

AMENDED -

**Page 10 – to reflect that Bill No. 6849 did not pass on 7/22/08 because the affirmative vote was not a majority of the entire Council.*

**FERGUSON CITY COUNCIL
Council Meeting Minutes
July 22, 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 July 22, 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 (ABSENT)
Michael Salant (ABSENT)
James W. Knowles, III
Dwayne James
Peggy Faul
Fran Grecco

Mrs. Matthies declared a quorum was present.

Council Member Crecelius and Council Member Salant were absent.

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; 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.

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PUBLIC HEARING – Mayor opened the Public Hearing – 7:05 p.m.

Chapter 49 Zoning

- ❖ *A Special Use Permit to operate a Family Day Care at 801 Deandell Ct. The proposed site is zoned R-1D, Single Family Residence, and a Family Day Care Home requires a Special Use Permit.*

City Manager, John Shaw explained that while helping the City of Ferguson Police Department in the creation of the 2,000 ft Residency Requirements for Sexual Offenders Map, staff uncovered six unknown daycares in the City of Ferguson. Staff discussed the findings with both the Finance and Public Works Department, to see if any permits or licenses had been issued to any of the daycares. It was concluded that although all six had a State of Missouri license, none of them had ever notified the City of Ferguson, or obtained the necessary permits and license to operate. All six of the daycares are located in residential areas, and all require a Special Use Permit, Commercial Occupancy Permit, and Business License to operate family daycares in the City of Ferguson.

Mr. Shaw further explained that on May 29, 2008, staff sent out letters notifying the daycares that they were in violation of the City of Ferguson Zoning Ordinance. Mrs. Light, of 801 Deandell Court, promptly contacted staff regarding the letter and asked what needed to be done to continue the business. Staff advised Mrs. Light, to fill out a Special Use Permit application in order to start the process. Not only did this daycare operation not comply with the Zoning Ordinance, but the adjacent property to the west and the property across the street to the north, were also non-complying daycares. Due to the unique set of circumstances, City Council decided to waive the required 1,000 ft. buffer between day care locations rule, for the three daycares located on Deandell Ct.

The Petitioner submitted the SUP application on June 6, 2008. The Plan Commission voted on July 2, 2008 approval of the Staff Report recommending support of the Special Use Permit request by Mrs. Linda Light, with the conditions outlined in Conditions of Approval to operate a Family Daycare Home at 801 Deandell Court.

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Petitioner, Mrs. Linda Light explained her situation and her past and current communications with the City. Mrs. Light asked Council to consider approval of her Special Use Permit, which is her only means of employment.

There being no public comments, Mayor Fletcher closed the Public Hearing Comments portion at 7:10 p.m.

SPECIAL PRESENTATIONS

❖ *Pride of the City Winners – Month of August*

Public Works Director, Terry O'Neil explained the Pride of the City Program. Mr. O'Neil and Mayor Fletcher introduced and congratulated the August Pride of the City winners. The winners are Ward 1 – Kimberly Cooper, 330 Robert Ave., Ward 2 – Lenora Goolsby, 424 Church St. and Ward 3 – Thomas & Nancy McCarthy, 742 Brotherton Lane. Each of the winners will receive a Certificate and City Flag. Pride of the City signs will be placed in their yards. Council congratulated the winners.

PUBLIC COMMENTS

Nick Kasoff – 125 Royal Ave. – explained a project called Keep Ferguson Beautiful.

Ed Meixner – 1440 Alicia – has several complaints against the Special Use Permit awarded to the Sisters of St. Joseph Carondelet. Mr. Meixner presented a letter with attachments to Council for their review and discussed its contents.

Mayor informed Mr. Meixner his allegations will be investigated and he will receive a response.

Martin Pion – had comments regarding promoting bike education courses for City employees, bicyclist hazards due to non-responsive traffic lights and ice cream van noise nuisance.

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Aline Stingley – 1442 Hudson – announced Northview-Holiness Temple Family Complex on Saturday August 2, 2008 from 9 a.m. - 1 p.m. will hold workshops on budgeting, credit counseling, debt elimination and foreclosure guidance and invited Mayor and Council Members to attend.

Mike McGrath – 1599 Knollstone – had complaints and issues regarding his neighbor and presented Council with photographs of his yard. Mr. McGrath feels that the City is not responding to the violations of his neighbor and feels it has been handled very poorly by the various city departments and employees.

Mayor informed Mr. McGrath that his complaints are being investigated and he will receive a response.

There being no further public comments, Mayor Fletcher closed the Public Comments portion at 7:50 p.m.

BUSINESS PORTION
MINUTES

Special Council Meeting Minutes – July 8, 2008. A motion was made by Council Member Knowles, seconded by Council Member James, and carried to approve and receive as presented the Special Council Meeting Minutes of July 8, 2008 and file as appropriate.

Council Meeting Minutes – June 24, 2008. A motion was made by Council Member Knowles, seconded by Council Member James, and carried to approve and receive as presented the Council Meeting Minutes of June 24, 2008 and file as appropriate.

CONSENT AGENDA
Minutes

Personnel Board (*DRAFT*) Minutes – June 10, 2008. A motion was made by Council Member Knowles, seconded by Council Member Grecco, and carried to receive the minutes as presented and file as appropriate.

Plan Commission Minutes – June 4, 2008. A motion was made by Council Member Knowles, seconded by Council Member Grecco, and carried to receive the minutes as presented and file as appropriate.

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Ferguson Neighborhood Improvement Program (FNIP) Minutes – April 28, 2008. A motion was made by Council Member Knowles, seconded by Council Member Grecco, and carried to receive the minutes as presented and file as appropriate.

Traffic Commission Minutes – December 6, 2007. A motion was made by Council Member Knowles, seconded by Council Member Grecco, and carried to receive the minutes as presented and file as appropriate.

APPOINTMENTS

A motion was made by Council Member Knowles, seconded by Council Member Faul to appoint Daniel Cowen (Ward 2) to the Building Board of Appeals. Motion carried.

REQUESTS

A motion was made by Council Member Knowles, seconded by Council Member James to approve a Temporary Liquor License for Our Lady of Guadalupe Festival September 14, 2008.

PROCLAMATIONS

National Night Out – August 5, 2008 was read by Mayor Fletcher.

RESOLUTIONS

2008-17 A RESOLUTION DESIGNATING HARTNETT AVENUE IN THE CITY OF FERGUSON AS A "SAFE STREET," was introduced by Council Members Faul and Grecco and read by City Attorney Stephanie Karr.

Mr. Shaw explained that due to traffic issues meeting the criteria of the City of Ferguson Code of Ordinances, Chapter 40, Section 40-7 Designation of "safe streets" and after consultation with the Director of Public Safety, it has been determined that there is a need to designate Hartnett Avenue as a "safe street." This issue came before the Traffic Commission on July 15, 2008 due to a request from Council Members Faul and Grecco on behalf of residents of Hartnett Avenue. It was recommended by City Staff and accepted by the Traffic Commission as a recommendation to City Council.

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It is also recommended that at this time the current speed limit (25 m.p.h.) remain in place and that no other traffic control devices or additional regulations be put in place that do not currently exist on Hartnett Avenue.

A motion was made by Council Member Grecco, seconded by Council Member Faul to approve Resolution 2008-17. Motion carried.

On roll call vote, the motion carried as follows:

AYES: 5 – Knowles, James, Mayor Fletcher, Faul, Grecco

NOES: 0

ABSENT: 2 – Crecelius, Salant

Resolution passes.

2008-18 A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL COOPERATION AGREEMENT ON BEHALF OF THE CITY TO PROVIDE FUEL SERVICES TO THE CITY OF COUNTRY CLUB HILLS, was introduced by Council Members present and read by City Attorney, Stephanie Karr.

Mr. Shaw explained Resolution 2008-18, if approved, allows the City Manager to enter into a contract with Country Club Hills to provide fuel services to their fleet. Country Club Hills is the third municipality that has officially responded to the City's offer.

A motion was made by Council Member Knowles, seconded by Council Member James to approve Resolution 2008-18. Motion carried.

On roll call vote, the motion carried as follows:

AYES: 5 – James, Mayor Fletcher, Faul, Grecco, Knowles

NOES: 0

ABSENT: 2 – Crecelius, Salant

Resolution passes.

2008-19 A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION FOR THE DOWNTOWN REVITALIZATION ECONOMIC ASSISTANCE FOR MISSOURI (DREAM) INITIATIVE, was introduced by Council Members present and read by City Attorney, Stephanie Karr.

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Mr. Shaw explained that Staff has applied to the State of Missouri Department of Economic Development to once again be considered for their DREAM Initiative, a State program that offers expedited technical assistance to small- to mid-sized communities involved with planning and implementing a strategy to improve their downtown business district. Mr. Shaw commented that the evaluation process will take approximately two months; once the evaluations are completed, 10 communities will be selected for 2008. Past winners have been communities from rural areas of the State that do not have access to the same resources that larger communities have. While Ferguson does not fit the typical mold of past DREAM communities, with the Downtown planning process currently underway, it seems like an opportune time to receive assistance from the State if Ferguson is chosen as one of the communities.

A Resolution supporting the application is required by the State, as part of the process. If passed, this Resolution will immediately be forwarded.

A motion was made by Council Member Knowles, seconded by Council Member Grecco to approve Resolution 2008-19. Motion carried.

On roll call vote, the motion carried as follows:

AYES: 5 – Mayor Fletcher, Faul, Grecco, Knowles, James

NOES: 0

ABSENT: 2 – Crecelius, Salant

Resolution passes.

BILLS REQUIRING FIRST READINGS

BILL NO. 6851 AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI GRANTING A SPECIAL USE PERMIT FOR THE PROPERTY LOCATED AT 801 DEANDELL CT. SUBJECT TO THE CONDITIONS, RESTRICTIONS AND REQUIREMENTS SET FORTH HEREIN, was introduced by Council Members present and read the first time.

BILL NO. 6852 AN ORDINANCE FIXING THE RATE OF AD VALOREM TAXATION FOR THE YEAR 2008 BY LEVYING A TAX FOR GENERAL AND OTHER PURPOSES ON ALL PROPERTY MADE TAXABLE BY LAW WITHIN THE CORPORATE LIMITS OF THE CITY OF FERGUSON, MISSOURI; AND LEVYING A TAX FOR FREE

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PUBLIC PARKS IN THE CITY OF FERGUSON, MISSOURI, was introduced by Council Members present and read the first time.

Finance Director, Jeffrey Blume explained by Statute the City is authorized to levy an *Ad Valorem* Tax on real and personal property, which has been budgeted and done every year. Mr. Blume further reported the increase and decrease in taxation rates, real residential property, real commercial property and personal property, which deals with assessed value and anticipated tax receipts. In addition, Mr. Blume did caveat that rates were based on preliminary valuations and subject to possible change.

With regard to the draft of Bill No. 6853 Mayor would like to see the maximum of \$1,000 be the minimum fine and feels this would send out a message from Ferguson. If the law allows a fine of \$1,000, Mayor feels this is what the penalty should be.

Council agreed to increase the minimum penalty fine of \$500.00 to \$1,000 in Section E.

BILL NO. 6853 AN ORDINANCE AMENDING ARTICLE IV OF CHAPTER 29 OF THE MUNICIPAL CODE FOR THE PURPOSE OF ENACTING A NEW SECTION PROHIBITING THE TAMPERING WITH PROPERTY AND THE THEFT OF COPPER AND OTHER METAL MATERIALS AND AMENDING CHAPTER 25 OF THE MUNICIPAL CODE FOR THE PURPOSE OF ENACTING A NEW ARTICLE AND NEW SECTIONS REGULATING TRANSACTIONS INVOLVING SECONDHAND OR USED COPPER OR METAL MATERIALS, was introduced by Council Members present and read the first time.

BILLS REQUIRING SECOND READINGS

BILL NO. 6850 (AMENDED) AN ORDINANCE AMENDING THE ZONING REGULATIONS PERTAINING TO THE DB-1 AND DB-2 ZONING DISTRICTS AND AMENDING SECTION 23.4 OF THE ZONING CODE RELATING TO THE CRITERIA FOR REVIEWING APPLICATIONS FOR SPECIAL USE PERMITS, was introduced by Council as a whole and read the first time.

A motion was made by Council Member Knowles, seconded by Council Member Grecco to table Bill No. 6850 (AMENDED) to the August 26, 2008 Council Meeting. Motion carried.

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A motion to read Bill No. 6848 a second time and place it upon its passage was made by Council Member Knowles, seconded by Council Member Grecco.

BILL NO. 6848 AN ORDINANCE AMENDING CHAPTER 28 OF THE MUNICIPAL CODE OF THE CITY OF FERGUSON, MISSOURI, BY ADDING A NEW ARTICLE III CONSISTING OF TWO SECTIONS RELATING TO THE REGULATION OF PORTABLE ON DEMAND STORAGE UNITS, was introduced by Council as a whole and read the first time.

Mr. Shaw explained that based on the current Ordinance, Portable On Demand Storage Units (PODS) are technically not allowed in the City of Ferguson, and are considered an accessory structure similar to a shed or garage. Staff feels strongly that PODS should be regulated separately from more permanent accessory structures. The proposed Ordinance would regulate the placement and the amount of time a POD will be allowed on a property.

Based on the proposed Ordinance, a POD will not be allowed on any public property or public right-of-way (street, sidewalk, tree lawn, etc.), can not block the entry to parking of multiple dwelling units, must be placed on an improved surface and cannot be placed for more than ten (10) consecutive days on a property and no more than three (3) days in a front yard of a property.

On roll call vote, the motion carried as follows:

AYES: 5 – Faul, Grecco, Knowles, James, Mayor Fletcher
NOES: 0
ABSENT: 2 – Crecelius, Salant

Bill No. 6848 was declared passed and sent to the Mayor for signature. Bill No. 6848 thus became Ordinance No. 2008-3361.

A motion to read Bill No. 6849 a second time and place it upon its passage was made by Council Member Knowles, seconded by Council Member Grecco.

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BILL NO. 6849 AN ORDINANCE OF THE CITY OF FERGUSON, MISSOURI GRANTING AN AMENDMENT TO SPECIAL USE PERMIT 96-146 FOR THE PROPERTY LOCATED AT 10890 W. FLORISSANT AVENUE SUBJECT TO THE CONDITIONS, RESTRICTIONS AND REQUIREMENTS SET FORTH HEREIN, was introduced by Mayor Brian P. Fletcher and read the first time.

City Manager, John Shaw explained that Liberty Restaurant Group is requesting a transfer of Special Use Permit (SUP) No. 96-146 for Burger King w/drive- through window from Reishus Management, Inc. to Liberty Restaurant Group. The transfer of the Special Use Permit was approved by City Council on January 22, 2008. This transfer to the new owners required that they operate under the same stipulations as the original Special Use Permit. However, when Mr. Jay Amarosa, President of Liberty Restaurant Group, came in to sign the Special Use Permit transfer, one of the conditions of approval for Special Use Permit 96-146 was the hours of operation (6:30 a.m. to 12:00 a.m., Friday–Saturday, and 6:30 a.m. to 11:00 p.m., Sunday–Thursday). Mr. Amarosa informed staff that they were operating 24 hours a day, seven days a week, and when he took over the restaurant, the former managers were also operating 24 hours a day 7 days a week. Therefore, Liberty Restaurant Group was asked to apply for an amendment to Special Use Permit 96-146 for the change in hours. At the June 4, 2008 Plan Commission meeting, the staff report recommending approval of the amendment to Special Use Permit No. 96-146 to change Burger King’s hours of operations to 24 hours a day 7 days a week, was approved by the Plan Commission.

On roll call vote, the motion carried as follows:

AYES: 3 – Grecco, James, Mayor Fletcher

NOES: 2 – Knowles, Faul

ABSENT: 2 – Crecelius, Salant

Bill No. 6849 was declared passed and sent to the Mayor for signature. Bill No. 6849 thus became Ordinance No. 2008-3362.

(7/22/08 Minutes were AMENDED ON 8/26/08) to reflect that Bill No. 6849 did not pass on 7/22/08 because the affirmative vote was not a majority of the entire Council.

Reconsideration of Bill No. 6849 on 8/26/08. A motion was made by Council Member Faul, seconded by Council Member Grecco, to reconsider Bill No. 6849 (Burger King) Special Use Permit. On voice vote, motion carried.

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OLD BUSINESS

Council Member James commented that the conceptual plans for the 501 S. Florissant Road project are being finalized and in the next month or two the plans will be ready for Council review.

Council Member Faul questioned if the new traffic flow pattern for Vogt School will be in place time school starts. Mr. Shaw stated it will be implemented.

MISCELLANEOUS

Ms. Grecco – extends heartfelt condolences to the City, staff, residents and families of all of the victims from Maplewood's tragedy. Congratulated the Pride of the City winners and thanked the Kasoff's on their energy on beautifying Ferguson, it is a message we all need to take to heart and participate in.

Ms. Faul – also sends condolences to all involved in the Maplewood tragedy. Live Well Ferguson initiative will have a survey coming out in the Ferguson Times and asked everyone to participate. Thanked the Pride of the City winners.

Ms. Faul commented that the Park Department has a wonderful program of Adult Swim in the afternoons at noon and it allows adults to use the pool but, it is only for adults 18 years or older. Encourages parents to make sure their children are behaving in a safe manner. Ms. Faul feels swimming is a fun but dangerous activity and lifeguards need the parents help as well.

Ms. Faul encourages all businesses to check with the City regarding permit applications. Ms. Faul commends Mrs. Light for being licensed by the State and hopes that the State will get strict in day care licensing so all day cares will need to be licensed.

Mr. James – sends condolences to all involved in the Maplewood tragedy. Congratulations to all of the Pride of the City winners. Mr. James viewed the homes and commented they had a hard time in deciding the Pride of the City winners this year. Keep up the good work and please help your neighbor. Thanked everyone who participated in the PROUD event – *Evening In the Garden*, it was a

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great event and thanked the Dyson's for the use of their beautiful home.

Mr. James thanked Nick Kasoff and his family for Keep Ferguson Beautiful campaign and the residents who are involved. It would also help if everyone would take an extra bag when walking to clean up litter and make sure not to contribute to the littering. Please keep your yards and streets clean.

Mr. Knowles – sends condolences to all involved in the Maplewood tragedy. Thanked Nick and neighbors who helped with the Keep Ferguson Beautiful campaign. In the future, Mr. Knowles would like to see the City assisting them in any way they can and hopefully this movement will continue to grow in keeping Ferguson beautiful.

Mr. Shaw – with regard to Keep Ferguson Beautiful Mr. Shaw thanked Public Relations Coordinator, Beth von Behren who made the first contact to persuade Shop N Save to allow Keep Ferguson Beautiful to use their dumpster.

Mayor Fletcher – thanked Nick for his presentation and feels if everyone would pick up trash, it would make a difference and Council would like to see more strategically located nice looking trash receptacles throughout the City.

Mayor enjoyed the PROUD event and commented that it never ceases to amaze him of how many beautiful homes are located in Ferguson that people are not aware of.

Mayor Fletcher commented that Council has discussed over two years the property the City acquired at 501 S. Florissant. At the request of certain individuals and organizations, Council did not remove the building pending studies. It is obvious to Council that none of the proposals that are going to come about will require that building and feels the building is becoming an eye sore and would like it removed.

A motion was made by Mayor Fletcher, seconded by Council Member Knowles to authorize the City Manager to arrange to remove the building located at 501 S. Florissant Road and to properly cap off utilities. Motion carried.

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Mayor announced a closed session.

ADJOURNMENT

At 8:30 p.m., a motion was made by Council Member Knowles, seconded by Council Member Grecco, to enter into closed session in accordance with RSMo 610.021/610.022 Section(s) (1) and (2). Motion carried.

Having concluded the closed session at 9:25 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.

There being no further business to consider, Council Member Knowles, seconded by Council Member Grecco moved to adjourn the meeting. The meeting adjourned at 9:25p.m.

Brian P. Fletcher – Mayor
City of Ferguson, Missouri

ATTEST:

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