

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, NOVEMBER 19, 2007
ROLLA CITY HALL COUNCIL CHAMBERS
901 NORTH ELM STREET
5:33 P.M.**

Presiding: Mayor William S. Jenks, III

Council Members in Attendance: Susan Eudaly, Gary W. Hicks, Judy Jepsen, Lou Magdits, Jim Williams, Richard Morris, and Richard Sibley

Council Members Absent: Terry Ruck, Monty Jordan, Don Barklage, Stan Spadoni, and Mark Walburg

Department Directors in Attendance: Public Works Director Steve Hargis, Recreation Center Director Scott Caron, Police Chief Mark Kears, Finance Director Steffanie Rogers, Fire Chief Robert Williams, Solid Waste Director Brady Wilson, 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 5:33 p.m. and entertained a motion to adjourn into Executive Session to discuss real estate and litigation.

I. CLOSED EXECUTIVE SESSION

A motion was made by Eudaly and seconded by Hicks 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; Eudaly, Sibley, Williams, Hicks, Magdits, Morris, and Jepsen. Nays; None. Absent; Ruck, Jordan, Spadoni, Barklage, and Walburg. Motion carried.

The Council adjourned into Executive Session at approximately 5:34 p.m.

Mayor Jenks called the regular meeting of the Rolla City Council to order at approximately 6:30 p.m. and led the in the Pledge of Allegiance.

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CLOSED EXECUTIVE SESSION ACTION

City Counselor John Beger announced that during Executive Session the City Council discussed a proposed development agreement for the development of real estate. No formal action was taken on the proposed agreement.

Mr. Beger also reported the Council discussed an issue of potential litigation without formal action being taken thereon.

II. PUBLIC HEARINGS

(A) Request for Ordinance to Rezone Lots 6-10, Block 8 of Cowan's Addition from R-1 to C-3 Zoning (Batis Development): Community Development Director John Petersen explained the subject property contains 1.3 acres. The request for the rezoning is the result of a proposed Walgreens store in this area. He pointed out that there is a buffer yard requirement on any of the ground that abuts R-1 (Single Family District). The Planning and Zoning Commission recommend approval of the rezoning request.

Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject-rezoning request.

Mr. Mark Wittenburg, representing Batis Development addressed the Council. He thanked members of the City staff and adjacent property owners to the development for their assistance in the project. He noted that Walgreens is very excited about being in the Rolla community. He added that in many cases Walgreens leases their facility. However, they are choosing to own the facility in Rolla. He said he believes Walgreens has a terrific site, but it is topographically challenged. Normally, Walgreens constructs their projects on about a two-acre site. However, this project exceeds the two-acre site because they wanted to diminish the number of billboards in that block. To improve the appearance of that block, about four billboards will be removed in the Walgreens property area. Regarding the street closure on Spilman Avenue, Mr. Wittenburg noted there are only two homes remaining in the block. He said Batis Development tried to come up with a site plan so the residents on Spilman Avenue would have good ingress and egress. Mr. Wittenburg said Batis Development is not proposing the closing of Spilman or the discontinuation of through access, but the fact that they can flow through and access Bishop Avenue by going through the circle of the Walgreens' development or they can choose to access Ridgeview by going around the facility.

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II. PUBLIC HEARINGS (continued)

(A) Request for Ordinance to Rezone Lots 6-10, Block 8 of Cowan's Addition from R-1 to C-3 Zoning (Batis Development) (continued): Regarding the development agreement, Mr. Wittenburg noted that it pertains to the improvement of Ridgeview. He pointed out that Ridgeview Road has a critically steep rise leaving Bishop Avenue and that steepness needs to be reduced. Walgreens is hoping to have Ridgeview Road improved to Walker Street.

Mr. Wittenburg asked the Council to consider the first and final readings of the subject ordinance at this meeting not only to move the project forward, but also to let the adjacent property owners be able to make the decisions about where they are going to live.

Ms. Tamara Skaggs, who resides at the bottom of Spilman Avenue, told the Council that she believes Walgreens will add to the Rolla community. However, she expressed concern with the ingress and egress on Spilman Avenue. She said it would create increased traffic in front of her home. Ms. Skaggs said she preferred that Spilman Avenue be dead-ended. She said it would be better for everyone if the entrance/exit were off Bishop Avenue. Ms. Skaggs also expressed concern for the children's safety in the neighborhood.

No one else present addressed the Council concerning the subject-rezoning request. Mayor Jenks closed the public hearing.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. **ORDINANCE NO. 3839: 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 LOTS 6-10, BLOCK 8 OF COWAN'S ADDITION (BATIS DEVELOPMENT).** A motion was made by Hicks and seconded by Eudaly to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed seven (7) ayes, zero (0) nays, and five (5) absent. Motion carried. City Counselor John Beger then read the proposed ordinance for its final reading, by title. A motion was made by Hicks and seconded by Eudaly to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Sibley, Morris, Williams, Magdits, Eudaly, Hicks, and Jepsen. Nays; None. Absent; Spadoni, Jordan, Ruck, Walburg, and Barklage. Motion carried. The ordinance passed.

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II. PUBLIC HEARINGS (continued)

(B) Request to Rezone Property at 1735 N. Bishop Avenue from R-3 to C-2 Zoning

(Chrisco): Community Development Director John Petersen pointed out the location of the subject property. The adjacent property is where the proposed Starbucks project will be constructed. The current zoning of the subject property is zoned R-3 (Multi-Family District) and C-2 (General Retail District). Mr. Petersen explained the applicant would continue to use the site as it is presently being used. The purpose of the proposed rezoning is to have the property zoned for its current use.

Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject-rezoning request. No one present addressed the Council. Mayor Jenks closed the public hearing.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: 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 1735 NORTH BISHOP AVENUE (CHRISCO).

III. CITIZEN COMMUNICATION (continued)

(A) Concern Over Trail Through Ponzer Park/Access Off Cypress Drive (continued): Dr. John J. Myers, 1001 Cypress, told the Council that he and his family have lived here since 1999 when they purchased their home. When they purchased their property, the realtor told them the area around their house surrounded by City property was a bird sanctuary. Dr. Myers noted that throughout Rolla most of the trails have very well done hard barriers as well as the utilization of foliage and trees. He said that one of his main concerns is how close the trails come to residential properties. Dr. Myers pointed out currently the City of Rolla has no formal regulations on the development of trails consisting of walkways and bike paths relative to buffer zones and barriers. Documentation of the impact of these, if located in close proximity to private property owners in residential neighborhoods, is largely unknown and antidotal in terms of property values, security and privacy. Therefore, many municipalities have implemented regulations to protect private property owners. Dr. Myers provided the Council with an

III. CITIZEN COMMUNICATION (continued)

(A) Concern Over Trail Through Ponzer Park/Access Off Cypress Drive: example of what the City of Maryland Heights, Missouri has done in an ordinance approved earlier this year. Maryland Heights' ordinance provides for a minimum separation between trail and private residential property of 100 feet. While the City of Rolla currently does not have these stipulations, Dr. Myers said he thinks this would be something the City might want to consider as the City grows. Council discussion followed.

(B) Mr. Robert Stewart, 1308 Hillview, recalled that he spoke to the Council during its last meeting trying to get the poison out of the city water. He mentioned that he provided the Council with additional material pointing out the dangers of fluoride. Mr. Stewart asked the Council to do the right thing and not take a chance on the fluoride.

(C) Mr. Steve Dunn, 1220 Turkey Run, said he would like to know if there has been any study on the use of the smaller pocket parks to see how they have been used over the past five or six years. Mr. Dunn said his property would be impacted in several ways by this. He noted there is a 30-foot distance between his piece of property and the creek where the proposed bike path is going to be. He said it is going to cut down a small area in between his property and the bike path. Mr. Dunn suggested that a study be done to see if they are worthwhile in the expenditures of the City's money.

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(D) Ms. Kate Watterson, 901 Cypress, said the main concern with the bike trail in the Ponzer Subdivision is the parking lots. She said she lives at the corner of Turkey Run and Cypress where there is currently two stop signs. Ms. Watterson said that daily she witnesses traffic running the stop sign and travelling through the intersection much too quickly. Her major concern is having a parking lot on the loop of Cypress Drive and at the end of Turkey Run. This would significantly increase the traffic in her neighborhood where children are frequently playing.

(E) Mr. Joel Rockemann, 1221 Turkey Run, added that he is an avid runner and biker and currently uses the trail and runs on the Lions Club sidewalk. He said if you are a road biker, you are not going to be using the sidewalk or the bike trail because road bikes are moving fast. If you are a mountain biker, you are probably using it to get to Lions Club to the mountain bike trail. Mr. Rockemann said if you are running, it is more aesthetically pleasing. The trail is not all that much more wide than the sidewalk that exists on Lions Club. He said his vote would be to place the path on the south side of the creek and continue.

III. CITIZEN COMMUNICATION (continued)

(F) Mr. Peter Bachle, 909 Cypress, said he knows the parking lot is proposed, but he asked the Council to consider placing a little more distance between the parking lot and his back fence line.

No one else present addressed the Council.

IV. SPECIAL PRESENTATION

(A) Presentation Regarding The 'Tour Of Missouri' Bicycle Race: Recreation Center Director Scott Caron provided the Council with an overview of the Tour of Missouri bicycle race across the state of Missouri. He noted that 2007 was the inaugural year sanctioned by USA Cycling. Mr. Caron said the City plans to submit a bid to be a host City. Rolla would need to be able to provide the City services as well as hotels and meals for the competitors and those that sponsor the race. Mr. Caron told the Council the route for this year's event has yet to be determined. He noted that last year's event generated between \$20 and \$25 million for tourism in the state as a whole. The attendance ranged between 300,000 and 375,000 and Rolla would like to get a part of that. Mr. Caron said the nice thing about hosting a finish is the opportunity to have the health and wellness expo because this is where people stay in the community and, in turn, will spend dollars within the community. He informed the Council that the bids for this event are due by December 7. Mr. Caron said a proposed resolution would be submitted

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at the December 3 Council meeting supporting this venture. He added that a joint bid would be submitted between the Chamber of Commerce and the City.

Ms. Stevie Kears, Rolla Area Chamber of Commerce Executive Director, emphasized the Chamber feels really strongly that Rolla can definitely accommodate this event. She told the Council there are 16 hotel properties with about 857 rooms, which more than meets the requirement for either a start or a finish city. Additionally, the Havener Center will be able to meet the requirements needed for an evening meal. Ms. Kears said there should be no problem in finding the volunteer base needed for this event.

Dr. Dick Elgin told the Council that this event is a "big deal." He told the Council that earlier this year he followed the tour for three days and saw the impact it can have on Missouri communities. This will bring publicity to our community that cannot be bought. Dr. Elgin said this would be great for Rolla and the whole area.

V. OLD BUSINESS

(A) Discussion of Relocation of the Deible Trail Project: City Administrator John Butz noted there has been much discussion on this issue over the last couple of months. A public hearing was held two weeks ago and the Council heard from several of the affected property owners who were less than enthused about the prospect of the trail going on the south side of the creek. He reiterated the concern or opposition is not to the trail but to the impact of the backyards and, in particular in the case of the Hamilton's, the primary trail running along the side of a home.

Dr. Oluyomi Olusanya, 1007 Carriage Lane, addressed the Council and said regardless of which side of the creek is chosen by the Council, it is still going to cost the City approximately \$20,000. Either you force the residents to construct a fence to separate the path from the homeowners or place the path on the other side of the sidewalk.

After some discussion, a motion was made by Magdits and seconded by Morris to relocate a portion of the bike trail from the south side of Deible Creek to the north side. The relocation is made on the condition that any Oak Knoll South properties, bordering on City parkland or conservation area not be eligible for the City's policy on a 50/50 cost-sharing of fence or landscape barriers between private property and City property. A voice vote on the motion showed seven (7) ayes, zero (0) nays, and five (5) absent. Motion carried.

VI. NEW BUSINESS

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(A) Request for Ordinance to Amend Certain Provisions of Chapter 42, the Rolla Planning and Zoning Code (Subdivisions): Community Development Director John Peterson noted the City's code contains a provision that provides for the mandatory dedication of parkland or a fee-in-lieu-of. The provisions in that ordinance specify that the dedication must be made forever. Because of that finding, Mr. Petersen said the Council recommended a review of its ordinances to see how the City could provide for flexibility so the City could sell, trade, or otherwise change the use of a particular parcel acquired. Under advice by legal counsel, it was recommended that the word "deeding" be substituted for the word "dedication." Mr. Petersen reported the Planning and Zoning Commission recommend approval of this amendment.

VI. NEW BUSINESS (continued)

(A) Request for Ordinance to Amend Certain Provisions of Chapter 42, the Rolla Planning and Zoning Code (Subdivisions) (continued): City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE AMENDING CHAPTER 42 OF THE ROLLA CITY CODE KNOWN AS THE PLANNING AND ZONING CODE, ARTICLE II SUBDIVISIONS, BY ADOPTING CERTAIN REVISIONS.

(B) Request for Ordinance to Vacate Approximately 310 Feet of Spilman Avenue (Batis Development): With the use of visual aids, Community Development Director John Petersen pointed out the area of the road that would be vacated and given back to the adjacent property owners. The Planning and Zoning Commission recommend approval of the vacation. The developer is requesting that the ordinance be read for its first and final reading at this meeting.

After a brief discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3840: AN ORDINANCE VACATING APPROXIMATELY 310 FEET OF SPILMAN AVENUE, NORTH OF RIDGEVIEW ROAD (BATIS DEVELOPMENT). A motion was made by Williams and seconded by Morris to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed seven (7) ayes, zero (0) nays, and five (5) absent. Motion carried. City Counselor John Beger then read the proposed ordinance for its final reading, by title. A motion was made by Williams and seconded by Morris to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Morris, Williams, Sibley, Magdits, Jepsen, Eudaly, and Hicks. Nays;

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None. Absent; Spadoni, Walburg, Ruck, Jordan, and Barklage. Motion carried. The ordinance passed.

(C) Summary Report on 10 Year CIP Workshops; Motion to Authorize the Formation of an Ad Hoc Committee to Review the Parks Sales Tax:

City Administrator John Butz recalled the Council and department directors recently conducted a workshop to specifically review and discuss proposed Capital Improvement Projects. He briefly commented on the issues discussed during the workshop. Mr. Butz noted that the final item the Council discussed was how to begin to address the issues in parks funding and to some degree, the General Fund. The suggestion was to form an ad hoc committee that would look at the existing park sales tax, which expires December 31, 2013. Additionally, making a more flexible use of the tax and perhaps extending it to a

VI. NEW BUSINESS (continued)

(C) Summary Report on 10 Year CIP Workshops; Motion to Authorize the Formation of an Ad Hoc Committee to Review the Parks Sales Tax:

lesser rate to support the recreation center and continue developments to support the park operations. It would free up General Fund dollars that would allow the City to improve its public safety.

After some discussion, City Administrator John Butz said he would present a broader scope committee to the Council to consider this issue.

(D) Motion to Approve the Resolution of Support for the Highway 72 Extension Project:

City Administrator John Butz reported that with the support of key cooperators, there is \$350,000 to help with the due diligence on the Highway 72 extension and the fifth interchange. The key cooperators are the Phelps County Regional Medical Center, St. John's Health System, Phelps County, Rolla Regional Economic Commission and the University of Missouri-Rolla. Staff is asking the Council to endorse a resolution of support for the application for joint funding of the Highway 72 extension that would be filed with the State of Missouri by December 1.

Public Works Director Steve Hargis provided an overview of the HNTB project. To build the extension from Highway 63 to Bridge School Road it is estimated to cost about \$6 million.

Rolla Regional Economic Commission Executive Director Elizabeth Bax added the extension of Highway 72 is an opportunity that makes a very interesting circle. It is not every day you find a situation like this which will help you solve several problems in a

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self-sustaining way. Ms. Bax said there is a safety issue that provides us with the opportunity to create more revenue to actually solve or resolve the safety issue that we have. In addition, we enhance our ability to provide services to the citizens of the city of Rolla by growing our retail sales by an additional \$250 million. Ms. Bax said we also enhance our ability to provide jobs and investment in Rolla and Phelps County. She concluded by asking the Council to see and seize this opportunity and move forward.

City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1650 A RESOLUTION ENDORSING AND SUPPORTING THE EXTENSION OF HWY 72 WEST TO INTERSTATE 44 AND AUTHORIZING THE APPLICATION FOR JOINT FUNDING WITH THE MISSOURI DEPARTMENT

VI. NEW BUSINESS (continued)

(D) Motion to Approve the Resolution of Support for the Highway 72 Extension Project (continued): OF TRANSPORTATION. A motion was made by Williams and seconded by Eudaly to approve the proposed resolution. A voice vote on the motion showed seven (7) ayes, zero (0) nays, and five (5) absent. Motion carried. The resolution passed.

VII. CLAIMS AND/OR FISCAL TRANSACTIONS

(A) Motion to Award Bid for the Demolition of 406 Highway 72 West: Community Development Director John Petersen recalled the Council made a number of findings concerning 406 Highway 72 West and indeed found this property to be a nuisance and directed staff to proceed with obtaining bids for the demolition of the building. Mr. Petersen noted that the only bid received was from Don Maggi, Inc., for \$14,635. Following discussion, a motion was made by Williams and seconded by Eudaly to award the bid for the demolition of 406 Highway 72 West to Don Maggi, Inc., for \$14,635. A voice vote on the motion showed six (6) ayes, one (1) nay and five (5) absent. Motion carried.

(B) Motion to Award the Bid for Two New Patrol Vehicles: Police Chief Mark Kearse told the Council that staff recommends that the bids for two new police vehicles be awarded to the lowest bidder, Don Brown Chevrolet for a total of \$40,618. He added the vehicles bid are black and white patrol vehicles. Chief Kearse explained the reason for the change to black and white vehicles is better visibility to the residents and a return to the traditional police image. A motion was made by Hicks and seconded by Williams to award the bid for two new black and white patrol vehicles to the lowest bidder, Don

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Brown Chevrolet for \$20,309 each. A voice vote on the motion showed seven (7) ayes, zero (0) nays, and five (5) absent. Motion carried.

VIII. MAYOR/CITY COUNCIL COMMENTS

(A) Appointments to the Rolla Housing Authority Board for Four Year-Terms: A motion was made by Eudaly and seconded by Jepsen to reappoint Larry George and Karen LaBoube to the Rolla Housing Authority Board for four-year terms. A voice on the motion showed seven (7) ayes, zero (0) nays, and five (5) absent. Motion carried.

VIII. MAYOR/CITY COUNCIL COMMENTS

(A) Appointments to the Rolla Housing Authority Board for Four Year-Terms (continued): A motion was made by Eudaly and seconded by Hicks to appoint DeLaura Shipley to fill a vacancy on the Rolla Housing Authority Board. A voice vote on the motion showed seven (7) ayes, zero (0) nays, and five (5) absent. Motion carried.

IX. COMMENTS FOR THE GOOD OF THE ORDER

(A) Police Awards Banquet: Councilmember Eudaly complimented Chief Kearse on the great job at the Police Department's recent awards banquet.

(B) Bikers and Joggers: Councilmember Hicks noted that he has received complaints about bikers and joggers running on the streets when there are sidewalks and bike paths available. He asked the joggers to use the sidewalks to prevent from being hit by a vehicle.

Councilmember Hicks added that he sees many folks letting their dogs defecate on private property. He asked that people be more considerate of their neighbors.

(C) Leaves: Councilmember Magdits noted that some residents are placing an excessive amount of leaves in the street. He said it is his understanding the leaves should be placed to the curb. Mr. Magdits noted that 20% of the road in his neighborhood was taken away because the leaves were that far out into the street.

Parks and Recreation Director Ken Kwantes said the policy calls for the leaves to be at the curb and not in the street. The City will pick up leaves from October 15 through December 15 for a fee.

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Councilmember Magdits said it is significantly inconsiderate for people to be piling the leaves in the road.

City Administrator John Butz said this is considered littering and the residents can be ticketed for placing the leaves in the street.

XI. EXECUTIVE SESSION ACTION

A motion was made by Eudaly and seconded by Jepsen 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; Williams, Sibley, Hicks, Morris, Magdits, Eudaly, and Jepsen. Nays; None. Absent; Walburg, Spadoni, Ruck, Jordan, and Barklage. Motion carried.

After a brief recess, the Council adjourned into Executive Session at approximately 8:53 p.m.

XII. EXECUTIVE SESSION ACTION

The Council reconvened into open session at approximately 9:12 p.m.

City Counselor John Beger reported that during Executive Session the City Council discussed an issue of real estate without taking formal action thereon.

IX. COMMENTS FOR THE GOOD OF THE ORDER (continued)

(D) 900 Pine Street Status: Councilmember Williams asked for an update on 900 Pine Street maintenance issue.

City Administrator John Butz said he would check into the status of the maintenance on this house. He said the Police Department issued a citation on this matter about ten days ago and it will be handled through the Municipal Court.

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XIII. ADJOURNMENT**

Having no further business, the meeting adjourned at approximately 9:14 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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