



RECORD OF PROCEEDING

MEETING OF THE CITY COUNCIL OF THE CITY OF CHESTERFIELD AT 690 CHESTERFIELD PARKWAY WEST

July 19, 2004

The meeting was called to order at 7 p.m.

Mayor Nations led everyone in the Pledge of Allegiance and followed with a moment of silent prayer.

A roll call was taken with the following results:

PRESENT

Mayor John Nations
Councilmember Barry Flachsbart
Councilmember Jane Durrell
Councilmember Barry Streeter
Councilmember Bruce Geiger
Councilmember Dan Hurt
Councilmember Mike Casey
Councilmember Mary K. Brown
Councilmember Connie Fults

ABSENT

None

APPROVAL OF MINUTES

The minutes of the June 21, 2004, City Council meeting were submitted for approval. Councilmember Casey made a motion, seconded by Councilmember Durrell, to approve the City Council minutes. A voice vote was taken with a unanimous affirmative result and the motion was declared passed.

INTRODUCTORY REMARKS

Mayor John Nations congratulated Director of Finance and Administration Jeremy Craig on being awarded the “Distinguished Budget Presentation Award”, by the Government

Finance Officers Association. This is the fifteenth consecutive year that the City has received this prestigious award.

Mayor Nations recognized State Representative Jane Cunningham and Mike Reid, who is State Senator John Loudon's aide.

Mayor Nations announced the upcoming primary election August 3 and urged everyone to vote.

Mayor Nations announced a special City Council meeting scheduled for August 2. The purpose of this meeting will be to allow for the second reading and passage of Bill #2292 (see "Legislation" portion of these Minutes), which would authorize placement of a ½ cent sales tax, for Parks and Recreation, on the November 2 ballot. Additionally, there is a chance that City Council will be able to consider a possible re-financing of the City Hall debt, at that same meeting.

Mayor Nations next explained the budget deficit that the City has been experiencing for the past several years and the reasons that have caused this deficit. He noted that City Council had authorized the use of fund reserves, to cover the budget shortfall, which prevented any reduction in services. However, fund reserves cannot continue to be used, for this purpose. He specifically addressed the differences among cities, in St. Louis County, regarding sales tax distribution. He noted that the current CITY property tax levy is only \$.06/\$100, or less than 1% of the average property tax bill for Chesterfield residents. He went on to explain the necessity of the proposed 1/2¢ sales tax proposition for Parks and Recreation which, if Bill #2292 is approved at the special City Council meeting, scheduled for August 2, will appear on the November 2 ballot. If this proposed sales tax proposition passes, the revenue will become a dedicated funding source for land acquisition and the construction of additional facilities/capital improvements, as well as the funding of the operation and maintenance of all current and future parks and recreational facilities.

COMMUNICATIONS AND PETITIONS

Jeannie Geers, 190 Carondelet Plaza, attorney for the petitioner, supported Bill No. 2288 (P.Z. 6-2003/Villages of Kendall Bluffs/Jones Company).

Jerry Duepner, 16640 Chesterfield Grove, petitioner representative, supported Bill No. 2288 (P.Z. 6-2003/Villages of Kendall Bluffs/Jones Company).

Ed Unwin from Sterling Engineering, supported Bill No. 2288 (P.Z. 6-2003/Villages of Kendall Bluffs/Jones Company).

Steve Lander, who resides at 679 Old Riverwoods, opposed Bill No. 2288 (P.Z. 6-2003/Villages of Kendall Bluffs/Jones Company), and expressed concerns regarding water/runoff problems in the adjacent Ladue Bluffs.

Tom O'Toole, Jr., attorney for the applicant, supported Bill No. 2283 (P.Z. 34-2003, 16713 Wild Horse Creek Road – Richard M. Demko).

Brad Geller, who resides at 253 Cordovan Commons Parkway, opposed Bill No. 2288 (P.Z. 6-2003/Villages of Kendall Bluffs/Jones Company), and expressed concerns regarding water/runoff problems in the adjacent Ladue Bluffs.

Pat Richardson, who resides at 239 Cordovan Commons Parkway, opposed Bill No. 2288 (P.Z. 6-2003/Villages of Kendall Bluffs/Jones Company), and expressed concerns regarding water/runoff problems in the adjacent Ladue Bluffs.

Jeanne Johnson, who resides at 241 Cordovan Commons Parkway, opposed Bill No. 2288 (P.Z. 6-2003/Villages of Kendall Bluffs/Jones Company), and expressed concerns regarding water/runoff problems in the adjacent Ladue Bluffs.

Bob Wald, who resides at 227 Cordovan Commons Parkway, opposed Bill No. 2288 (P.Z. 6-2003/Villages of Kendall Bluffs/Jones Company), and expressed concerns regarding water/runoff problems in the adjacent Ladue Bluffs.

Steve Greenwood, owner of Greenwoods Sports Grill, 137 Chesterfield Towne Center, requested that City Council approve his liquor license.

APPOINTMENTS

Mayor Nations nominated Fred Broemmer (Ward I) for re-appointment, as a member of the Planning Commission and Thomas Sandifer and David Asmus to be appointed to the Planning Commission. Councilmember Flachsbart made a motion, seconded by Councilmember Brown, to re-appoint Mr. Broemmer and appoint Mr. Sandifer and Mr. Asmus as members of the Planning Commission. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. The terms for each of these individuals will expire 6/5/08. Councilmembers Hurt and Brown thanked retiring commissioner Dan Layton for his many years of service on the Planning Commission. Councilmember Flachsbart commended Mr. Broemmer for his many contributions to the Planning Commission and for his continued service to the City.

COUNCIL COMMITTEE REPORTS

Planning and Zoning Committee

Councilmember Bruce Geiger, Chairperson of the Planning and Zoning Committee, reported that Bill No. 2288 (P.Z. 6-2003, Villages at Kendall Bluffs (PEU), Bill No. 2289 (P.Z. 5-2004, Kemp Foundation), Bill No. 2290 (P.Z. 3-2004, City of Chesterfield (Home Occupation) and Bill No. 2291 (P.Z. 11-2004, City of Chesterfield (Kennel) will be read for the first time. Bill No. 2283 (P.Z. 34-2003, 16713 Wild Horse Creek Road – Richard M. Demko), Bill No. 2284 (P.Z. 26-2003, City of Chesterfield Lighting Ordinance) and Bill No. 2275 (P.Z. 4-2004, City of Chesterfield Residential Service Area) will be considered for adoption under the “Legislation – Planning Commission” portion of the agenda.

Councilmember Geiger next reported that the Committee is recommending a procedure to follow with regard to amendments to Planning Commission legislation. City Administrator Herring clarified Staff's recommendation. Councilmember Geiger then made a motion, seconded by Councilmember Durrell, to use the "green sheets" for amendments coming from the Planning and Zoning Committee, including those that receive a 2-2 vote and are forwarded without a recommendation, and to use the "pink sheets" for all other amendments, from any other source. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Councilmember Geiger noted that the Mayor, any member of City Council or Staff could propose amendments to legislation, at any time prior to final adoption, but said amendments would not be in written form (as noted above), for prior review by City Council, unless submitted to Staff, prior to preparation/distribution of the City Council agenda packets.

Councilmember Geiger announced that the next meeting of this Committee has been scheduled for July 22 at 5:30 p.m.

Public Works/Parks Committee

Councilmember Dan Hurt, Chairperson of the Public Works/Parks Committee, reported that Bill No. 2287 (accepts public streets within Wildhorse Meadows Subdivision) and Bill No. 2292 (provides for the sales tax in the amount of one-half (1/2) of one-percent (1%) for the purpose of providing funding for local parks) will be read for the first time. Bill No. 2281 (accepts public streets within the Crossing at Chesterfield), Bill No. 2282 (accepts public streets within Windgate Subdivision) and Bill No. 2286 (approves the installation of a fire hydrant at Dugsford Commons) will be considered for adoption under the "Legislation" portion of the agenda.

Councilmember Hurt announced that the next meeting of this Committee has been scheduled for August 5 at 5:30 p.m.

REPORT OF THE CITY ADMINISTRATOR

City Administrator Mike Herring reported that Mimi's Café, located at 17240 Chesterfield Airport Road, has submitted an application for a liquor license to serve beer and wine only, by-the-drink, for consumption on the premises and Sunday sales. This application is due to a change in ownership. The application has been reviewed and recommended for approval by both the Departments of Planning and Police. Councilmember Streeter made a motion, seconded by Councilmember Casey, to approve issuance of the liquor license to Mimi's Café. A voice vote was taken with a unanimous affirmative result and the motion was declared passed.

Mr. Herring next reported that approval was being sought for Resolution No. 301, which will authorize the City Administrator to sign the necessary paperwork to apply for and accept a grant to provide continued funding for the City's Traffic Safety Officer Program. That translates to approximately \$30,600.00, in total funding. Councilmember Flachsbart made a motion, seconded by Councilmember Casey, to adopt Resolution No. 301, which would authorize Mr. Herring to proceed with the application and acceptance of grant

funding. A voice vote was taken with a unanimous affirmative result and the motion was declared passed.

Mr. Herring next reported that bids were recently sought for a contract to construct handicap access ramps along Appalachian Trail. This work is funded entirely by Community Development Block Grant (CDBG) funds, obtained by the City of Chesterfield. Mr. Herring joined with Director of Public Works/City Engineer Mike Geisel in recommending award of a contract to SBC Contracting, IMC., in an amount not to exceed \$46,665. Councilmember Flachsbart made a motion, seconded by Councilmember Casey, to award a contract to SBC Contracting, IMC., in an amount not to exceed \$46,665, as recommended above. A voice vote was taken with a unanimous affirmative result and the motion was declared passed.

Mr. Herring next reported that the City had received a request for a liquor license from Greenwood's Sports Grill, located at 137 Chesterfield Town Center (near the intersection of Long Road and Edison Avenue) in the Chesterfield Valley. Based upon a recommendation submitted by both Chief Ray Johnson and Director of Finance and Administration Jeremy Cragi, Mr. Herring recommended **DENIAL** of the liquor license request for Greenwood's. Mr. Herring stated that his recommendation for **DENIAL** is due, primarily, to the discovery, on June 24, 2004, that liquor was being served at this location, without an approved license, issued by either the State of Missouri or the City of Chesterfield. Further investigation by undercover Police Officers produced evidence that alcoholic beverages had been served, illegally, between June 18 and June 24.

Mr. Herring further explained that City Council had approved a liquor license, for this business, earlier this year, but the check issued by the owners of said business was returned for "insufficient funds". The license application was withdrawn and the matter sat dormant until May 10, 2004. At that time a new application was submitted and a money order accompanied the application to cover the necessary license fees. However, due to a variety of different issues, including the necessary background investigations on everyone involved, no license was issued and the subsequent discovery of the sale of alcoholic beverages, without a license, resulted. Earlier this month it was discovered that this business was operating with a sign inviting patrons of the restaurant to "BYOB", or "Bring Your Own Bottle". Although the City of Chesterfield does not recognize nor issue such a license, it is possible for a business to obtain such a license from the State Liquor Control Office. In checking with that agency, it was discovered that Greenwood's Sports Grill had no such license.

Mr. Herring stated that at the direction of City Attorney Doug Beach, a letter was sent to Mr. Greenwood, informing him that there would be a recommendation at the July 19 City Council meeting, to deny issuance of a liquor license to this business, at this location. There had been no response provided by the owners/operators of this business. With all of this in mind, Councilmember Streeter made a motion, seconded by Councilmember Geiger, to **deny** the liquor license request from Greenwood's Sports Grill. A voice vote was taken with a unanimous affirmative result and the motion was declared passed.

NEW BUSINESS

Councilmember Geiger requested Staff to address the issue of merchandise being located outside the stores in Chesterfield Commons. He reported that portions of the shopping center have become unsightly with the merchandise being displayed in this manner. Mr. Herring indicated that Staff would inspect and take appropriate action.

In response to a suggestion from Councilmember Brown, Ward IV, Mayor Nations called for a motion to suspend the rules to go to the “Legislation – Planning Commission” portion of the agenda. Councilmember Streeter made a motion, seconded by Councilmember Fults, to suspend the rules, as requested. A voice vote was taken with a unanimous affirmative result and the motion was declared passed.

LEGISLATION – PLANNING COMMISSION

BILL NO. 2283 AMENDS THE ZONING ORDINANCE OF THE CITY OF CHESTERFIELD BY CREATING A COMMERCIAL SERVICE PROCEDURE WITHIN AN “NU” NON-URBAN DISTRICT FOR AN APPROXIMATELY 1.194 ACRE TRACT OF LAND LOCATED AT 16713 WILDHORSE CREEK ROAD (P.Z. 34-2003, 16713 WILDHORSE CREEK ROAD) (RICHARD M. DEMKO) (**SECOND READING -PLANNING COMMISSION RECOMMENDS DENIAL; AMENDMENTS APPROVED AS RECOMMENDED BY PLANNING AND ZONING COMMITTEE; PLANNING AND ZONING COMMITTEE FORWARDS THIS PROPOSED LEGISLATION WITHOUT RECOMMENDATION**)

Mr. Rob Heggie, attorney from City Attorney Doug Beach’s law firm, was in attendance in Mr. Beach’s absence. Mr. Heggie reported that there was an appeal, by the petitioner, to the Planning Commission’s recommendation for denial on this legislation, as well as a protest, from adjacent property owners. Both issues need to be addressed, when Council takes final action. He noted that passage of this legislation would require a “super majority” of six votes.

Councilmember Geiger made a motion, seconded by Councilmember Casey, for a second reading of Bill No. 2283. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2283 was read for the second time. Councilmember Geiger made a motion, seconded by Councilmember Casey, to approve Bill No. 2283, in support of the appeal and to deny the protest. A roll call vote was taken for passage and approval of Bill No. 2283, with the following results: Ayes – Geiger, Streeter and Durrell. Nays – Fults, Casey, Brown, Flachsbarth and Hurt. Whereupon, Mayor Nations declared Bill No. 2283 **DEFEATED**. As a result, the appeal is denied and the protest is upheld.

BILL NO. 2284 AMENDS THE CITY OF CHESTERFIELD LIGHTING ORDINANCE PROVIDING REQUIREMENTS FOR ACCENT LIGHTING AND SIGN LIGHTING AND PROVIDING FOR THE DEFINITION OF L.E.D. LIGHTING (LIGHTING

**ORDINANCE/P.Z. 26-2003) (SECOND READING –
PLANNING COMMISSION RECOMMENDS APPROVAL)**

Councilmember Geiger made a motion, seconded by Councilmember Casey, for a second reading of Bill No. 2284. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2284 was read for the second time. A roll call vote was taken for passage and approval of Bill No. 2284, with the following results: Ayes – Streeter, Casey, Geiger, Fults, Hurt, Durrell, Brown and Flachsbart. Nays - None. Whereupon, Mayor Nations declared Bill No. 2284 approved, passed it and it became **ORDINANCE NO. 2106.**

BILL NO. 2275 AMENDS CITY OF CHESTERFIELD ZONING ORDINANCE SECTION 1003.182 TO ESTABLISH NEW CRITERIA FOR THE CREATION OF A RESIDENTIAL BUSINESS USE AREA OVERLAY (P.Z. 04-2004, CITY OF CHESTERFIELD/RESIDENTIAL SERVICE AREA) (**SECOND READING – PLANNING COMMISSION RECOMMENDS APPROVAL; AMENDED AS RECOMMENDED BY PLANNING AND ZONING COMMITTEE**)

Councilmember Geiger made a motion, seconded by Councilmember Casey, for a second reading of Bill No. 2275. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2275 was read for the second time. Councilmember Durrell made a motion, seconded by Councilmember Geiger, to amend Attachment A, Page 4 under “parking”, with the first sentence to read “a maximum, of six (6) parking spaces **excluding** any spaces in a garage or covered structure area.” A roll call vote was taken for approval of this motion with the following results: Ayes – Durrell, Casey and Geiger. Nays – Streeter, Fults, Hurt, Flachsbart, and Brown. Mayor Nations declared the motion failed. A roll call vote was then taken for passage and approval of Bill No. 2275, with the following results: Ayes – Streeter, Fults, Casey, Hurt, Flachsbart, Brown, and Geiger. Nays - Durrell. Whereupon, Mayor Nations declared Bill No. 2275 approved, passed it and it became **ORDINANCE NO. 2107.**

BILL NO. 2288 AMENDS THE ZONING ORDINANCE OF THE CITY OF CHESTERFIELD BY CREATING A PLANNED ENVIRONMENT UNIT (PEU) WITHIN AN “R-1A” RESIDENTIAL DISTRICT FOR A 63.8 ACRE TRACT OF LAND LOCATED ON THE NORTH SIDE OF OLIVE BOULEVARD, EAST OF CORDOVIAN COMMONS PARKWAY AND WEST OF OLD RIVERWOODS (P.Z. 6-2003, VILLAGES OF KENDALL BLUFFS/JONES COMPANY) (**FIRST READING – PLANNING COMMISSION RECOMMENDS DENIAL; PLANNING AND ZONING COMMITTEE RECOMMENDS APPROVAL BUT ONLY IF**

**AMENDED AS NOTED WITHIN THE ATTACHED
“GREEN SHEET”)**

Councilmember Geiger made a motion, seconded by Councilmember Casey, for the first reading of Bill No. 2288. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2288 was read for the first time. Councilmember Geiger made a motion, which was seconded by Councilmember Casey, to amend Bill No. 2288 per the “green sheet”. Councilmember Brown made a motion to amend the “green sheet”, with regard to Section 10, to delete the phrase: “within 500 feet of the right-of-way for Olive Boulevard.” Both Councilmembers Geiger and Casey agreed to amend their motion, to include this additional amendment to the “green sheet”. A voice vote was taken, with a unanimous affirmative result, and the motion was declared passed. The “green sheet” amendments, as amended, were approved.

BILL NO. 2289 AMENDS THE ZONING ORDINANCE OF THE CITY OF CHESTERFIELD BY CREATING A MUSEUM ARTS AREA (MAA) WITHIN A “PC” PLANNED COMMERCIAL DISTRICT FOR A 5.1 ACRE TRACT OF LAND ON THE NORTH SIDE OF CHESTERFIELD AIRPORT ROAD, EAST OF BOONE’S CROSSING (P.Z. 05-2004, KEMP FOUNDATION) (**FIRST READING – PLANNING COMMISSION RECOMMENDS APPROVAL**)

Councilmember Geiger made a motion, seconded by Councilmember Casey, for the first reading of Bill No. 2289. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2289 was read for the first time. Mayor Nations expressed his condolences to the Kemp family, on their recent loss.

BILL NO. 2290 AMENDS THE CITY OF CHESTERFIELD ZONING ORDINANCE SECTION 1003.020 (86) TO ALLOW FOR A NEW DEFINITION FOR HOME OCCUPATION AND AMENDS SECTION 1003.167 (20) TO ALLOW FOR A NEW CRITERIA (P.Z. 3-2004, CITY OF CHESTERFIELD/HOME OCCUPATION) (**FIRST READING – PLANNING COMMISSION RECOMMENDS APPROVAL**)

Councilmember Geiger made a motion, seconded by Councilmember Casey, for the first reading of Bill No. 2290. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2290 was read for the first time.

BILL NO. 2291 AMENDS THE CITY OF CHESTERFIELD ZONING ORDINANCE SECTION 1003.020 (101) TO ALLOW FOR A NEW DEFINITION FOR A BOARDING KENNEL AND TO ESTABLISH SECTION 1003.020 (102) FOR THE ESTABLISHMENT OF A DEFINITION FOR PRIVATE KENNEL (P.Z. 11-2004, CITY OF CHESTERFIELD/KENNEL) (**FIRST READING – PLANNING COMMISSION RECOMMENDS APPROVAL**)

Councilmember Geiger made a motion, seconded by Councilmember Casey, for the first reading of Bill No. 2291. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2291 was read for the first time.

LEGISLATION

BILL NO. 2281 PERTAINS TO THE ACCEPTANCE OF PUBLIC STREETS WITHIN THE CROSSING AT CHESTERFIELD SUBDIVISION IN THE CITY OF CHESTERFIELD (SECOND READING – PUBLIC WORKS/PARKS COMMITTEE)

Councilmember Hurt made a motion, seconded by Councilmember Casey, for a second reading of Bill No. 2281. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2281 was read for the second time. A roll call vote was taken for passage and approval of Bill No. 2281, with the following results: Ayes – Casey, Fults, Durrell, Hurt, Brown, Geiger, Streeter and Flachsbart. Nays - None. Whereupon, Mayor Nations declared Bill No. 2281 approved, passed it and it became **ORDINANCE NO. 2108.**

BILL NO. 2282 PERTAINS TO THE ACCEPTANCE OF PUBLIC STREETS WITHIN THE WINDGATE SUBDIVISION IN THE CITY OF CHESTERFIELD (SECOND READING – PUBLIC WORKS/PARKS COMMITTEE)

Councilmember Hurt made a motion, seconded by Councilmember Casey, for a second reading of Bill No. 2282. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2282 was read for the second time. A roll call vote was taken for passage and approval of Bill No. 2282, with the following results: Ayes – Durrell, Streeter, Flachsbart, Fults, Casey, Hurt, Geiger and Brown. Nays - None. Whereupon, Mayor Nations declared Bill No. 2282 approved, passed it and it became **ORDINANCE NO. 2109.**

BILL NO. 2286 APPROVES THE INSTALLATION OF A FIRE HYDRANT ON DUGSFORD COMMONS, LOCATED WITHIN THE CITY OF CHESTERFIELD (FIRST AND SECOND READINGS – PUBLIC WORKS/PARKS COMMITTEE)

Councilmember Hurt made a motion, seconded by Councilmember Casey, for the first reading of Bill No. 2286. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2286 was read for the first time.

Councilmember Hurt made a motion, seconded by Councilmember Casey, for a second reading of Bill No. 2286. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2286 was read for the second time. A roll call vote was taken for passage and approval of Bill No. 2286, with the following results: Ayes – Brown, Durrell, Geiger, Streeter, Flachsbart, Hurt, Fults, and Casey. Nays -

None. Whereupon, Mayor Nations declared Bill No. 2286 approved, passed it and it became **ORDINANCE NO. 2210**.

BILL NO. 2287 PERTAINS TO THE ACCEPTANCE OF THE PUBLIC STREET WITHIN WILDHORSE MEADOWS SUBDIVISION IN THE CITY OF CHESTERFIELD
(FIRST READING – PUBLIC WORKS/PARKS COMMITTEE)

Councilmember Hurt made a motion, seconded by Councilmember Casey, for the first reading of Bill No. 2287. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2287 was read for the first time.

BILL NO. 2292 PROVIDES FOR THE SALES TAX IN THE AMOUNT OF ONE-HALF (1/2) OF ONE-PERCENT (1%) FOR THE PURPOSE OF PROVIDING FUNDING FOR LOCAL PARKS AND CALLING AN ELECTION ON THE QUESTION OF WHETHER TO IMPOSE TO SUCH A SALES TAX; AND DESIGNATES A TIME OF HOLDING SAID ELECTION **(FIRST READING – CITY COUNCIL RECOMMENDS APPROVAL)**

Councilmember Hurt made a motion, seconded by Councilmember Casey, for the first reading of Bill No. 2292. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 2292 was read for the first time. Mayor Nations reminded everyone that the second reading and consideration for final approval, of this proposed legislation, has been scheduled to take place at a special meeting of City Council, on Monday, August 2.

ADJOURNMENT

Mayor Nations adjourned the meeting at 9:07 p.m.

Mayor John Nations

ATTEST:

Martha L. DeMay, City Clerk