Parkridge Plaza, the 9181 W. Florissant address is his building. Mr. Meyer referred to his letter sent to Council regarding his position on the conditions of the Special Use Permit. Mr. Meyer commented that the building was built and constructed for a bar and opened as a bar since 1967 with no problems with the City. Mr. Meyer has concerns with the determination with the landscaping and screening, parking spaces, planters, cost of planters and drainage with the conditions of the Special Use Permit.

Mr. Meyer commented he cannot afford the changes and offered, as an alternative, to replant shrubbery in the existing four planters in front of the buildings, which he feels would solve the problem of beautifying the front of the building. Mr. Meyer has owned the building 25 years.

Mr. Meyer commented that the change of ownership and the site being vacant is what prompted the application for a new license. The building is equipped for a bar.

Council discussed the distance between an establishment serving liquor and Church.

James Robinson, 536 Emerson Road, Petitioner of the Special Use Permit at 9181 W. Florissant commented that the Church is more than 300 feet away and it has been a bar for years. The crowd would be a 35 or older crowd, more of a lounge feel. Mr. Robinson currently operates a lounge in the City of Berkeley across the street from a Church and has not had any problems. The bar is closed on Sunday.

Mayor closed the Public Hearing at 7:15 p.m.

SPECIAL PRESENTATION

Neighborhood Programs

Community Development Coordinator Natasha Ramey presented an update on the Neighborhood League, and the different Neighborhood Associations requests for *Neighborhood Identifiers*.

Council Member James further discussed other developing neighborhood programs and presented the concept for the Neighborhood Gardens, in creating flowering, vegetable and wild grass gardens to beautify the empty lots owned by the City of Ferguson.

Benefits would encourage residents and neighbors to build a sense of community while beautifying their neighborhoods. Recent studies show it decreases crime, increases owner-occupied homes, encourages active and healthy living and reduces cost and time in Staff having to maintain the empty lots.

Partners/members are residents, City Staff, some Ferguson businesses, City Council and garden community organizations. Funding sources are City donations, fund raising, grants, sponsors, memberships and private donors.

Possible locations discussed were 802 Robert and 485 Mueller in the Plaza Heights area. Future sites are being discussed with the possibility of city-wide native wild flower gardens.

Council Member James presented the first and second phase approach, cost projections, and the two proposals from the associations. The neighborhoods would play the key role in planning and implementing the programs, but will require some Staff and Council time.

Further discussion on the below ground water tank and how MSD water barrels would tie into downspouts to fill the water tank, a very dry summer the tank might have to be filled. The tank will be placed in a certain drainage location on the property for natural filtration.

Council found the project very encouraging and thanked the presenters for the information, as well as Robert Superior and Old Ferguson West Neighborhoods who worked so hard on this project.

PUBLIC COMMENTS

Jessica Hensiek, 619 Carson Road, Ferguson Animal Hospital on behalf of the Ferguson Dog Park Task Force, gave an update on the dog park and park name contest. The top three names are Wayside Park Unleashed, FURguson, Wayside Park or Wolf and Wag at Wayside. By donations of coins or multiple coins, which will benefit St. Louis Stray Rescue, you may vote for the dog park name. The contest will be held on May 15 and the name will be announced at the Fourth of July Festival. The winner will win a free one-half year membership.

For the remaining one-half year, the use of the dog park is for Ferguson residents only. After the first of the year, the task force will evaluate the availability of the use of the dog park to non-residents.

Bob Hinckler, 40 S. Hartnett, had comments and concerns regarding the nuisance of loud music played in cars around the City and feels residents would appreciate Council looking into this nuisance and to re-evaluate City policy and penalties regarding it.

City Manager, John Shaw commented that officers are very diligent in enforcing penalties when coming across an individual playing loud music.

Council will review the Ordinance and suggested any information residents can give the Police would also help to identify the offenders i.e. license plates, color, make and model of cars, etc.

Mayor Fletcher closed the Public Comments portion at 7:55 p.m.

BUSINESS PORTION

MINUTES

Council Meeting Minutes, April 21, 2009. A motion was made by Council Member Knowles, seconded by Council Member Grecco and carried to approve and receive, the Council Meeting Minutes of April 21, 2009 and file as appropriate. Motion carried.

CONSENT AGENDA

Minutes

Senior Citizens Commission Minutes, April 9, 2009. A motion was made by Council Member Knowles, seconded by Council Member Faul and carried to receive the Senior Citizens Commission Minutes as presented and file as appropriate. Motion carried.

Council Member Faul explained the Park Board's recommendations to Council - YMCA requested the use of Hudson Park be amended to give a thirty percent discount, instead of twenty percent, to Ferguson residents for the Summer Camp that will be held at Hudson Park. Motion passed on voice vote, 6-0.

Park Board Minutes, March 31, 2009 *w/recommendations*. A motion was made by Council Member Knowles, seconded by Council Member Faul and carried to receive the Park Board Minutes *w/recommendations* as presented and file as appropriate. Motion carried.

Ferguson Neighborhood Improvement Program (FNIP) Minutes, February 23, 2009. A motion was made by Council Member Knowles, seconded by Council Member Faul and carried to receive the Ferguson Neighborhood Improvement Program (FNIP) Minutes as presented and file as appropriate. Motion carried.

Ferguson Special Business District (FSBD) Minutes, March 19, 2009. A motion was made by Council Member Knowles, seconded by Council Member Faul and carried to receive the Ferguson Special Business District (FSBD) Minutes as presented and file as appropriate. Motion carried.

Ferguson Municipal Library Minutes, March 23, 2009. A motion was made by Council Member Knowles, seconded by Council Member Faul and carried to receive the

Ferguson Municipal Library Minutes as presented and file as appropriate. Motion carried.

APPOINTMENTS

Council discussed the Architect requirement for specific Boards/Commissions. City Attorney, Karr will review.

PROCLAMATIONS

National Public Works Week was read by Mayor Brian P. Fletcher.

Peace Officers' Memorial Day and Police Week was read by Mayor Brian P. Fletcher.

National Preservation Month was read by Mayor Brian P. Fletcher.

American Association of University Women Day was read by Mayor Brian P. Fletcher and presented to Sylvia Miller.

RESOLUTION

A motion was made by Council Member Knowles, seconded by Council Member Grecco and carried to approve Resolution No. 2009-05. Motion carried.

2009-05, Smoke-Free Public Environment Resolution, was introduced by Council Members present and read the first time.

Mayor Fletcher explained that states across the United States have smoking bans of various types. Several months ago, the five cities mentioned in the Resolution sent a letter to County Council stating that they wish that this issue be tackled on a state-wide issue but realized the political environment would probably not allow that to happen at this time, so they are asking the County Council to pass a regional county-wide smoking ban.

Council discussed the spirit of joining them in that effort on a regional basis, looking at a county-wide smoke free public environment.

Council discussed that this Resolution has nothing to do with the City passing this on its own. At this point, this is not the City of Ferguson passing a smoke-free environment on businesses. This is just a statement, for Council wide support of a regional tackling of this issue. It is an expression of Council's desire to join a larger collective.

Council Member James agrees and thinks Council should make the statement a little bit stronger and suggested that the statement of *The City of Ferguson, with the possible exemption of bar, restaurant, and gambling establishments that restrict customers to twenty-one years of age and over ...* he feels it is just a statement and need not be included, since Council is basically asking the County to do something county-wide. That is his only thought.

Council Member Crecelius asked for the statement to be included for the reason that he believes that smoking and buying a pack of cigarettes is legal to anyone eighteen years of age or older. He feels that if it is legal for you to purchase cigarettes, it is

legal for you to use cigarettes.

Council Member Crecelius also feels it is a health issue. When smoking in public you are exposing other people, want it or not, to what you are doing. If you are a restaurant, bar, gambling establishment whose sole purpose is to cater to an adult audience, anyone eighteen or older, you have no minors who cannot make decisions for themselves and who are illegally not able to engage in that activity.

If the audience is restricted to that, and as a restaurant, bar etc., you want to make a statement saying smoking will be allowed in this location, then the audience knows what to expect. Seeing that smoking is allowed there, you are making an educated choice, saying yes – you allow smoking – I will still frequent your place. You are exposing yourself to the health risk of a smoking environment. If the bar makes a public statement saying that they allow a smoking environment, it is your personal choice.

Council Member James commented that is what they are doing, and it is your choice to go into that place.

Council Member Crecelius will not support any statement that says carte blanc there is no smoking anywhere, telling an entire establishment, not this half smokes and this half does not smoke, but the entire establishment saying we will allow smoking in this establishment if you are going to come and frequent our bar, you should expect to have to be exposed to smoke. You make the personal decision whether or not you want that. That is a right of the individual bar owner, and will not take that away from the owner as long as cigarettes are legal.

Mr. Crecelius also feels that establishments need to display signage saying they are a smoking environment, so that the individual audience knows what to expect when they are frequenting that establishment.

On roll call vote, the motion carried as follows:

AYES:	5	Crecelius, Knowles, Mayor Fletcher, Faul, Grecco
NOES:	1	James
ABSENT:	1	Salant

Resolution passes.

BILLS REQUIRING FIRST READINGS

BILL NO. 6883 AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI GRANTING A SPECIAL USE PERMIT FOR THE PROPERTY LOCATED AT 9181 W. FLORISSANT AVENUE SUBJECT TO THE CONDITIONS, RESTRICTIONS AND REQUIREMENTS SET FORTH HEREIN, was introduced by Council Members present and read the first time.

Planning Development Director, Rosalind Williams offered some clarification regarding the proposed bar's location with respect to the nearby Church. Ms. Williams explained the distance of the property lines, property to property, between the Church and the bar were measured and they are within 300 feet. Ms. Williams commented that this is affecting the liquor license rather than the zoning. The liquor license is determined by the distance between the Church and the bar.

Mr. Shaw responded that the applicant and property have been informed, in writing, of this matter.

BILLS REQUIRING SECOND READINGS

A motion was made by Council Member Knowles, seconded by Council Member Faul and carried to read Bill No. 6879 a second time and place it upon its passage.

BILL NO. 6879 AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI GRANTING A SPECIAL USE PERMIT FOR THE PROPERTY LOCATED AT 9260 W. FLORISSANT AVENUE SUBJECT TO THE CONDITIONS, RESTRICTIONS AND REQUIREMENTS SET FORTH HEREIN, was introduced by Council Members present and read the first time.

City Manager, John Shaw explained that Mr. David Wright submitted a Special Use Permit to operate a bar and grill at 9260 W. Florissant Avenue.

The Plan Commission recommended approval of the revised Staff Report and Special Use Permit for 9260 W. Florissant Avenue and included the hours of operation and the conditions of approval to insure that the permitted use does not expand on its hours after obtaining the Special Use Permit and does include the landscaping, as well.

On roll call vote, the motion carried as follows:

AYES: 6 Knowles, James, Mayor Fletcher, Faul, Grecco, Crecelius
NOES: 0
ABSENT: 1 Salant

Bill No. 6879 was declared passed and sent to the Mayor for signature. Bill No. 6879 thus became Ordinance No. 2009-3392 and is permanently recorded in Book 31 page 6.

A motion was made by Council Member Knowles, seconded by Council Member Faul and carried to read Bill No. 6880 a second time and place it upon its passage.

BILL NO. 6880 AN ORDINANCE AMENDING DIVISION 3 (ENTITLED "HOTELS, MOTELS, BOARDINGHOUSES AND PRIVATE CLUBS") OF ARTICLE II OF CHAPTER 42 PERTAINING TO BUSINESS LICENSES FOR SUCH BUSINESSES, was introduced by Council Members present and read the first time.

City Manager, John Shaw explained Numbers 6880, 6881, and 6882 are all in conjunction with the voter-approved Proposition A, increasing the landlord license fees to \$50.

Council discussed this was an opportunity to update the Ordinances and requested future Ordinance changes be made in bold.

On roll call vote, the motion carried as follows:

AYES: 6 James, Mayor Fletcher, Faul, Grecco, Crecelius, Knowles
NOES: 0
ABSENT: 1 Salant

Bill No. 6880 was declared passed and sent to the Mayor for signature. Bill No. 6880 thus became Ordinance No. 2009-3393 and is permanently recorded in Book 31 page 7.

A motion was made by Council Member Knowles, seconded by Council Member James and carried to read Bill No. 6881 a second time and place it upon its passage.

BILL NO. 6881 AN ORDINANCE AMENDING PROVISIONS OF DIVISION 4 OF ARTICLE II OF CHAPTER 42 RELATING TO BUSINESS LICENSES FOR RESIDENTIAL RENTAL REAL ESTATE, was introduced by Council Members present and read the first time.

On roll call vote, the motion carried as follows:

AYES: 6 Mayor Fletcher, Faul, Grecco, Crecelius, Knowles, James
NOES: 0
ABSENT: 1 Salant

Bill No. 6881 was declared passed and sent to the Mayor for signature. Bill No. 6881 thus became Ordinance No. 2009-3394 and is permanently recorded in Book 31 page 8.

A motion was made by Council Member Knowles, seconded by Council Member James and carried to read Bill No. 6882 a second time and place it upon its passage.

BILL NO. 6882 AN ORDINANCE AMENDING PROVISIONS OF ARTICLE II OF CHAPTER 25 RELATING TO REQUIREMENTS FOR RESIDENTIAL RENTAL REAL ESTATE, was introduced by Council Members present and read the first time.

On roll call vote, the motion carried as follows:

AYES: 6 Faul, Grecco, Crecelius, Knowles, James, Mayor Fletcher
NOES: 0
ABSENT: 1 Salant

Bill No. 6882 was declared passed and sent to the Mayor for signature. Bill No. 6882 thus became Ordinance No. 2009-3395 and is permanently recorded in Book 31 page 9.

OLD BUSINESS

Council Member James asked for Council consent to allocate \$25,000.00 in the budget for the Neighborhood Programs/Gardens.

Mr. Shaw commented that it is already allocated, and it is now specified, the funds remain in the current Fiscal Year Budget. Council agreed.

MISCELLANEOUS

Mr. Knowles asked everyone to please be mindful of others regarding loud music, excessive noise, it is a problem and possibly look into increasing the fine(s). Please visit the Farmers' Market opening day on Saturday.

Mr. James encouraged everyone to visit the Farmers' Market 8 a.m. - noon and Live Well Conversation and Fair – 10 a.m. Congratulations to Jen Stephens, an Old Ferguson West resident and great volunteer, as being selected as Ferguson-

Florissant School District Teacher of the Year for 2009. Please vote for the Dog Park name.

Ms. Faul congratulated Jen Stephens, selected as Ferguson-Florissant School District Teacher of the Year for 2009, very lucky to have Jen and her husband as residents. Ferguson-Florissant School District is also extremely lucky to have Jen as a middle school teacher.

Ms. Faul said she cannot say enough about all of the wonderful things from gardens to dog parks, to neighborhood organizations, Ferguson is really busy and on the move. Reminded citizens that the Police Department is addressing the issues discussed. Ms. Faul hopes to see a smoking ban throughout the County, City and State.

Ms. Grecco thanked and congratulated the Neighborhoods for their activities and interests in participating in the Community Gardens. Visit the Farmers' Market on opening day, Saturday. Congratulations to resident Bill Duncan, Ward 1, who received a St. Louis County older citizens award for his ongoing writing of the Senior Moments articles in the Ferguson Times. Please do not panic, just use common sense regarding the Swine Flu.

Mr. Shaw updated Council on the Missouri City Management Association (MCMA) Spring Conference that he and Assistant to the City Manager, Sam Anselm attended. The overall theme was Managing Cities of the future and briefly explained the topics discussed. Overall, Mr. Shaw felt that the conference was very informational, looks forward to some of the new techniques and is thankful for the opportunities for professional development.

Mr. Shaw informed that the St. Louis County Lead Hazard Program has received funds for lead hazard remediation, a five-year forgivable loan, for St. Louis County homeowners. Basic qualifications for the program, 1) meet income guidelines, 2) own your own home, 3) have a child under six years old, either living in the home or frequently visiting the home, and 4) mortgage tax must be paid for the year. For additional information and/or application contact Judy Candela, Health Educator at (314) 615-1642, Staff will also place the information on cable channel and on the City website.

Mr. Shaw gave an update on the Charter cable upgrade and advised City software needs upgraded and the need to purchase a new DVD/VCR player. Staff is currently exploring the options and will keep Council informed.

Reminder that May 13 is the Neighborhood Watch picnic.

Mayor Fletcher congratulated resident and former Council Member Bill Duncan on his recognition for his column, reminded everyone of the Biggest Yard Sale – May 16, 2009 any questions contact City Hall. Congratulations to Jennifer Stephens, as being selected as Ferguson-Florissant School District Teacher of the Year for 2009.

Mayor announced a closed session.

At 8:45 p.m. a motion was made by Council Member Knowles, seconded by Council Member James and carried to enter into closed session in accordance with RSMo 610.021/610.022 to discuss matters relating to matters as provided under Section(s) 610.021 (2) RSMo. Motion carried.

Having concluded the closed session at 9:15 p.m., a motion was made by Council Member Knowles, seconded by Council Member Faul and carried to convene to open session. On roll call vote, the motion carried.

There being no further business to consider, Council Member Knowles, seconded by Council Member James, moved to adjourn the meeting. Motion carried. The meeting adjourned at 9:15 p.m.

ATTEST:

Brian P. Fletcher – Mayor
City of Ferguson, Missouri

Deborah Matthies – City Clerk
City of Ferguson, Missouri