

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, DECEMBER 15, 2008
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, Susan Eudaly, Gary W. Hicks, Don Morris, Lou Magdits, Jim Williams, Rick Morris, Donna Hawley, and Mark Walburg

Council Members Absent: Terry Ruck

Department Directors in Attendance: Finance Director Steffanie Rogers, Public Works Director Steve Hargis, Solid Waste Director Brady Wilson, Fire Chief Robert Williams, Recreation Center Director Scott Caron, 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, Police Lieutenant Jason Smith, Communications Coordinator Scott Grahl, and City Clerk Carol Daniels

Mayor Jenks called the meeting to order at approximately 6:30 p.m. and asked Councilwoman Donna Hawley to lead in the Pledge of Allegiance.

I. PUBLIC HEARINGS

(A) Request for Ordinance to Rezone Property as Part of Heritage Heights Addition from R-3 to PUD Zoning (Gingerbread House): Community Development Director John Petersen explained that the subject property contains 2.37 acres and is located near Pershing Place, Independence Road, and McCutchen Drive. He said the impetus for the Planned United Development (PUD) was the desire to avoid having to file the 1,500-foot separation between group homes. Mr. Petersen showed the Council a site plan, which shows three structures that are designed to each house eight individuals. He told the Council that the general feeling of the Planning and Zoning Commission is that this development would not have a negative impact on the neighborhood. Mr. Petersen added that the Comprehensive Plan shows the area suitable for residential uses.

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I. PUBLIC HEARINGS (continued)

(A) Request for Ordinance to Rezone Property as Part of Heritage Heights Addition from R-3 to PUD Zoning (Gingerbread House) (continued):

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

Ms. Maria Sachs, Executive Director of the Gingerbread House, told the Council that she is a registered professional nurse and a licensed nursing home administrator and has operated facilities in Rolla since 1978. She indicated the Gingerbread House wants to be able to replace the three homes that are currently operated by the Gingerbread House and are antiquated. She explained that plans are to replace these homes in phases and the Gingerbread House located on Fairgrounds Road would be the first to be replaced.

No one else 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 PART OF TRACT 3, HERITAGE HEIGHTS ADDITION FROM R-3 (MULTI-FAMILY) ZONING TO PUD (PLANNED UNIT DEVELOPMENT) DISTRICT ZONING (GINGERBREAD HOUSE).

(B) Request for Ordinance to Repeal Chapter 42, Article I, Section 42-17, and Revise Article III, Section 42-250.7:

Community Development Director John Petersen explained that the subject ordinance takes two paragraphs that currently exist in the zoning code and are essentially repetitive, and consolidates them into one. The Planning and Zoning Commission recommends approval of this amendment.

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, ARTICLE III, KNOWN AS THE PLANNING AND ZONING CODE, BY DELETING CERTAIN PROVISIONS AND BY ENACTING NEW REGULATIONS.

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I. PUBLIC HEARINGS (continued)

(C) Request for Ordinance to Amend Chapter 42, Article III, Section 42-141:

Community Development Director John Petersen indicated that the subject ordinance would add detail and clarification to the definition of agricultural activities in the City's planning and zoning code. He explained that all agricultural activities are specifically limited to areas zoned R-R (Rural Residential). The R-R zoning district was created to accommodate large tracts of vacant land that resulted from the Southside annexation, which was completed in the late 1990's. Mr. Petersen explained that the proposed definition change for agricultural activities would provide a specific reference to production, keeping, or maintenance, for sale, lease or personal use, of any bovines and equines. Mr. Petersen added the Planning and Zoning Commission voted to drop the reference to plants to avoid any potential confusion that the growing of plants or gardens might be construed as restricted in R-R zoned areas.

After a brief Council discussion, Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the proposed ordinance. No one present responded. 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 CHAPTER 42 OF THE ROLLA CITY CODE, ARTICLE III, KNOWN AS THE PLANNING AND ZONING CODE, BY AMENDING CERTAIN PROVISIONS AND BY ENACTING NEW REGULATIONS.**

II. CITIZEN COMMUNICATION

Mr. Bob Weitzsacker, 12601 Old Highway 66, a resident of Rolla since 1979 and a businessman, asked the Council to keep in mind the question, "does the City of Rolla plan to pursue condemnation and the use of eminent domain to facilitate RMU obtaining the site for an electric substation on County Road 2170 near the existing Ameren UE station?" Mr. Weitzsacker commented on each piece of correspondence he received from Rolla Municipal Utilities (RMU) regarding the possible acquisition of his property. Mr. Weitzsacker emphasized that at this time he would not sell one square foot of his farm. However, he indicated that he would sell his entire farm (52 acres, 3,000-square-foot house, barn with building, etc.) for \$500,000 with the understanding that he would be allowed to stay on the property for 60 days. If after the 60 days he were unable to find another place, he would have the option to rent it for nine months at \$700/month.

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II. CITIZEN COMMUNICATION (continued)

Mr. Weitzsacker added that one of his concerns is that, according to Chapter 523 of the Revised Statutes of Missouri, RMU does not have the authority to condemn any property without the City Council's approval. The second concern is that RMU sent an attorney to his realtor and questioned the price of something that was listed as residential, with restrictions, obtained a price, and threatened to take a piece of his property for the same price.

After some Council discussion, Mr. John Wiggins, a member of the Rolla Board of Public Works, addressed the Council. Mr. Wiggins said this process is part of a project that RMU brought to the Council several months ago. Because there are several different types of acquisitions involved, it is probably something RMU needs to discuss with the Council in closed session. Mr. Wiggins suggested the Council allow RMU to show them where they are in the process during the Council's next meeting. The Council posed several questions and comments to Mr. Wiggins regarding this issue.

Ms. Carolyn Weitzsacker pointed out that Chapter 523.262(3) of the Revised Statutes of Missouri "Condemnation Proceedings," states "Any entity with the power of eminent domain and pursuing the acquisition of property for the purpose of constructing a power generation facility after December 31, 2006, after providing notice in a newspaper of general circulation in the county where the facility is to be constructed, shall conduct a public meeting disclosing the purpose of the proposed facility prior to making any offer to purchase property in pursuit thereof.....".

Mayor Jenks indicated that legal advice would be obtained regarding this matter. He added the City is not even close in making a decision.

Ms. Weitzsacker added that she has received over 200 signatures on a petition opposing the way RMU has approached this situation.

No one else present addressed the Council.

III. NEW BUSINESS

(A) Update on Fort Leonard Wood: Ms. Tiffany Wood from the Public Affairs in Fort Leonard Wood updated the Council on what has been happening at Fort Leonard Wood during the past year and the Fort's plans for 2009.

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IV. OLD BUSINESS

(A) Ordinance to Approve the LAGERS Benefit Increase from LT-8(65) to LT-14(65): City Administrator John Butz pointed out that this is the last step in increasing the Local Government Employees Retirement System (LAGERS) benefit. This follows the 45-day waiting period where there was an opportunity for public comment. Mr. Butz reported that no formal comments were received. He added that while this is an expense of \$130,000, this was, in effect, a reduction in the City's LAGERS rate that was experienced from the repayment of the 1993 refunding project.

City Counselor John Beger read the following proposed ordinance for its final reading, by title. ORDINANCE NO. 3888: AN ORDINANCE ENACTING A CHANGE UNDER THE MISSOURI LOCAL GOVERNMENT EMPLOYEES RETIREMENT SYSTEM. A motion was made by Williams and seconded by Eudaly to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Barklage, Hicks, Hawley, Jordan, Spadoni, Walburg, Williams, Magdits, Eudaly, D. Morris and R. Morris. Nays; None. Absent; Ruck. Motion carried. The ordinance passed.

V. NEW BUSINESS

(A) Discussion Regarding Building Permits for Window Replacements: Community Development Director John Petersen recalled that during its last meeting the Council discussed the requirement of building permits for window replacement. If the Council wishes to suspend the enforcement of this particular aspect of the code, Council action is necessary.

A motion was made by Hicks and seconded by Eudaly to suspend the issuance of building permits on standard window replacement until the 2006 International Code is considered. Following discussion, a voice vote on the motion showed eleven ayes, zero nays, and one nay. Motion carried.

(B) Discussion Regarding Interfund Transfers: A motion was made by Jordan and seconded by Eudaly to postpone consideration of this item until the State Auditor's report is received.

Mayor Jenks told the Council that the City expects to receive the State Auditor's report in March or April 2009.

A voice vote on the motion showed ten ayes, one nay, and one absent. Motion carried.

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VI. MAYOR/CITY COUNCIL COMMENTS

(A) Approval of the RMU Policy Review Committee: A motion was made by Spadoni and seconded by Hawley to appoint Councilmembers Magdits, Hawley, Eudaly, Jordan, and Don Morris to the Rolla Municipal Utilities Policy Review Committee. After a brief discussion, a voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

(B) Board Reappointments: A motion was made by Eudaly and seconded by Hicks to reappoint Mr. Paul Stigall (January 2009 – January 2013) and Mr. Monte Shields (February 2009 – February 2013) to the Planning and Zoning Commission. After a brief discussion, Councilwoman Hawley moved that the reappointments be voted on separately. The amendment to the motion did not receive a second. A voice vote on the original motion showed ten ayes, one nay, and one absent. Motion carried.

(B.2.) Vacancy on the University Extension Committee: Mayor Jenks explained that a Councilmember has generally filled the appointment to the University Extension Committee. If no one from the Council is interested in this committee, he said he has a list of citizens who have expressed an interest in serving on a committee. Councilwoman Hawley indicated her willingness to serve on the Extension Committee.

A motion was made by Jordan and seconded by Magdits to appoint Councilwoman Hawley to the University Extension Committee. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

VII. COMMENTS FOR THE GOOD OF THE ORDER

None.

VIII. EXECUTIVE SESSION

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

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VIII. EXECUTIVE SESSION (continued)

The Council adjourned into Executive Session at approximately 7:48 p.m., following a brief recess.

IX. EXECUTIVE SESSION ACTION

The Council reconvened into open session at approximately 8:08 p.m.

City Counselor John Beger reported that during Executive Session, the Council was advised on the status of pending litigation and took no action thereon. On another matter, the Council was advised on the status of potential litigation and the City's interest therein. By a vote of ten to one, the City Administration was given guidance by the Council on the City's negotiating position.

X. ADJOURNMENT

Having no further business, the meeting adjourned at approximately 8:09 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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