

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, JULY 2, 2007
ROLLA CITY HALL COUNCIL CHAMBERS
901 NORTH ELM STREET
6:30 P.M.**

Presiding: Mayor William S. Jenks, III

Council Members in Attendance: Monty Jordan, Donald Barklage, Stan Spadoni, Gary W. Hicks, Judy Jepsen, Lou Magdits, Jim Williams, Richard Morris, Richard Sibley, and Mark Walburg

Council Members Absent: Terry Ruck and Susan Eudaly

Department Directors in Attendance: Public Works Director Steve Hargis, Fire Chief Robert Williams, Solid Waste Director Brady Wilson, Recreation Center Director Scott Caron, Police Chief Mark Kearse, Parks and Recreation Director Ken Kwantes, Finance Director Steffanie Rogers, and Community Development Director John Petersen

Other City Officials in Attendance: City Administrator John Butz, City Counselor John Beger, Communications Coordinator Scott Grahl, and City Clerk Carol Daniels

Mayor William S. Jenks, III, called the meeting to order at approximately 6:30 p.m. and asked Rolla Fire Department Training Officer Ron Smith to give the invocation.

Following the invocation, Councilmember Stan Spadoni led in the Pledge of Allegiance.

I. CONSENT AGENDA

A motion was made by Williams and seconded by Walburg to approve the Consent Agenda, as submitted. A voice vote on the motion showed ten (10) ayes (amendment noted by Council during August 6, 2007, Council Meeting). Motion carried.

The consent agenda consisted of the following:

(A) City Council Minutes: The minutes of the June 4, 2007, regular and Executive Session Council meetings and the June 18, 2007, regular City Council meeting.

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III. CITIZEN COMMUNICATION

(A) Open Citizen Communication: Before opening the floor to anyone wishing to address the Council, Mayor Jenks informed the public that he will limit the communication from three to five minutes and it will be enforced. Comments relating to litigation involving the City will not be heard. Additionally, Mayor Jenks said he would not acknowledge any personal attacks. Mayor Jenks said he is considering not having public comment during the Council's second monthly workshop meeting.

Mayor Jenks then opened the floor to any citizen wishing to address the Council.

1. Mr. Anthony Carlisle: Mr. Anthony Carlisle, P.O. Box 1643, Rolla, Missouri, said he wishes to address the Council regarding the reptile section of the proposed ordinance. Mr. Carlisle told the Council that there are some very good points in the proposed ordinance. The only point that he disagrees with is where it prohibits "non-venomous reptiles over six feet." Mr. Carlisle suggested that it be changed to read, "dangerous constrictors over eight feet." He said the reasoning behind his recommendation is because there are thousands of species that are harmless that do obtain the length greater than six feet, which would be banned with the current wording. Mr. Carlisle showed the Council an example of a species of a snake that is not dangerous to anyone, but attains a length greater than six feet.

2. Mr. Alfred Chapman: Mr. Alfred Chapman, 17401 County Road 8220, Rolla, Missouri asked for a clarification on the payment in lieu of taxes (PILOT). If it is not a tax, are the citizens required to pay it? Why is it called a PILOT rather than a sales tax?

Mayor Jenks explained that PILOT means payment-in-lieu-of-tax and most communities have it and it is applied to their utilities. If an outside utility provided the service, they would be taxed by the City.

City Counselor John Beger said he is not aware of a PILOT where the Hancock Amendment has been applied. He explained the PILOT is charged to Rolla Municipal Utilities (RMU) for the cost and expense of using the City easements just like any other utility would pay the ability to put the utilities in the easements and the rights-of-way.

No one else present addressed the Council.

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IV. ACKNOWLEDGEMENTS AND SPECIAL PRESENTATIONS

(A) Presentation on the UMR Innovation Center Master Plan – Consider Resolution of Support: Mr. Keith Strassner of the University of Missouri – Rolla addressed the Council and updated the Council on the Innovation Park. After further discussion with the UMR athletic folks, it was decided to give Lots 1 and 2 back to the Athletic Department for their development. Mr. Strassner noted that it still leaves over 51 acres to develop for the innovation park. He thanked the City for hosting the joint City/County public hearing last Monday. The plan is to request final approval of the innovation park master plan and covenants from the Board of Curators at the end of July. After approval, the development process will begin.

City Administrator John Butz reiterated that a joint open house was held on June 25. He noted that about 55 individuals attended and about 35 written comments were received, which have been included in the agenda materials. Following the open house, Mr. Butz told the Council that the Phelps County Commission adopted a resolution of support that will be forwarded to the Board of Curators for their consideration. Mr. Butz asked the City Council to consider approving a similar resolution of support.

After a brief discussion, City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1639: A RESOLUTION ENDORSING AND SUPPORTING THE CREATION AND DEVELOPMENT OF AN INNOVATION PARK AT THE UNIVERSITY OF MISSOURI-ROLLA. A motion was made by Barklage and seconded by Hicks to approve the proposed resolution. A voice vote on the motion showed ten (10) ayes (amendment noted by Council during August 6, 2007, Council Meeting). Motion carried. The resolution passed.

V. REPORTS OF MAYOR AND COUNCIL/REPORTS OF BOARDS AND COMMISSIONS/CITY DEPARTMENTS

Mayor Jenks referred the Council to (A) the May 2007 Rolla Municipal Utilities Monthly Report; (B) the June 12, 2007, preliminary minutes of the Planning and Zoning Commission meeting; (C) the May 2007 City's Cash Position and Expenditure Report; (D) the June 7, 2007, Rolla Board of Adjustment Minutes; (E) the May 2007 Rolla Municipal Court Report; (F) the May 16, 2007, Rolla Health & Recreation Center Advisory Committee Meeting Minutes; (G) The FY 2007 CENTRE Financial Analysis;

V. REPORTS OF MAYOR AND COUNCIL/REPORTS OF BOARDS AND COMMISSIONS/CITY DEPARTMENTS (continued) (H) The FY 2007 SplashZone

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Financial Analysis; (I) The May 29, 2007, City of Rolla Smoking Ordinance Committee Minutes, and; (J) The June 6 2007, City of Rolla Rental Housing Inspection Committee Meeting Minutes.

VI. OLD BUSINESS

(A) Ordinance to Rezone Part of Lots 1-3 and All of Lot 4, Block 6, Cowan's Addition from C-1 to C-2 Zoning (Newkirk): Community Development Director John Petersen explained that the subject property contains .60 acres and represents portions of three lots – one complete lot and two partial lots. The request is to rezone the property from C-1 (Neighborhood Business District) to C-2 (General Retail District). The petitioner is requesting C-2 (General Retail District) zoning because the petitioners are planning to construct a building and locate their water softening and bottled water business on this property. The Planning and Zoning Commission recommend approval.

City Counselor John Beger read the following proposed ordinance for its final reading, by title. ORDINANCE NO. 3809: AN ORDINANCE AMENDING THE BASIC ZONING ORDINANCE NO. 3414, CHAPTER 42 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, AFFECTING THE REAL ESTATE KNOWN AS PART OF LOTS 1-3 AND ALL OF LOT 4, BLOCK 6 OF COWAN'S ADDITION FROM C-1 (NEIGHBORHOOD BUSINESS DISTRICT) TO C-2 (GENERAL RETAIL DISTRICT) ZONING (NEWKIRK). A motion was made by Williams and seconded by Spadoni to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Sibley, Williams, Jordan, Spadoni, Hicks, Barklage, Magdits, Morris, Jepsen, and Walburg. Nays; None. Absent; Ruck and Eudaly. Motion carried. The ordinance passed.

(B) Ordinance to Adopt the Revised Rolla Cemetery Policies and Fees: Parks and Recreation Director Ken Kwantes explained that the proposed ordinance would increase the purchase price of cemetery lot prices at the Rolla Cemetery. If approved, the new fees would take effect August 1, 2007.

VI. OLD BUSINESS (continued)

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(B) Ordinance to Adopt the Revised Rolla Cemetery Policies and Fees (continued):

After a brief discussion, City Counselor John Beger read the following proposed ordinance for its final reading, by title. ORDINANCE NO. 3810: AN ORDINANCE REPEALING SECTION 7-9 OF THE GENERAL ORDINANCES OF THE CITY OF ROLLA, MISSOURI, KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, RELATING TO PRICES OF GRAVE LOTS, DESIGNATED PORTIONS OF PROCEEDS TO ETERNAL CARE FUND, AND ENACTING NEW CODE SECTIONS IN LIEU THEREOF. A motion was made by Williams and seconded by Spadoni to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Hicks, Magdits, Jordan, Williams, Sibley, Morris, Barklage, Jepsen, and Spadoni. Nays; Walburg. Absent; Ruck and Eudaly. Motion carried. The ordinance passed.

(C) Ordinance to Adopt the Revised Burial Charges for the Rolla Cemetery: Park and Recreation Director Ken Kwantes explained that the proposed ordinance would increase the prices of grave openings in the Rolla Cemetery.

After discussion, City Counselor John Beger read the following proposed ordinance for its final reading, by title. ORDINANCE NO. 3811: AN ORDINANCE REPEALING SECTION 7-26 OF THE GENERAL ORDINANCES OF THE CITY OF ROLLA, MISSOURI, KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, RELATING TO THE FEES FOR BURIAL PERMITS AND ENACTING NEW CODE SECTIONS IN LIEU THEREOF. A motion was made by Williams and seconded Spadoni to approve the proposed ordinance. Ayes; Sibley, Spadoni, Jordan, Morris, Williams, Walburg, Barklage, Magdits, Hicks, and Jepsen. Nays; None. Absent; Ruck and Eudaly. Motion carried. The ordinance passed.

VII. NEW BUSINESS

(A) Motion to Select HNTB Consulting Engineers for the Rolla West Project: Public Works Director Steve Hargis reported that staff assisted the Rolla Regional Economic Commission (RREC) in accepting request for qualification statements from firms who might be interested in providing consulting services to the Rolla community for the Rolla West project. From that solicitation, six firms responded. After review of the qualification statements by staff, RREC and the University of Missouri-Rolla (UMR),

VII. NEW BUSINESS (continued)

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(A) Motion to Select HNTB Consulting Engineers for the Rolla West Project (continued): four firms were selected for interviews. Based on those interviews, the firm of HNTB Consulting Engineers is being recommended to the City Council for consideration. Staff is requesting permission to develop a scope of services and bring back the contract at later date for consulting services with assistance specifically related to the Highway 72 extension project. The contract would not be submitted to the Council until after the market feasibility study has been completed and presented to the Council. A motion was made by Williams and seconded by Spadoni to authorize the selection of HNTB as the engineering consultant to bring back a scope of services for assistance with the Highway 72 Extension Project after further refinement with the Missouri Department of Transportation (MoDOT) and completion of the market feasibility study. A voice vote on the motion showed ten (10) ayes (amendment noted by Council during August 6, 2007, Council Meeting). Motion carried

(B) Motion to Approve the County's Amendment to the Rolla West Memorandum of Understanding: City Administrator John Butz recalled that on June 4, 2007, the Council approved the Memorandum of Understanding (MOU) among the Cooperators of the Rolla West Project. When the County heard about the Missouri Department of Transportation's (MoDOT) lack of enthusiasm for the fifth interchange, the County said they were not interested in a transportation issue predominantly for the City of Rolla. The County wishes to place their money into tangible economic development opportunities. Mr. Butz referred the Council to the County's desired wording, contained in the agenda material.

Following a brief discussion, a motion was made by Williams and seconded by Jordan to approve the County's amendment to the Rolla West MOU. A voice vote on the motion showed ten (10) ayes (amendment noted by Council during August 6, 2007, Council Meeting). Motion carried.

(C) Resolution to Authorize the Optasite Towers Perpetual Easement in Schuman Park: City Administrator John Butz noted that this is a follow up to a lease that the City arranged about two years ago with Five Star Communications for the flag antenna that is located in Schuman Park. The company that purchased the tower, Optasite Towers, LLC, expressed the desire to buyout some of the long-term leases. After negotiations, the City and Optasite agreed to a one-time payment of \$96,000 for a permanent easement.

VII. NEW BUSINESS (continued)

(C) Resolution to Authorize the Optasite Towers Perpetual Easement in Schuman

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Park (continued): Because it is a real estate transaction, Mr. Butz informed the Council that the \$96,000 would be placed into the Parkland Reserve Fund. The interest earnings on this portion would be transferred into operating support for the Park Fund.

City Counselor Jon Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1640: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI, AN EXCLUSIVE EASEMENT AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND OPTASITE TOWERS, LLC. A motion was made by Spadoni and seconded by Williams to approve the proposed resolution. A voice vote on the motion showed nine (9) ayes and one (1) nay (amendment noted by Council during August 6, 2007, Council Meeting). Motion carried. The resolution passed.

(D) Request for Ordinances Regulating Animal Control in the City of Rolla: Police Chief Mark Kearsse addressed the Council regarding the following seven proposed animal control ordinances and commented on the proposed amendments.

(1) The Council recommended that the following proposed ordinance include the wording that is contained in State Statute regarding the length of poisonous snakes over eight feet in length. Additionally, the Council recommended including an exemption for teaching, research purposes, and medical laboratories.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE AMENDING SECTIONS 5-1 AND 5-14 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, PERTAINING TO ANIMALS AND FOWL.

(2) Chief Kearsse pointed out that the proposed ordinance contains the definitions for a “pit bull” and a “pit bull show dog.”

After discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE AMENDING SECTION 5-1, DEFINITIONS, OF THE CODE OF THE CITY OF ROLLA, MISSOURI, PERTAINING TO ANIMALS AND FOWLS.

VII. NEW BUSINESS (continued)

(D) Request for Ordinances Regulating Animal Control in the City of Rolla (continued):

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(3) Chief Kearsa noted that the proposed ordinance contains wording that pit bull dogs be registered, at no cost to the owner.

Following discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. **ORDINANCE: AN ORDINANCE ENACTING SECTION 5-41 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, PERTAINING TO ANIMALS AND FOWL.**

(4) Chief Kearsa explained that existing City ordinance states that an animal control officer or police officer could not start the procedure for declaring an animal dangerous animal, even if they witnessed it. The request would need to come from a citizen.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. **ORDINANCE: AN ORDINANCE AMENDING SECTION 5-80 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, PERTAINING TO ANIMALS AND FOWL.**

(5) Chief Kearsa noted that the following proposed ordinance has been amended by adding to the last sentence "...by means of a leash attached to its collar or harness and said leash is directly controlled by the keeper or owner." Mayor Jenks suggested the ordinance be amended to exempt law enforcement personnel with any police K-9.

After a brief discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. **ORDINANCE: AN ORDINANCE AMENDING SECTION 5-26 OF THE CODE OF THE CITY OF ROLLA, MISSOURI PERTAINING TO ANIMALS AND FOWL.**

(6) Chief Kearsa explained that the subject ordinance specifies that all feces deposited upon public or private property of another must be disposed of in an appropriate trash receptacle.

VII. NEW BUSINESS (continued)

(D) Request for Ordinances Regulating Animal Control in the City of Rolla (continued): Following some discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. **ORDINANCE: AN ORDINANCE**

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ENACTING SECTION 5-20 OF THE CODE OF THE CITY OF ROLLA, MISSOURI,
PERTAINING TO ANIMALS AND FOWL.

(7) Chief Kearsse noted that the proposed ordinance stipulates that a family may have up to six pets, of which only four may be dogs. If a family has more than six animals upon enactment of this ordinance, they will be required to register the animals at the Animal Control Shelter. There would be no cost for this registration.

After much discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE ENACTING SECTION 5-40 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, PERTAINING TO ANIMALS AND FOWL.

Mayor Jenks asked Rolla citizens to contact their respective councilpersons if they have any input regarding these ordinances. If necessary, a public hearing may be conducted before final action is taken.

VIII. CLAIMS and/or FISCAL TRANSACTIONS

(A) Motion to Award the Bid for the Installation of a Box Culvert at Dutro Carter Creek and Rolla Street: Public Works Director Steve Hargis reported that three bids were received for the installation of a new box culvert at Dutro Carter Creek and Rolla Street. This project will be funded 80% through a Bridge Replacement Grant through the Missouri Department of Transportation (MoDOT). Staff is recommending that the bid be awarded to the low bidder Don Maggi, Inc., for \$215,858.38 contingent on MoDOT approval. A motion was made by Williams and seconded by Spadoni to award the bid for the new box culvert at Dutro Carter Creek and Rolla Street to Don Maggi, Inc., for \$215,858.38. A voice vote on the motion showed ten (10) ayes (amendment noted by Council during August 6, 2007, Council Meeting). Motion carried.

IX. MAYOR/CITY COUNCIL COMMENTS

(A) UMR Innovation Park: Councilmember Hicks referred to the portion of the proposed master plan for the proposed University of Missouri-Rolla (UMR) Innovation Park where it says, "On-site utilities will include water from RMU with a pressure flow

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and rate sufficient for fire protection, electricity from Rolla Municipal Utilities that will have a redundant source of supply...” Mr. Hicks asked if this would require more diesel generators at this location.

City Administrator John Butz said he believes the generators meet that obligation, but he will need to speak with UMR and RMU about it.

Councilmember Hicks also noted that the Master Plan states, “Fire protection in the park will be provided by the City and reviews from the Rolla Fire Department will be solicited on all building plans....” Mr. Hicks said this might be an expensive proposition for the City, since that location would not pay taxes.

Mayor Jenks responded that this will be a private park and taxes will be assessed on the buildings, but not on the property since it is owned by UMR.

X. EXECUTIVE SESSION

A motion was made by Williams and seconded by Jordan to adjourn into Executive Session pursuant to RSMo. 610.021 to discuss real estate and litigation. A roll call vote on the motion showed the following: Ayes; Spadoni, Walburg, Morris, Williams, Sibley, Magdits, Jordan, Jepsen, Hicks, and Barklage. Nays; None. Absent; Ruck and Eudaly. Motion carried.

The Council adjourned into Executive Session at approximately 8:28 p.m.

XI. EXECUTIVE SESSION ACTION

The Council reconvened into open session at approximately 9:08 p.m.

City Counselor John Beger announced that during Executive Session the Council discussed an offer of donation of property lying near the City limits, contingent on

XI. EXECUTIVE SESSION ACTION (continued)

development for park purposes, or, in the alternative the purchase of additional land. No formal action was taken, but Administration was instructed to continue discussions with the donor.

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The Council was also advised of a matter of pending litigation, but no formal action was taken thereon.

XII. COMMENTS FOR THE GOOD OF THE ORDER

(A) Council Workshop Comments: Mayor Jenks said there was some confusion about his comments earlier regarding not receiving citizen comments during the Council's Workshop meetings. Mayor Jenks explained the Council workshop is the Council's second meeting of the month. Apparently, some construed that to mean the special meeting that Rolla Municipal Utilities (RMU) plans to have next Monday night. Mayor Jenks said public comment would be received during the special RMU meeting and he encouraged citizens and the Council to attend.

XIII. ADJOURNMENT

Having no further business, the meeting adjourned at approximately 9:10 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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