

**MINUTES**

**CITY OF CREVE COEUR**

**CITY COUNCIL MEETING**

**300 N NEW BALLAS ROAD**

**TUESDAY, MAY 27, 2008**

**7:00 P.M.**

**CALL MEETING TO ORDER**

A regular meeting of the City Council of the City of Creve Coeur was called to order by Mayor Dielmann at the Creve Coeur Government Center, 300 North New Ballas Road on Tuesday, May 27, 2008 at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Mayor Dielmann led the pledge of allegiance.

**INVOCATION**

Mayor Dielmann gave the invocation.

**ROLL CALL**

The following members were in attendance:

Mayor Dielmann

Mr. Kreuter Council Member Ward I

Mrs. Kistner Council Member Ward I

Mr. Wang Council Member Ward II

Mrs. Schupp Council Member Ward II

Mr. Kassander Council Member Ward III

Mr. Haddenhorst Council Member Ward III

Ms. Bryant Council Member Ward IV

Ms. Rhoades Council Member Ward IV

## **RECOGNITION – CREVE COEUR DAYS BOARD OF DIRECTORS**

Mayor Dielmann read and presented certificates of appreciation to the Creve Coeur Days Board of Directors.

Council Member Kistner moved, seconded by Council Member Schupp to amend the agenda and move item 8, Appointments before Comments from the General Public, with the vote upon such motion being as follows, to-wit:

Council Member Haddenhorst – Aye

Council Member Kassander - Aye

Council Member Bryant – Aye

Council Member Kistner – Aye

Council Member Rhoades – Aye

Council Member Wang – Aye

Council Member Schupp – Aye

Council Member Kreuter - Aye

The vote on the motion being 8 ayes and 0 nays, motion carried.

## **APPOINTMENTS**

## 8. Various Appointments to Committees, Boards and Commissions

Council Member Kistner moved, seconded by Council Member Kreuter to approve the recommendations of the Nominating Committee for the appointments and reappointments.

Council Member Bryant asked what happened to Mr. Meyer of Planning and Zoning.

Mayor stated when he was appointed to take the place of Jim Kisky he had been term limited and at that time the Mayor had asked that Mr. Meyer be allowed to stay until Mr. Kisky's term expired. Council unanimously approved the request.

Mayor Dielmann called for the vote for the approval of the appointments and reappointments, with the vote upon such motion being as follows, to-wit:

Council Member Kreuter – Aye

Council Member Schupp – Aye

Council Member Wang – Aye

Council Member Rhoades – Aye

Council Member Kistner – Aye

Council Member Bryant – Aye

Council Member Kassander – Aye

Council Member Haddenhorst - Aye

The vote on the motion being 8 ayes and 0 nays, motion carried.

## **COMMENTS FROM THE GENERAL PUBLIC**

John Winston representative of the St. Louis Republican Central Committee read and presented a statement for the record. (Exhibit A)

Susan Murphy resident of 624 Fairway Circle asked if a member of a body brings up an item for reconsideration does that member need to accompany the request with a rationale?

At the Mayor's request, Carl Lumley responded, stating it is not required.

Stacy Manolakas resident of 7 Winfield Point Ln stated as the Council is aware the Planning and Zoning Commission is revisiting all the City's buffer requirements. She requested that the Council form a citizen committee to work with staff and P & Z so in the end all citizens will have buy in of the new buffer requirements.

## **PUBLIC HEARING**

To Consider Adopting A Land Disturbance Ordinance, Rename Chapter 24 Of The Municipal Code "Public Works", Delete Sections 26-60 And 26-61 Of The Zoning Code And Place The Deleted Sections In A New Article Of Chapter 24 "Article III Storm Water Regulations" Along With The Land Disturbance Ordinance. P & Z Application 08-020

A presentation was made by Paul Langdon, Planning Director regarding this application.

There being no further comments, the public hearing was closed.

## **ACCEPTANCE OF THE AGENDA**

Council Member Kistner moved, seconded by Council Member Haddenhorst to approve the agenda as previously amended.

Council Member Bryant requested to add item 12 under Business from Council to discuss the request to form a Citizens Committee.

Council Member Rhoades requested to add item 13 under Business from Council to discuss the Committee Appointment Process.

Council Member Haddenhorst moved, seconded by Council Member Kreuter for the approval of the Agenda as further amended, with the vote upon such motion being as follows, to-wit:

Council Member Haddenhorst – Aye

Council Member Kassander - Aye

Council Member Bryant – Aye

Council Member Kistner – Aye

Council Member Rhoades – Aye

Council Member Wang – Aye

Council Member Schupp – Aye

Council Member Kreuter - Aye

The vote on the motion being 8 ayes and 0 nays, motion carried.

## **ANNOUNCEMENTS**

**The City Council meets the 2<sup>nd</sup> and 4<sup>th</sup> Monday of each month**

**6:00 p.m. – 7:00 p.m. – Work Session**

**7:00 p.m. – Regular Meeting of the City Council**

**June 3, 2008 Special Election – Proposition E – Economic Development Sales Tax**

## **Public Hearings**

**June 9, 2008 – 7:00 P.M. - Fiscal Year July 1, 2008 to June 30, 2009 City Budget**

### **1. CONSENT ORDINANCE READINGS**

The following bills were read by consent:

- a. Bill No. 5148 – An Ordinance Amending Chapter 17 of the City Code of Ordinances Regarding the Municipal Court. Final Reading**
- b. Bill No. 5149 – An Ordinance Modifying Requirements For The Use Of Child Passenger Safety Restraint Systems And Booster Seats To Restrain Children In Motor Vehicles Within The City Of Creve Coeur. Final Reading**

### **2. CONSENT AGENDA**

Council Member Kistner moved, seconded by Council Member Schupp for the approval of the consent agenda as presented:

- 1. City Council regular minutes dated May 12, 2008**
- 2. Destruction of Records**

- c. Bill No. 5148 – An Ordinance Amending Chapter 17 of the City Code of Ordinances Regarding the Municipal Court. Final Passage**

Bill No. 5148 becomes Ordinance No. 5041.

- d. Bill No. 5149 – An Ordinance Modifying Requirements For The Use Of Child Passenger Safety Restraint Systems And Booster Seats To Restrain Children In Motor Vehicles Within The City Of Creve Coeur. Final Passage**

Bill No. 5149 becomes Ordinance No. 5042.

Council Member Bryant asked that Item b be pulled from the Consent Agenda for discussion.

Mayor Dielmann called for the vote on the approval of the Consent Agenda Items a, c, and d, with the vote upon such motion being as follows, to-wit:

Council Member Haddenhorst – Aye

Council Member Kassander - Aye

Council Member Bryant – Aye

Council Member Kistner – Aye

Council Member Rhoades – Aye

Council Member Wang – Aye

Council Member Schupp – Aye

Council Member Kreuter - Aye

The vote on the motion being 8 ayes and 0 nays, motion carried.

Council Member Bryant stated for clarification because there still seems to be some confusion about documents that are submitted for record as part of the minutes as opposed to something that is submitted for record and can be destroyed in 5 years.

Carl Lumley stated minutes are meant to be a public record and there is no schedule for destruction, whereas other items are more day-to-day type business items and with the passage of time are considered not to be permanent records.

Council Member Bryant asked if a resident sends in an e-mail to the Mayor, City Administrator or City Council how long can they expect for that information to be on record?

Carl Lumley stated he isn't certain of the exact period of time but it is not forever.

Council Member Schupp moved, seconded by Council Member Wang to approve Item b of the Consent Agenda as presented, with the vote upon such motion being as follows, to-wit:

Council Member Haddenhorst – Aye

Council Member Kassander - Aye

Council Member Bryant – Aye

Council Member Kistner – Aye

Council Member Rhoades – Aye

Council Member Wang – Aye

Council Member Schupp – Aye

Council Member Kreuter - Aye

The vote on the motion being 8 ayes and 0 nays, motion carried.

## **BILLS PAYABLE REPORT, FOR INFORMATION ONLY**

**Bills Payable Reports, May 19, 2008**

### **UNFINISHED BUSINESS**

**3. Bill No. 5114 – An Ordinance Amending the Definition of “District” in the Zoning Code to Recognize Adjacent Jurisdictions. Final Reading and Passage**

City Clerk read Bill No. 5114 for the final time.



Council Member Kistner moved, seconded by Council Member Bryant for the approval of Bill No. 5114.

Lynn Berry resident of 262 Graeser Road read and presented a statement for the record. (Exhibit B)

Neil Brightweiser resident of 847 Beaver Ln speaking as a Trustee of the Olive Crest Subdivision stated the subdivision is opposed to the Walgreens project due to the 5 ft buffer along the residential property and in favor of the Golden Rule Text Amendment. If this project is approved it would set a horrible precedent in the City.

Stacey Manolakas resident of 7 Winfield Point Ln stated to date she has not heard of anyone coming forward opposing this text amendment. Many organizations have come forward supporting this and urging the Council to pass this quickly. The discussion that took place at Planning and Zoning suggested that Council purposely sent this amendment back to have this amendment buried and forgotten. She urged the Council to pass this amendment tonight.

David Walters resident of 801 Mary Meadows stated the Council must pass this amendment because it is the right thing to do. If this isn't passed the Creve Coeur Government is going to look like jerks to the surrounding communities that have supported this amendment.

Susan Murphy representing Chamber of Commerce stated the Board unanimously supported this text amendment at their May meeting. At the May 19<sup>th</sup> P & Z meeting the Commission unanimously voted to approve separating the Definition of District and buffer requirements as these two issues can stand alone. Chamber would like to reiterate their support for the text amendment and urges the Council to pass it.

Linda Rezny resident of 104 Graeser Acres stated initially the Golden Rule Amendment was to close up a loop hole that originally was revealed during the Walgreens application process and those plans have already been grandfathered in. If there is some concern with the buffer

regulations then they need to be changed for everyone. It would be best to alleviate this impediment before another plan comes before the City and it too will be involved in lawsuits.

Dwight Rezny resident of 104 Graeser Acres stated he is in favor of this amendment and urged the Council to pass this amendment.

Stephen L. Kling, Jr of Jenkins and Kling, P.C. stated as most of the Council knows he has been representing some residents and businesses that are opposed to the Walgreen project but that is not what this topic is, this topic is a text amendment. It has been referred to by some people as the Golden Rule Amendment and that is an apt description. When you look at the meaning of Golden Rule as a moral value it means treat others as you would want to be treated. As a legal issue it means a clarification or interpretation of a rule or law to avoid an absurd result and that also applies here. Mr. Kling stated he has sat by for months watching this particular issue and quite frankly has not seen a legitimate argument made not to pass this immediately. You have heard from the St. Louis County Council, Creve Coeur – Olivette Chamber of Commerce, St. Louis Republic Committee and the City's Planning Commission not once but twice on this subject all of whom are in support of this. In addition common sense would tell you that this is the right thing to do. Unfortunately in his legal opinion this is one of the most egregious and discriminatory zoning law ordinance interpretations that he has seen in over 25 + years of practicing law. This amendment needs to be passed and it needs to be passed tonight.

Sean Concannon resident of 5 Graeser Acres stated this amendment is straight forward and he finds it difficult to understand why it has yet to be passed. It has been endorsed by several entities including the City's own P & Z Commission. There is a perception among the community that some Council Members are delaying this amendment to circumvent buffer requirements for the proposed Walgreens project at Graeser and Olive. If that is true then these actions are shameful. Indiscriminate actions of laws to pander to commercial development at the expense of families projects this community in a poor light. It also violates the equal protection clause of the 14<sup>th</sup> Amendment. This clause requires a government to treat an individual in the same manner as others in a similar condition and circumstances. There is no rational basis for this Council to deny unincorporated residents boundaries before residents. By choosing to do so this Council has chosen to the same laws as the segregated schools and the Jim Crow Laws of more than 130 years ago. If you choose to do this then I ask the Council to annex my property if that is what it takes for the Council to realize that the rights of his family are equal to theirs.

Council Member Kassander stated the Council has received an overwhelming consensus of endorsements for this text amendment and it is difficult to believe that when this was drafted that the makers intended to have no buffer requirements or different buffer requirements for

neighboring districts. He encouraged Council to end the delaying tactics and vote on this text amendment as it is really a no brainer.

Council Member Haddenhorst asked the City Attorney if the text amendment is approved how will it affect the Walgreen project?

Carl Lumley stated given the fact that a lawsuit is already pending contending that it is unconstitutional for the City to not apply the rule that is included in the amendment, he is confident that someone will allege in a lawsuit, should it pass and reconsideration or a new application for what is called the Walgreen's site this rule should apply and a judge would have to answer that question one way or another.

Council Member Kistner stated the discussion seems to be you either pass this amendment or you are in favor of maintaining a specific distinction and she doesn't agree with that. Council Member Kistner stated she has not heard from anyone asking for different requirements between districts in fact P & Z already has tentatively recommended eliminating district as a distinguishing condition at all and instead looking at uses. That was the whole point of Council asking P & Z to look at this more thoroughly. This is not a narrow issue as there is a problem with our entire buffering requirements. It is equally true that the City Planner has said that it is entirely justifiable to look at these things together to make an assessment of our buffering requirements. There is consensus to address the concerns listed in this text amendment. Nothing has changed since we have requested Commission review and now the process is well underway. Council Member Kistner stated she is unaware of any single party that has been hurt by the current requirements while this is being reviewed. There hasn't been any applications or any in the pipeline that have anything to do with this so there is no chance that anyone will be discriminated against while we await the review.

Council Member Kistner moved, seconded by Council Member Schupp to table Bill No. 5114 until P & Z returns with a completed review to address the buffer requirements.

Council Member Bryant requested for the record to indicated that hers and Council Member Rhoades' hands were up requesting the floor prior to the tabling motion and if the intention was

to cease all public discussion please indicate now, otherwise the discussion needs to continue regardless of the motion.

Council Member Kassander stated this is just yet another delaying tactic.

Council Member Rhoades moved, seconded by Council Member Bryant to suspend Robert Rules for the purpose to allow discussion to continue.

Council Member Schupp asked for clarification that if Council agrees to suspend the rules for discussion then after the discussion the tabling motion still stands?

Carl Lumley stated that is correct the motion to table would still be pending.

Mayor Dielmann called for the vote to suspend Roberts Rules to allow discussion to continue, with the vote upon such motion being as follows, to-wit:

Council Member Kreuter – Nay

Council Member Schupp – Aye

Council Member Wang – Aye

Council Member Rhoades – Aye

Council Member Kistner – Aye

Council Member Bryant – Aye

Council Member Kassander – Aye

Council Member Haddenhorst - Aye

The vote on the motion being 8 ayes and 0 nays, motion carried.

Council Member Bryant stated she believes that it was Ms. Murphy that recited some language that Mr. Langdon had received from the APA regarding buffering residences outside of municipal areas. Council Member Bryant read the remaining language and then presented the information for the permanent record. (Exhibit C) This information is just general pieces of advice but it is very apt for this situation. This text amendment and the time line that was laid out was a little inaccurate. This text amendment was brought forth by Council Member Rhoades and Bryant after the Council voted 6-2 in favor of the first Pace project. Neither Council Member from Ward IV voted for the project. This text amendment has been in the works for seven (7) months and it has been stalled, buried, delayed, tabled and anything else that could be thought up once it became clear that another project on the same site was going to come forward. There has been an effort to bury this again so that people can not sleep at night knowing that this discrepancy still exists. This first came forth and we were told that we need a study and information was brought forth – but no we needed more information. Once the new information was brought forth then we had to table it and then it was untabled and sent to P & Z. P & Z stated this has nothing to do with the buffer requirements. This is unbelievable and the real question is how can this happen in this City? There is no downside to doing something like this in the City of Creve Coeur and where is the public accountability? We need to prove to the surrounding communities that the Creve Coeur City Council can be trusted. Otherwise the things like the Economic Development Tax, Council Member Bryant stated she couldn't imagine why anyone would approve such a tax if the Council is going to behave in such a manor. Council needs to step up to the plate, do the right thing and stop making excuses.

Council Member Rhoades stated she was struck by Council Member Kistner's remarks that this should be bundled when clearly the P & Z Commission twice has unanimously supported this and most recently deliberately separated the issues, unanimously approved it and returned it to the Council. So to table it again under the guise of requiring P & Z to revise all the buffer requirements or completely rework any buffer applications is unnecessary and inappropriate. P & Z clearly have a lot of work cut out for them and it is going to take them several months and she asked Paul Langdon for a projected time frame of completion. In addition there was a proposal brought forth by Stacy Manolakas and added to our agenda to form a citizen committee which would be a great idea but certainly isn't going to speed things along.

Paul Langdon stated it will take several meetings of the Commission to get through this and with two (2) weeks in between each meeting we are roughly looking at 2 to 3 months. That is an estimate. While a citizen committee may increase the buy in of the larger community any decision of a committee typically takes longer.

Council Member Rhoades stated it is hard to believe that a motion to table, which this Council knows is a tactic, used to effectively bury an issue and allows a handful of elected officials to

manipulate an important process and put an enormous amount of citizens at risk and urged the Council to act positively on this text amendment tonight.

Council Member Haddenhorst stated it goes without saying that Council Member Bryant has been the champion of this text amendment since day one; however, what is unconscionable and abhorrent is that you would torpedo the Economic Development Sales Tax for a no vote on this text amendment. On the record Council Member Bryant voted in favor of the Economic Development Sales Tax and he is giving her the opportunity to recant the previous statement because that is unconscionable.

Council Member Bryant stated she will not recant because this has to do with integrity, trust and credibility and any Council that would behave in this manor demonstrates that it can not be trusted. And she hopes that is not the case.

Council Member Kistner stated she is overwhelmed by all of the comments but suggested a moratorium on any new applications that would be impacted by changes in buffer standards between the City and County until we complete this process.

Council Member Rhoades asked City Attorney if such a moratorium would apply to the Walgreens project?

Carl Lumley stated there has not been a specific motion made on a moratorium nor is there currently an active Walgreens application. It depends on what the Council wants to do.

Council Member Bryant stated theoretically speaking if such a motion were to be made and Council Member Kistner specifically made an exception for the Walgreens project then it would not be included?

Carl Lumley stated there is not a specific motion. A moratorium is a matter of legislative discretion and it depends on how it is crafted.

Council Member Bryant asked the Council to seriously consider a moratorium on projects all along the north side of Olive.

Council Member Rhoades stated then it would need to be considered for the Southside businesses also because then there would be inequality.

Council Member Kistner stated this is not a definite moratorium, it would only be for new projects because they have a pretty long pipeline. We are not at risk of causing all development in Creve Coeur to come to a halt. Council Member Kistner stated her proposal is a reflection of her confidence that this was never about an undefined period of time.

Council Member Rhoades stated she could not possibly support.

Council Member Wang asked if we could possibly hear some language for a moratorium before we vote.

Council Member Kistner stated she has never written this type of language and stated it would not be appropriate for the City Attorney to write language such as this on the fly.

Mayor Dielmann stated it could be available for the next meeting.

Council Member Rhoades asked Council to clearly articulate their rationale before they vote.

Mayor Dielmann called for the vote on the tabling of Bill No. 5114, with the vote upon such motion being as follows, to-wit:

Council Member Kreuter – Aye

Council Member Schupp – Aye

Council Member Wang – Aye

Council Member Rhoades – Nay

Council Member Kistner – Aye

Council Member Bryant – Nay

Council Member Kassander – Nay

Council Member Haddenhorst - Aye

The vote on the motion being 5 ayes and 3 nays, motion carried.

**4. Reconsideration of Substitute Bill No. 5139 – An Ordinance Rezoning Ordinance No. 5004 and Enacting a New Rezoning Ordinance Amending the Official Zoning Map of the City of Creve Coeur as described in Ordinance No. 1903 to Rezone Approximately 0.77 Acres of land from the St. Louis County “R-2” Single-Family Residential District to “GC” General Commercial District for the Property Addressed at 2 and 100 Graeser Acres Street. P & Z Application 08-006**

Council Member Kreuter moved, seconded by Council Member Haddenhorst for the reconsideration of Substitute Bill No. 5139.

Council Member Kreuter stated since the last meeting there have been conversations and e-mails with Mr. Hutkin, Mr. Stern, Mr. Moch and Mr. Wolff. As it is constituted now, Council Member Kreuter stated he is very much against it but does know that a lot of citizens were very disappointed that there would be not light at Olive and Graeser. There is a chance that all the neighbors could cooperate to make that a reality and that reality would be a requirement to get his favorable vote for Substitute Bill No. 5139. It is the intent if the reconsideration is passed that the Council make a motion to table because the four (4) property owners have a lot of negotiations to go through.

Council Member Bryant stated we can talk about the pros and cons of this project later on but this is just more of the same and she does not understand what has changed since the last meeting. What were the discussions and who was discussing? Why should the Council reconsider this as the rest of the Council has not been privy to that information?



Council Member Kreuter stated Mr. Hutkin and Mr. Stern have been in favor of a 1 cent TDD sales tax to pay for improvements. He doesn't even know if this agreeable to Pace Properties. There needs additional time to draft the documents and for people to review and for signatures if there is a chance for signatures. This may go nowhere and that is why the recommendation is to table. We may never see this again if the owners can work for the betterment of that entire section.

Council Member Bryant stated that information was all true at the last meeting and there is nothing different. Again what has changed since the last meeting?

Council Member Kreuter stated the 1 cent TDD is agreeable to all the parties and that funding will strictly go to Olive Blvd improvements and nothing else.

Council Member Kassander asked if this information is in writing and would like to see it and would be helpful to the rest of the Council so that we can make an informed decision. Council Member Kassander stated he has heard different information from the same people and these recent statements made are questionable. Mr. Stern and Mr. Hutkin are not present at the meeting tonight and Mr. Huff is and maybe he could tell us if he is agreeable to this and if he is not that would end the discussion. Council Member Kassander asked the City Attorney if an application is only good for a set amount of time?

Carl Lumley stated once the plans are approved they have to be implemented in a certain amount of time, but procedurally there is not a certain period of time that limits the City's consideration of an application.

Council Member Kassander stated the last Bill and approved plan for the Walgreens site, Mr. Huff and the developer let lapse.

Carl Lumley stated that had an unusual provision that the City required the developer to post the financial security for the traffic light and improvements within 6 months so the Bill on its face had expiration date and that is an uncommon requirement.

Council Member Rhoades stated it would be inappropriate to indefinitely table and ask the public to continuously wait for a conclusion to this. Having the public caught up in this web of manipulation of the commercial players and negotiation. No one has proposed to negotiate with owners of the DeClue property and no one has suggested an amendment to the Walgreen's proposal. Council Member Rhoades stated she suggested removing the 24 hour drive through feature when the first application was brought before the Council which did not get Council support at the time. There are a lot of other items to consider other than the TDD and the funding mechanisms. The proposal before us still remains extremely flawed and if Council is only looking at revising the funding then she will not be voting favorably, nor in favor of tabling indefinitely.

Council Member Kistner stated if the Council is going to talk about being fair to the public we should talk about safety. It isn't fair to anyone on the Council, public, developer, applicant or anyone on how long this has been drug out. But what Council needs to consider is the overwhelming number of residents that have stated that they want and need a light at that intersection for their safety and the safety of their families. As a representative of the area and the overwhelming support that the Council find a way to get a light at that intersection. Council Member Kistner invited everyone to get involved to figure out a way to get the improvements to this intersection that are needed.

Council Member Wang stated he was heckled at the parade from all ages asking for a light in that area. Council Member Wang is looking for that ray of hope and something has to be changed and if someone could make a suggestion or make a change he is willing to table it.

Stephen J. Kling, Jr of Jenkins and Kling representing the residents and businesses opposed to this project asked Council Member to step back for a moment and remember that this particular proposal remains highly prejudicial to the adjoining property as residences. This project proposes rezoning not one but two residential properties to be commercial. Combined area of those properties is 40% of the total project. That will also take those properties out of existing subdivisions and damage those subdivisions. All the Council has done is to mitigate this project is a five (5) foot buffer and a wall. That is not adequate and he feels confident that this will get set aside in court but it is unfortunate that these folks have to spend their money to fight this. If there is some meaningful effort to resolve this then it should be pursued.

Linda Rezny resident of 104 Graeser Acres stated making this go on is a waste of time this should have been dismissed in October. Pace Properties had no funding for the light and still has no funding. Pace has not submitted new drawings showing flow of traffic on the proposed site.

Lynn Berry resident of 626 Graeser Road read and presented a statement for the record. (Exhibit D)

Dwight Rezny resident of 104 Graeser Acres state there was a mention of negotiations and suggested Pace negotiate with the property owners that live around the proposed development and buy them out so that their privacy would not be in question. Or a one time payment to infringe on their property to make it a little more acceptable for those property owners. The proposed detention pond needs to be put underground because as it is proposed it is unacceptable.

Stacy Manolakas resident of 7 Winfield Point Ln stated there are many loopholes in the Substitute Bill and it is not iron clad enough to force Pace to realign the roads. What is Pace paying for? Not the right of way because that is a land swap, not the road work on Dautel or Olive and not the median because that is all going to be in the TDD. She asked the Council to look at Eminent Domain for the improvements and suggested that people would be willing. She thanked Council Member Rhoades for listening and making suggestions and working with residents on this issue.

Council Member Bryant submitted for record an e-mail dated May 27, 2008 from David DeClue with his concerns with the project. In addition there was an e-mail sent out by Mr. Langdon today with a worksheet regarding the protest petition. (Exhibit E) Council Member Bryant asked Council Member Kreuter if some of the new negotiations included a promise of City funding to make up the TDD shortfall for these improvements? She asked if the people involved in the new negotiations are willing to revisit other items in the project other than just the cost of the light and the road as suggest by Council Member Rhoades?

Council Member Kreuter stated no promises have been made.

Council Member Bryant stated the City is selling its soul for a cheaper stop light. There are lots of public safety issues in the City of Creve Coeur and we do take the all seriously. One of the most dangerous intersections as documented time and again by insurance companies is Olive and Fee Fee and yet there has been no discussion of that. This doesn't mean that we are choosing one intersection over another, it means that we take them all into account when looking at limited funds. It is difficult to understand why the Council would do this to our residents and/or our businesses for a cheaper light. There are other ways to get there and there are other ways to get the developer to do the right thing and she still thinks that the City has not forced Pace to do the right thing. You can't blame Pace for coming in and asking for a five (5) foot buffer but you can blame the Council for allowing it.

Council Member Kreuter moved, seconded by Council Member Schupp to table Substitute Bill No. 5139, with the vote upon such motion being as follows, to-wit:

Council Member Kreuter – Aye

Council Member Schupp – Aye

Council Member Wang – Aye

Council Member Rhoades – Abstain

Council Member Kistner – Aye

Council Member Bryant – Nay

Council Member Kassander – Nay

Council Member Haddenhorst - Aye

The vote on the motion being 5 ayes, 1 abstention and 2 nays, motion carried.

## **NEW BUSINESS**

- 5. Bill No. 5150 – An Ordinance Adopting New Regulations Regarding Land Disturbance Activities, And Inspections, Collection Of Fees, And Penalties For Violations Related Thereto, Renaming Chapter 24 of the Municipal Code “Public Works”, and removing Sections 26-60 and 26-61 from the Zoning Code and Placing such Sections in Chapter 24. First Reading**

Clerk read Bill No. 5150 for the first time.

- 6. Bill No. 5151 – An Ordinance Amending Section 16-186 of the City Code of Ordinances Regarding the Municipal Court. First Reading**

Clerk read Bill No. 5151 for the first time.

6. **Bill No. 5152 – An Ordinance Amending Sections 2-106 And 2-151 Of The City Code Of Ordinances And Amending The Personnel Policy And Procedures Manual Regarding Miscellaneous Sections Of The Manual And Making Other Technical Corrections Thereto. First Reading**

Clerk read Bill No. 5152 for the first time.

Council Member Kassander asked what was the reasoning behind reducing the required seven (7) members down five (5) members?

Mark Perkins stated for a committee that meets so infrequently it was difficult to get that many people to be available to meet at the same time. Also finding qualified and willing candidates was getting to be a challenge.

\* Council Member Haddenhorst left the Council Chambers at 8:58 p.m.

## **APPOINTMENTS**

6. **Various Appointments to Committees, Boards and Commissions**

This item was completed at the beginning of the meeting prior to the Comments from the General Public.

## **BUSINESS FROM CITY COUNCIL**

9. **Citizen of the Year Award – Nominating and Selection Process**

Council Member Bryant asked where the guidelines that were distributed in the packet came from?

Mayor Dielmann stated basically that has been what we have been following all this time.

Council Member Bryant stated we need to be more clear on the selection process and she wants to get guidelines in place for the process, for example the guidelines that Chesterfield follows.

Council Member Kistner stated she doesn't understand why we need to follow what Chesterfield's process is and asked for specific suggestions from Council Member Bryant on what she would like to see.

Council Member Bryant stated doesn't have specific suggestions but would like for the process to be as transparent as possible.

## **9. Handbill Ordinance**

Council Member Bryant stated she requested this ordinance and language to be drafted because there was a resident handing out political information and he was stopped.

Mark Perkins stated there was an ordinance that was just passed in February by the Council that prohibits handbills being left at a residence unless there was written permission. What this does is clarify that it is acceptable to leave written information at the front door but could not leave a handbill any other place on the property. That is the clarification that is being proposed here. Next meeting this will be under new business for consideration.

## **9. 60<sup>th</sup> Anniversary of the Incorporation of Creve Coeur**

Mayor Dielmann wanted to see if the Council would like to do anything special for the 60<sup>th</sup> Anniversary of the Incorporation of Creve Coeur.

#### **9. Request to Form a Citizens Committee**

Council Member Bryant moved, seconded by Council Member Kassander to appoint a four (4) person committee, one (1) person from each Ward to assure balance, to work with Planning and Zoning Commission on the buffer requirement analysis.

Council Member Kistner stated citizen participation is very valuable but the way that P & Z is working on this at their meetings and not breaking out into side committees.

Council Member Rhoades suggested Council support a citizen committee if it is desirous to P & Z to work with a committee and offered to be a Council liaison for this.

Council Member Schupp stated she supports Council Member Rhoades' comments and when we add items to the agenda we inadvertently exclude the public in our discussion. P & Z is a citizen committee and we should not interject our input on the process.

Council Member Bryant withdrew her motion.

Paul Langdon stated he will take the suggestion back to P & Z.

#### **9. Committee Appointment Process**

Council Member Rhoades stated she was alarmed by the way the meeting began tonight by congratulate people on their appointments. Although it was done with good intentions and she supports the good intentions however it was out of order to invite a large number for

congratulations when in fact they hadn't even been appointed yet. It makes objective deliberation awkward.

Council Member Kassander stated procedurally that was a mess and was a surprise for the Council. Council Member Kassander asked the City Attorney in the past when the Chair of a Committee, Commission or Board was up that person was ineligible to participate in the nominating process.

Carl Lumley stated when the position of the Chair is at issue then the Vice Chair sits in on the Nomination Process. When the Chair is term limited they can still participate in the other appointments.

## **BUSINESS FROM CITY ADMINISTRATOR**

Council Member Kistner moved, seconded by Council Member Wang to go into Executive Session for the purpose of discussing matters relating to litigation, legal actions and/or communications from the City Attorney as provided under Section 610.021 (1) RSMo and matters relating to leasing, purchase or sale of real estate as provided under Section 610.021(2) RSMo and matters relating to personnel as provided under Section 610.021(3) RSMo, at 9:24 p.m., with the vote upon such motion being as follows, to-wit:

Council Member Kassander - Aye

Council Member Bryant – Aye

Council Member Kistner – Aye

Council Member Rhoades – Aye

Council Member Wang – Aye

Council Member Schupp – Aye

Council Member Kreuter – Aye



The vote on the motion being 7 ayes and 0 nays, motion carried. Council went into closed session.

Council Member Kistner moved, seconded by Council Member Schupp, to resume regular session at 10:21 P.M., with the vote upon such motion being as follows, to-wit:

Council Member Kistner – Aye

Council Member Wang – Aye

Council Member Schupp – Aye

Council Member Kreuter – Aye

Council Member Kassander - Aye

The vote on the motion being 5 ayes and 0 nays, the motion passed.

Council Member Kreuter moved, seconded by Council Member Kassander, to adjourn at 10:24 P.M., with the vote upon such motion being as follows, to-wit:

Council Member Kistner – Aye

Council Member Wang – Aye

Council Member Schupp – Aye

Council Member Kreuter – Aye

Council Member Kassander - Aye

The vote on the motion being 5 ayes and 0 nays, motion carried.

Submitted by:

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Deborah Ryan Harold Dielmann

City Clerk Mayor