

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, MAY 19, 2008
ROLLA CITY HALL COUNCIL CHAMBERS
901 NORTH ELM STREET
6:30 P.M.**

Presiding: Mayor William S. Jenks, III

Council Members in Attendance: Terry Ruck, Monty Jordan, Donald Barklage, Susan Eudaly, Gary W. Hicks, Don Morris, Lou Magdits, Jim Williams, Rick Morris, Donna Hawley, and Mark Walburg

Council Members Absent: Stan Spadoni

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

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

Mayor Jenks called the meeting to order at approximately 6:30 p.m. and asked Councilman Jim Williams to give the invocation.

Following the invocation, Councilwoman Donna Hawley led in the Pledge of Allegiance.

I. CITIZEN COMMUNICATION

Mayor Jenks opened the floor to anyone wishing to address the Council on any matter that is not on the agenda. No one present responded.

II. SPECIAL PRESENTATION

(A) First Quarter Tourism Report – Rolla Area Chamber of Commerce: Rolla Area Chamber of Commerce Executive Director Stevie Kearse provided an overview of the first Quarter 2008 tourism report, which was included in the agenda materials.

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III. OLD BUSINESS

(A) Ordinance to Amend Chapter 6 Pertaining to Dangerous Buildings:

Community Development Director John Petersen explained that the proposed ordinance would amend Chapter 6 of the Rolla City Code pertaining to dangerous buildings. Some of the changes reflected in the proposed ordinance deal with the definitions of nuisance by classifying some of the dangerous buildings that have been damaged by fire. Therefore, this would allow the City to pursue the maintenance and improvement of the property. Mr. Petersen said the primary objective of the subject ordinance places a requirement that when there is a major fire or major damage to a structure, in excess of 50% of its market value, 25% of the insurance proceeds would be set aside by the City as an encouragement to make sure the owner deals with the property in an appropriate and timely fashion.

After some discussion, City Counselor John Beger read the following proposed ordinance for its final reading, by title. ORDINANCE NO. 3864: AN ORDINANCE AMENDING CHAPTER 6, BUILDINGS, OF THE ROLLA CITY CODE, ARTICLE III, BUILDING REGULATIONS, BY REPEALING AND ADOPTING CERTAIN PROVISIONS. A motion was made by Williams and seconded by Barklage to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Magdits, Hicks, Hawley, Ruck, R. Morris, Walburg, Barklage, Eudaly, Jordan, D. Morris, and Williams. Nays; None. Absent; Spadoni. Motion carried. The ordinance passed.

(B) Ordinance to Rezone Property at 1349 Highway 72 from R-3 Zoning to C-2 and C-1 Zoning, and 1331 Highway 72 and #41 Johnson Street from R-1 to C-2 Zoning (Huffman/Taylor):

Community Development Director John Petersen told the Council that the Planning and Zoning Commission's recommendation is to approve the zoning on the subject properties as proposed, with the conditions outlined in the subject ordinance. Mr. Petersen noted there is a precedence for commercial zoning in the area. He pointed out a petition in opposition to the rezoning, consisting of 22% of the property owners within 185 feet of the subject property, has been received. However, it does not constitute a legal petition.

City Counselor John Beger read the following proposed ordinance for its final 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 1349 AND 1331 HIGHWAY 72 AND #41 JOHNSON (HUFFMAN/TAYLOR). A motion was made by

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III. OLD BUSINESS (continued)

(B) Ordinance to Rezone Property at 1349 Highway 72 from R-3 Zoning to C-2 and C-1 Zoning, and 1331 Highway 72 and #41 Johnson Street from R-1 to C-2 Zoning (Huffman/Taylor) (continued): Williams and seconded by Eudaly to reconsider the subject ordinance. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried.

A motion was then made by D. Morris and seconded by Barklage to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Barklage,

R. Morris, Jordan, D. Morris, and Walburg. Nays; Eudaly, Hicks, Ruck, Hawley, Williams, and Magdits. Absent; Spadoni. Motion failed. The ordinance failed.

Mr. Floyd Huffman, petitioner, addressed the Council and said he spoke with some of the Council and some of his neighbors and he said he wanted to offer an option to his current request. Mr. Huffman said he would be willing to amend the area currently requested for C-1 (Neighborhood Business District) to C-O (Office District), and amend the second lot on Johnston Street from C-2 (General Retail District) to C-1 (Neighborhood Business District).

After discussion, Councilman Hicks said he would like to see the property rezoned and he would be willing to host a meeting with Mr. Huffman and his neighbors. Further discussion followed.

(C) Motion to Accept the Recommendations of the Rolla Cemetery Ad Hoc Committee: Parks and Recreation Director Ken Kwantes recalled that the Rolla Cemetery Ad Hoc Committee's final recommendations were reviewed during the Council's last meeting. He noted that a condensed listing of the recommendations is outlined in the agenda materials. Mr. Kwantes stated that following Council approval, the recommendations would be incorporated into the Cemetery Rules.

Councilwoman Eudaly, chair of the Cemetery Ad Hoc Committee, indicated the October cleanup, where all floral items are removed from the cemetery, was discussed at length. The new rules specify that flowers or trinkets on the monuments will remain on the monuments. Additionally, the cleanup following Memorial Day will be extended until the third week of June to allow more time for items to be on the grave. Councilwoman Eudaly noted that benches in the cemetery would be permitted if they were permanently

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III. OLD BUSINESS (continued)

(C) Motion to Accept the Recommendations of the Rolla Cemetery Ad Hoc Committee (continued): secured, similar to monuments, to avoid damage. A motion was made by Williams and seconded by Hicks to accept the recommendations to the Rolla Cemetery Rules and Regulations as submitted by the Rolla Cemetery Ad Hoc Committee. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried.

IV. NEW BUSINESS

(A) Resolution to Approve the Joint City/Phelps County Crime Prevention Contract: Police Chief Mark Kearse stated that staff is requesting authorization for the Mayor to enter into a contract, beginning June 1, 2008, with the Phelps County Commission to establish a joint effort crime prevention program between the Rolla Police Department and the Phelps County Sheriff's Department.

City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1662: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI A CONTRACT WITH THE PHELPS COUNTY COMMISSION. A motion was made by Hicks and seconded by Jordan to approve the proposed resolution. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried. The resolution passed.

(B) Resolution to Approve the Blue's Lake Supplemental Development Agreement: Public Works Director Steve Hargis explained that the subject resolution would authorize the Mayor to enter into a Second Supplemental Development Agreement with the Dietzmanns for the Blue's Lake Development. The original agreement was a cost-share with the City and the developer to establish the suitability of Blue's Lake to act as a regional detention facility. Mr. Hargis noted that the second supplemental agreement would authorize the City to proceed with the improvements. The City would cost-share with the developer based on the percentage of the drainage area. The developer would pay the City \$37,000 of the \$100,000 to complete the improvements. Mr. Hargis added that City personnel would be used to construct these improvements during this summer. He stated the developer would also issue a storm water management easement to the City, which would cover the impoundment area and the spillway. Mr. Hargis then entertained questions and comments from the Council.

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IV. NEW BUSINESS (continued)

(B) Resolution to Approve the Blue's Lake Supplemental Development Agreement (continued): City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1663: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE IN BEHALF OF THE CITY OF ROLLA, MISSOURI A CERTAIN SUPPLEMENTAL AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND JOHN F. DIETZMANN AND JOAN D. DIETZMANN RELATING TO STORMWATER DETENTION. A motion was made by Hicks and seconded by Barklage to approve the proposed resolution. A voice vote on the motion showed nine (9) ayes, two (2) nays, and one (1) absent. Motion carried. The resolution passed.

V. CLAIMS and/or FISCAL TRANSACTIONS

(A) Motion to Approve the Listed Authorized Financial Institutions and Dealers: Finance Director Steffanie Rogers referred the Council to the list of financial institutions and dealers approved in 2004, with the exception of UBS Financial Services in Texas. Ms. Rogers told the Council that UBS Financial Services contacted her a few years ago asking permission to bid on City investments. Staff is recommending approval of the list, contained in the agenda materials, of authorized financial institutions and dealers.

Councilwoman Hawley pointed out that the Department of Justice and the FCC are currently investigating UBS Financial Services. She noted that according to a Bloomberg report, it is the widest criminal investigation ever in the municipal bond market. Based on this information, Councilwoman Hawley said she has a problem adding UBS Financial Services to the list of authorized financial institutions.

Following discussion, a motion was made by Hawley and seconded by Jordan to accept the list as presented by Finance Director Steffanie Rogers with the exception of UBS Financial Services. A hand count on the motion showed six (6) ayes, five (5) nays, and one (1) absent. Motion carried.

VI. MAYOR/CITY COUNCIL COMMENTS

(A) Committee Appointments:

Library Board: A motion was made by Eudaly and seconded by Jordan to appoint Ms. Karen Daily to the Library Board for a third term, and appoint Mr. Ralph

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Alexander to the Library Board for his first term. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried.

Planning and Zoning Commission: A motion was made by Ruck and seconded by Eudaly to reappoint Mr. Greg Sawyer and Mr. Don Brown to the Planning and Zoning Commission for four-year terms. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried.

Finance/Audit Committee: A motion was made by Eudaly and seconded by Ruck to appoint Councilman Hicks to the Finance/Audit Committee to replace former Councilman Richard Sibley. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried.

Rolla Channel 6 Advisory Committee: Mayor Jenks requested the appointment of Councilman Monty Jordan to Rolla Channel 6 Advisory Committee. A motion was made by Barklage and seconded by Eudaly to appoint Councilman Monty Jordan to the Rolla Channel 6 Advisory Committee. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried.

(B) Discussion on “Emergency Meetings:” City Administrator John Butz explained that this item was set aside during the Council’s last meeting. If the Council wishes to revisit the issue, a motion to reconsider would be appropriate. City Administrator Butz noted that he provided a copy of the only reference in the City Code regarding calling of meetings and it is similar to State Statute. According to City Code, City Administrator Butz stated that the Mayor is the individual empowered to call special meetings. However, the City Council, with a two-thirds vote, may amend the agenda. He pointed out that the law is silent on the issue of who can call a meeting. City Administrator Butz said there is some discretion for the Council, if they wish to revisit this issue, to consider a process in the absence of the Mayor, to call a special meeting. If the Council wishes to do this, some guidelines would be helpful.

VII. COMMENTS FOR THE GOOD OF THE ORDER

(A) Mini Bikes: Councilman Hicks said he has noticed many 49cc mini bikes being driven around town. He asked whether these vehicles require licenses, insurance, etc.

Police Chief Mark Kearsse responded that the drivers of these vehicles are required to have a valid driver’s license. He said he would need to check on the insurance requirements of these vehicles.

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Note: Discussion of this item continued following Item VII. B., Proposed RMU Lease Bonds.

(B) Proposed RMU Lease Bonds: Councilwoman Hawley addressed the process that is occurring with the Rolla Municipal Utilities (RMU) lease bond that they are asking the Council to vote on at the next Council meeting. She stated that she believes the City needs to do a lot more due diligence in looking at these bonds from the standpoint that the City of Rolla is going to take on \$18 million worth of revenue bonds. Councilwoman Hawley said she believes, and State Statute indicates, that the Rolla citizens should be voting on an \$18 million utility revenue bond. The fact the Council is being asked to approve this, and going around State Statute 91.596, is wrong. Councilwoman Hawley said this is a lot of money and the citizens of Rolla will be paying for this for a very long time. She told the Council that she has requested information from RMU that she intended for the Council to evaluate. She requested to see their bids, the full bid response from Kinchloe, all financial applications, the R.W. Beck report, which is the absolute basis for this \$18 million expenditure, and RMU will not release it to her. She said with all of this secrecy and withholding of documents, it is even more critical that the Council look at this with the utmost scrutiny and demand that the RMU Board give the Council the R.W. Beck study, all of the bid information, financial documents, and everything she requested earlier today, but was denied. Councilwoman Hawley stressed that this is bid tampering and bid rigging when RMU will not divulge everything that is going on with the bids and to withhold information from the approving Council. She concluded by stating the Council cannot vote on this issue in June without having an opportunity to review the documents.

Dr. James Stoffer, President of the Rolla Board of Public Works, stated that it is his understanding that, according to State Statute and legal advice, this is a lease/purchase and not a bonding situation.

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

(B) Proposed RMU Lease Bonds (continued): Councilwoman Hawley asked what is being used as collateral for these bonds.

Dr. Stoffer stated that RMU is not doing bonds, but a lease/purchase.

Councilwoman Hawley pointed out that the minutes from a Board of Public Works meeting, which were approved at RMU's Board meeting a few hours ago, state "Roberts

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stated that a request for proposal for the finance for the lease/purchase.....the lease/purchase bonds would not exceed \$18 million.” Councilwoman Hawley also noted that the same document says, “staff doesn’t perceive spending the \$130,000, however if they do, the money will be reimbursed with the bond money.” Councilwoman Hawley pointed out that until the actual documents are provided, the Council will not know whether this is actually a bond or not.

Dr. Stoffer responded that it is his understanding it is a lease/purchase. If the word “bond” is in that resolution, he said RMU is at fault. It is a lease/purchase activity. At the Rolla Board of Public Works’ next meeting, Dr. Stoffer said the resolution would be amended to reflect lease/purchase.

Councilwoman Hawley then asked Dr. Stoffer if the Council would see all of the documents before being asked to vote on this issue.

Dr. Stoffer told Councilwoman Hawley that if the Council as a whole requests the R.W. Beck report, it would be provided to the Council during closed session because it is a closed document.

A motion was made by Hawley to have the RMU Board subpoenaed to produce papers relating to the bond that they are about to ask the Council to vote on, according to RSMo. 77.100. The Council specifically requests the R.W. Beck report, every single document involved with the request for bids, all responses for the request for bids, all applications for the bonds for the request for bids, and all of the lease/purchase contract papers for these \$18 million that RMU is asking the Council to spend. The motion died for lack of a second.

Councilman Magdits stated to Dr. Stoffer that the Council is clearly relying on the RMU Board to give the Council the pertinent information.

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

(B) Proposed RMU Lease Bonds (continued): Dr. Stoffer said the Board would do its best, along with management of the utilities, to provide the Council with the necessary information.

Councilman Hicks agreed with Councilman Magdits that the City has the Board of Public Works to perform that very function.

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Dr. Stoffer reiterated that he would be happy to provide the R.W. Beck report to the Council in closed session.

Councilwoman Hawley stated that she still stands by the fact that this is an \$18 million bond issue that is hiding in a lease and it is going to be based on revenue and not on capital infrastructure as collateral. The mechanism for the bond involves many derivatives. She said if the Council does not understand the financing issue on \$18 million, the Council has no right to vote on it at all until the variable interest rate is replaced with a fixed rate. Councilwoman Hawley said the Council still needs to resolve the issue of whether or not this needs to go to the voters for approval. According to State Statutes, it needs to go to the voters if it is a revenue bond. Without the documents, the Council will never know whether this is a revenue bond.

Councilman Magdits said he believes the Council should understand the financing as it pertains to the Council level. Before the Council votes, it should clearly understand the City's portion of the lease/purchase.

Dr. Stoffer said that RMU could provide this information.

Councilwoman Hawley begged the Council not to rush into this without these issues being fully investigated.

Following further discussion, a motion was made by Barklage and seconded by Ruck to close discussion on this issue. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried.

(A) Mini Bikes (continued): Police Chief Mark Kears reported that vehicles with 49cc's and below are not required to have insurance nor is the driver required to wear a helmet. However, individuals operating these vehicles are required to be 16 years of age

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

(A) Mini Bikes (continued): or older and a have a valid driver's license. Chief Kears added that if the vehicle is 49cc's or less and travels over 35 M.P.H., the driver is required to wear a helmet, possess a motorcycle license and be insured. Vehicles with 50cc's or more, must comply with the same rules as for a motorcycle.

VIII. CLOSED EXECUTIVE SESSION

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None.

IX. ADJOURNMENT

Having no further business, the meeting adjourned at approximately 8:14 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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