

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, APRIL 20, 2009
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, Stan Spadoni, Susan Eudaly, Gary W. Hicks, Don Morris, Lou Magdits, Jim Williams, and Rick Morris, and Mark Walburg

Council Members Absent: Donald Barklage and Donna Hawley

Newly Elected Officials in Attendance: Councilman Don Brown and Councilman Ken Boeker

Department Directors in Attendance: Public Works Director Steve Hargis, Police Chief Mark Kearse, Environmental Services Director Brady Wilson, Fire Chief Robert Williams, Finance Director Steffanie Rogers, Recreation Center Director Scott Caron, 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 Jenks called the meeting to order at approximately 6:30 p.m.

Mayor Jenks announced that the 2010 census has begun. He asked all citizens to please cooperate with the census personnel who will be going door to door. Mayor Jenks explained that census personnel would have a badge, identification card, and a small computer. He stressed that the census is very important for Rolla, Phelps County and the State. Mayor Jenks added that it is his understanding that because of the decrease in the state's population, Missouri may lose a congressional representative.

Mayor Jenks then asked Councilman Lou Magdits to lead in the Pledge of Allegiance.

I. SPECIAL PRESENTATION

(A) Introduction of the Rotary GSE Team from Nigeria: Community Development Director John Petersen and a member of the Rolla Rotary Club welcomed the Group Study Exchange (GSE) team from Nigeria. He then introduced Ms. Jackie Howard,

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I. SPECIAL PRESENTATION (continued)

(A) Introduction of the Rotary GSE Team from Nigeria: Rotary Assistant Governor for Rotary District 6080, who introduced the Group Study Exchange Team from Nigeria. Ms. Howard stated that the GSE is an educational and cultural exchange to help foster peace and goodwill in the world.

Mayor Jenks welcomed the Nigeria GSE team to the United States and especially to Rolla, Missouri. He then read and presented a proclamation to the GSE delegation proclaiming April 17 through April 24, 2009, as Nigerian Recognition Week in Rolla. He encouraged Rolla citizens to recognize the important contributions Rotary International Clubs have made to cities throughout the United States and the world.

II. CITIZEN COMMUNICATION

(A) Open Citizen Communication: Mayor Jenks opened the floor to anyone wishing to address the Council.

(1) Mr. Jack Dietzmann, owner of the property located at 200 E. 6th Street (former location of Brown Veterinary Clinic), told the Council that he is in the process of selling the property to Tammy and Mark Williams. He explained that the Williams wish to relocate their existing business, "Russ & Rena's Place," (packaged liquor store) to this location. Mr. Dietzmann informed the Council that State regulations require a 100-foot separation between liquor establishments and churches. He noted that there is church located across the street, which is 71 feet away from 200 E. 6th Street. According to State law, there needs to be some consideration by the local governing body (City Council) that this requirement could be waived. Mr. Dietzmann asked the Council to consider waiving the 100-foot separation requirement in this case. The closing on the sale of the property is scheduled during the first week in May.

Michael Von Collins and Martha Collins, who reside at 1103 Honeysuckle Lane, and are pastors of the New Dimensional Christian Ministry International, Inc., located at Sixth and Olive Streets, explained that they oppose the approval of the waiver of the State Law prohibiting the sale of liquor. He said the church wants to be a productive member of the community and are elated to be here. Mr. Collins said the Church provides counseling for people who are addicted to different types of substances. He would not want to have these people faced with this type of temptation as soon as they leave a counseling session. For that reason, Mr. Collins said he opposes it.

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II. CITIZEN COMMUNICATION (continued)

(1) (continued): Mrs. Collins then addressed the Council about the comment that their church is in the process of relocating. She said that they have had discussions and considered moving. However, currently there are no definite plans to move.

Mr. and Mrs. Collins then entertained questions and comments from the Council.

Regarding Missouri State Statute 311.080 pertaining to the sale of liquor near schools and churches, City Administrator John Butz explained that if the Council grants the waiver to allow the sale of liquor at 200 E. 6th Street, notice would be sent to the properties within 100 feet of the subject property. He said the State Liquor Control Agent indicated that this is considered adequate notice because there is no provision that allows the property owners to object.

Following Council discussion, a motion was made by Magdits and seconded by Eudaly to postpone action on this matter until the property owners within 100 feet of 200 E. 6th Street are notified in accordance with RSMo. 311.080. A voice vote on the motion showed nine ayes, one nay, and two absent. Motion carried.

Mayor Jenks indicated that this matter would be reconsidered during the Council's next meeting.

III. OLD BUSINESS

(A) Storm Water Issues at 206 Brookridge: Public Works Director Steve Hargis recalled that during the Council's last meeting, Mr. Johnny Jones, 206 Brookridge Drive, asked the Council to consider some relief of storm drainage problems on his property. He told the Council that the Brookridge area would probably not be considered for storm water improvements for another ten years at the same time the area is scheduled for street improvements. Mr. Hargis stated that, at times, there are certain problems in an area that property owners wish to address. In the case at 206 Brookridge, the water drains between the homes. A fence was erected in the drainage way that is blocking the flow. When water gets inside the fence, it cannot get past the area. Mr. Hargis said that under the City's cost-share program, if Mr. Jones paid for the pipe materials at cost of about \$900, the City would provide the materials for the inlets, bedding for the pipe, any restoration work, and labor and equipment to install the pipe. The total cost is about \$4,900 with the property owner being responsible for \$900 of the work. The cost to rebuild the entire

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III. OLD BUSINESS (continued)

(A) Storm Water Issues at 206 Brookridge (continued): storm water network in that particular area, according to the City original cost estimate, would be about \$334,000. However, the City is not prepared to do this at this time. Mr. Hargis added that during heavy rainfall, some of the water in the street would flow down two driveways in the vicinity and drain into that swale. The cost to replace those driveways is estimated at \$4,000. He indicated that the simplest solution to the flooding problem at 206 Brookridge would be to cut openings in the fence to allow the water to run through. He said this could be done for about \$200 with some chain link fence. Mr. Hargis said staff recommends keeping with the City's policy. If the property owner feels strongly about keeping the water out of his back yard, then he can participate in the cost-share program. He said it would take the City about six months to schedule the work.

Mr. Johnny Jones, 206 Brookridge, said he understands the privacy fence is a contributing factor, but the water still gets high without it. He told the Council that he has already mowed his lawn two to three times already and the grass has been wet every time. Mr. Jones indicated that he does not have the \$900 to repair the problem, nor does he have \$200 to repair the fence. Mr. Jones asked the Council to seriously consider including the repair of this problem during next year's budget deliberations.

(B) Reconsideration of Ordinance No. 3900 – Cedar Trail PUD: Community Development Director John Petersen recalled that in 2006 the Council, through Ordinance No. 3772, adopted the Cedar Trail Planned Unit Development (PUD). At that time, there was discussion pertaining to whether Christy Drive would be under construction or completed. Mr. Petersen stated that a revision was approved by the City Council that stated that Christy Drive would be completed and that version was recorded at the Phelps County Courthouse. However, the copy provided to staff and given to the applicant contained the wording that Christy Drive shall be under construction all the way through the project. Mr. Petersen recalled that in January 2009, the applicant requested a change in Lot 2 of the PUD, which was approved with Ordinance No. 3900. It was at this time the inconsistency was discovered. Mr. Petersen asked the City Council to clarify the intent of this ordinance. He explained that if the Council takes no action, then Ordinance No. 3900 would be in place because it supersedes Ordinance No. 3772 and the provision will be that Christy Drive shall be under construction. However, if the Council wishes to revert to the provision in Ordinance No. 3772, which states that Christy Drive shall be completed, then Council would need to adopt the proposed ordinance, contained in the agenda materials.

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III. OLD BUSINESS (continued)

(B) Reconsideration of Ordinance No. 3900 – Cedar Trail PUD (continued):

Mr. Don Howser, 2415 Carter Lane, Columbia, Missouri, and owner of Timber Ridge Buildings, asked the Council to consider leaving the PUD amendment with Christy Drive under construction through the project prior to the final 20% of occupancy permits being issued.

A motion was made by R. Morris and seconded by Hicks to take no further action and that Ordinance No. 3900 will stand. After a brief discussion, a voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

(C) Motion Accepting the April 7, 2009 Certified Election Results: City Administrator John Butz asked the Council to consider accepting the April 7, 2009, election results. A motion was made by Eudaly and seconded by Jordan to accept the April 7, 2009, election results as certified by Phelps County Clerk and Election Authority Carol A. Bennett. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

(D) Comments/Recognition: Mayor Jenks presented retiring Ward I Councilmember Terry Ruck and Ward V Councilmember Rick Morris with a plaque in appreciation for their dedicated service to the City of Rolla.

IV. ELECTED OFFICIALS SWEARING-IN CEREMONY: City Clerk Carol Daniels administered the oath of office to the following newly elected officials: Ward I Councilman Don Brown, Ward III Councilman Gary Hicks, Ward IV Councilman Lou Magdits, Ward V Councilman Ken Boeker, and Ward VI Councilman Mark Walburg. Mayor Jenks noted that Councilman Barklage would be administered the oath of office later.

Following the swearing-in ceremony, Mayor Jenks congratulated and welcomed Councilman Brown and Councilman Boeker to the City Council. He then turned the floor over to Community Development Director John Petersen, who addressed the following item.

V. PUBLIC HEARINGS

(A) Request to Rezone Property at 1008 Highway 72 and Lot 1 of Hutchinson Subdivision Plat No. 2 from C-1 Zoning to C-2 Zoning (March/Dollar General):

Community Development Director John Petersen provided an overview of the proposed rezoning for the property located at the southeast corner of Sheron Avenue and Highway 72. The applicant is requesting the rezoning of the property from C-1 (Neighborhood Business District) zoning to C-2 (General Retail District) zoning for construction of a Dollar General store. Mr. Petersen said the C-2 (General Retail District) zoning is necessary given the range of commercial activities that will be going into the building. Mr. Petersen said the proposal is consistent with the City's Comprehensive Plan, adopted January 2006, which calls for this area to be commercial. Mr. Petersen pointed out that the plan is to retain the existing access points. He added that the Planning and Zoning Commission recommends approval of this request.

In response to a question from Council, Mr. Drew March, Project Manager with CEI Engineering, Bentonville, Arkansas, explained that the access to Sheron Avenue would be specifically used for customer parking, and not deliveries.

Mr. Petersen added the applicant has requested the first and final reading of the subject ordinance so they can proceed with construction.

Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject-rezoning request. 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 NO. 3906: 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 1008 HIGHWAY 72 AND LOT 1 OF HUTCHINSON SUBDIVISION PLAT NO. 2 FROM C-1 (NEIGHBORHOOD BUSINESS DISTRICT) ZONING TO C-2 (GENERAL RETAIL DISTRICT) ZONING (DOLLAR GENERAL). A motion was made by Hicks and seconded by Williams to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. City Counselor Beger then read the proposed ordinance for its final reading, by title. A motion was then made by Williams and seconded by Eudaly to approve the proposed ordinance. A roll call vote on the motion showed the following:

V. PUBLIC HEARINGS (continued)

(A) Request to Rezone Property at 1008 Highway 72 and Lot 1 of Hutchinson Subdivision Plat No. 2 from C-1 Zoning to C-2 Zoning (March/Dollar General) (continued): Ayes; Jordan, Williams, Brown, Boeker, Spadoni, Walburg, Magdits, Eudaly, Morris, and Hicks. Nays; None. Absent; Hawley and Barklage. Motion carried. The ordinance passed.

(B) Request to Rezone the North 54 Feet of the East Half of Lot 6 and Lots 4 and 5, Block 3, Frisco Addition from R-2 Zoning to C-2 Zoning (Parsons): Community Development Director John Petersen explained that the subject property contains .12 acres and fronts along Eighteenth Street, just west of the intersection of Missouri Avenue and Eighteenth Street. The applicant currently has a business operating to the west. Mr. Petersen informed the Council that the applicant's intent is to expand his business and to convert a vacant building on the property into an automotive garage and sales, which requires C-2 (General Retail District) zoning. Mr. Petersen reported that the Planning and Zoning Commission's feeling is that this particular project would not have a negative impact on the neighborhood, primarily because of the orientation of the building toward the industrial and heavy commercial area. He stated that the Planning and Zoning Commission recommend approval of this rezoning request. Although two petitions opposing the rezoning have been received, Mr. Petersen reported that they only constitute about 16% of the 30% requirement for a legal petition. Therefore, no legal petition is in effect. Mr. Petersen added the applicant has requested the first and final reading of the subject ordinance at this meeting.

Mr. Bill Parsons, 10718 Miles, Rolla, Missouri, told the Council that the proposed location would allow him to have more parking. He indicated that he buys and sells wholesale vehicles and conducts some service work. Mr. Parsons said the concerns of the petitioners were noise and traffic. He explained that the Rural Fire Department has been located 100 feet from this building for about 25 years. Additionally, five or six ambulances travel by this location everyday and approximately 8,393 vehicles travel Eighteenth Street every day. Mr. Parsons said he spoke with the neighbors who submitted the petitions and assured them that no lights would be facing their homes from his business and that he would construct a privacy fence. Additionally, he said he normally works from 8 a.m. to 5 p.m., Monday through Friday.

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

V. PUBLIC HEARINGS (continued)

(B) Request to Rezone the North 54 Feet of the East Half of Lot 6 and Lots 4 and 5, Block 3, Frisco Addition from R-2 Zoning to C-2 Zoning (Parsons) (continued):

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3907: 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 THE NORTH 54 FEET OF THE EAST HALF OF LOT 6, AND LOTS 4 AND 5 OF BLOCK 3, FRISCO ADDITION FROM R-2 (FAMILY DISTRICT) ZONING TO C-2 (GENERAL RETAIL DISTRICT) ZONING (PARSONS). A motion was made by Eudaly and seconded by Williams to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. City Counselor Beger then read the proposed ordinance for its final reading, by title. A motion was made by Jordan and seconded by Eudaly to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Boeker, Walburg, Spadoni, Williams, Brown, Magdits, Eudaly, Morris, Hicks, and Jordan. Nays; None. Absent; Hawley and Barklage. Motion carried. The ordinance passed.

(C) Request to Rezone Property at 601 Kingshighway and 505 West 6th Street from C-2 Zoning to C-3 Zoning (Makridis):

Community Development Director John Petersen showed the Council a map illustrating the extensive amount of commercial uses that surrounds the subject property. The subject structure currently houses a laundromat, A Slice of Pie restaurant, and a commercial dry cleaner. Mr. Petersen stated that one reason the Planning and Zoning Commission recommended the rezoning, is that it will correct a non-conforming use. He pointed out that according to City Code, a dry cleaning establishment should be in a C-3 (Highway Commercial District) zone. Mr. Petersen said the applicant is requesting C-3 (Highway Commercial District) zoning to provide more flexibility in the type of uses that could ultimately go in the area. He noted that no opposition to the subject rezoning has been received and the Planning and Zoning Commission recommend approval of the requested zoning.

After a brief discussion, Mr. Bill Mousadakos, 15115 State Route F, Rolla, Missouri, and representing the Makridis family told the Council that they plan to expand the building and possibly market it for office rental. The expansion is not for the dry cleaning business. Mr. Mousadakos said the C-3 (Highway Commercial District) zoning would permit a greater range of commercial activities. Additionally, they would like to make the dry cleaning and laundromat business conforming.

V. PUBLIC HEARINGS (continued)

(C) Request to Rezone Property at 601 Kingshighway and 505 West 6th Street from C-2 Zoning to C-3 Zoning (Makridis) (continued): Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject-rezoning request. 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 NO. 3908: 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 601 KINGSHIGHWAY AND 505 WEST 6TH STREET FROM C-2 (GENERAL RETAIL DISTRICT) ZONING TO C-3 (HIGHWAY COMMERCIAL DISTRICT) ZONING (MAKRIDIS). After a brief discussion, a motion was made by Eudaly and seconded by Jordan to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. City Counselor Beger then read the proposed ordinance for its final reading, by title. A motion was made by Eudaly and seconded by Morris to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Hicks, Brown, Jordan, Spadoni, Walburg, Williams, Magdits, Eudaly, Morris, and Boeker. Nays; None. Absent: Barklage and Hawley. Motion carried. The ordinance passed.

(D) Request to Rezone a Fractional Part of 1349 Highway 72 from R-3 Zoning to C-2 and C-1 Zoning (Huffman): Community Development Director John Petersen explained that the subject property entails approximately 8.5 acres, 5.2 acres of which are being proposed to expand to C-2 (General Retail District) zoning and the 3.3 acres from R-3 (Multi-family District) zoning to C-1 (Neighborhood Business District) zoning. Should the property be rezoned, Mr. Petersen indicated that the applicants have not given any specific plans for the reutilization or future use of the property. Mr. Petersen said it would be important to understand that the rezoning would require a buffer yard against the R-1 (Single Family District) zoned properties to the west. The applicants have stated that they feel the current land use is not a desirable use for the property as could be achieved if it was a commercial area. Mr. Petersen reported that the Planning and Zoning Commission find that this rezoning request is consistent and substantially in conformance with the City's Comprehensive Plan. He told the Council that the Planning and Zoning Commission recommend approval of the rezoning request, but with certain conditions, as outlined in the agenda materials. Mr. Petersen concluded by stating that a legal petition, representing 32.13%, has been received from property owners within 185 feet of the subject property. Therefore, a supermajority vote or eight affirmative votes of the Council would be required to approve the rezoning request.

V. PUBLIC HEARINGS (continued)

(D) Request to Rezone a Fractional Part of 1349 Highway 72 from R-3 Zoning to C-2 and C-1 Zoning (Huffman) (continued): Petitioner, Mr. Floyd Huffman, 11660 Highway 72, pointed out that City ordinance stipulates that mobile home parks, sales, or service require a C-2 (General Retail District) zoning. He said his whole purpose is to have his business become conforming. Additionally, he said he spoke with neighbors and council members and they told him if he would just ask for a C-1 (Neighborhood Business District) zoning, they thought it would be approved. Mr. Huffman said that is the reason he is asking for C-1 (Neighborhood Business District) zoning for the back half of his property. He added that he decided to remove the two lots on Highway 72 across from Tunes from the rezoning request, because some thought that might be an issue.

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

Ms. Marilyn Taylor, 44 McFarland Drive, and co-owner of the subject property, stated that the requested rezoning is very important to the Huffman's. She asked the Council to consider giving them the proper zoning. Ms. Taylor said it is important for them to have the property rezoned because of their health and age. She said they could not make the property better without the proper zoning and they just want to improve the property.

Mr. Shaun Allen, 5 McFarland Drive, and production manager for Huffman Mobile Home Park, encouraged the Council to vote in favor of the rezoning request. On behalf of the family and employees, he ensured the Council and residents that they have the best intentions for the property.

Mr. Michael Huffman, 1335 Highway 72, told the Council that he has worked for his father most of his life. He said he would like to have the property rezoned while his father is still alive. Mr. Huffman stressed that rezoning the property would be a positive community move. He said that his family encourages the Council to vote in favor of this rezoning request. He asked the Council what could be worse than the trailer court.

Ms. Michele Broxton, 11660 Highway 72, A34, Rolla, Missouri, daughter of Floyd and Joyce Huffman, said she has not worked in the business all her life, so she might have a perspective of someone who has watched it from afar. She said she sees it from a business perspective since she has been involved in business and leadership decisions for 14 years. Ms. Broxton said it is very important to her on a personal level as well. She indicated that she and her family are moving to Rolla to help her dad in the family

V. PUBLIC HEARINGS (continued)

(D) Request to Rezone a Fractional Part of 1349 Highway 72 from R-3 Zoning to C-2 and C-1 Zoning (Huffman) (continued): business. Although her dad's health is failing, she said it is not the Council's concern – it is their concern. Ms. Broxton indicated that they have spoken with some prospective buyers, they insist on having office space similar to a Sylvan Learning Center, and they insist on having C-1 (Neighborhood Business District) or C-2 (General Retail District) zoning. In addition to beautiful office space in the area, she said they would like to have retail shops that could create jobs, and something to do with education next to the Junior High. Ms. Broxton concluded by encouraging the Council to vote to rezone this property. On behalf of her family, she assured the Council that their intentions are good.

Ms. Katherine Haslag, 1320 California Drive, said she would like to go on record that she is in favor of this proposed zoning change. She said Mr. Huffman and his family have done so many good things for so many people. Ms. Haslag stated that he is one of the most honorable and most Christian men she has ever met.

Mr. Carlton Washburn, 2 Johnson Drive, and representing the neighborhood, pointed out that the Comprehensive Plan recommends that a plan accompany any type of residential to commercial rezoning. The Comprehensive Plan says speculative zoning should be avoided wherever possible as being contrary to sound land use, using planning practices by public policy makers. Mr. Washburn added that this type of zoning pattern is a product of speculative zoning practices that, in turn, place additional pressures on public policy makers to rezone more property for commercial use to meet the actual market demands. Mr. Washburn said if a developer wants to purchase the land, the neighborhood might sing a different song than it currently does.

Mr. Lawrence C. George, 39 Johnson Drive, expressed his concern with the traffic flow. He said he now sometimes has trouble travelling across Richard Drive to get onto Pinetree Road. If the property is zoned commercial, he said he is afraid it will adversely affect the traffic even more than it does now. He asked Mr. Huffman to tell the residents what they plan to do with the property.

Ms. Mary Cunningham, 31 Johnson Street, expressed her opposition to the requested rezoning. She agreed that something needs to be done about the property, because it needs to be cleaned up. However, there is no guarantee or a plan. In addition to increased traffic concerns, Ms. Cunningham said she is concerned that people will cut through the Johnson/Laird Addition. She stated that the residents are not opposed to change, but what might go on the property.

V. PUBLIC HEARINGS (continued)

(D) Request to Rezone a Fractional Part of 1349 Highway 72 from R-3 Zoning to C-2 and C-1 Zoning (Huffman) (continued): Ms. Joyce Darr, 37 Johnson Street, said she has communicated with the Council before and had individual communications about the many reasons that she is opposed to this rezoning. She recalled that some of the Council asked the residents to speak with Mr. Huffman. When there has been some conversation with him, Mr. Huffman has scolded them for not being supportive. Ms. Darr said there has been no discussion. Others have asked to meet with him and he has not responded, so they felt it was a dead-end. Ms. Darr asked the Council not to support the rezoning request until the residents have some assurance and some confidence that high buildings, bright lights, and excess traffic coming through their neighborhood will not disrupt their normal residential life. If we do not have strong, stable residential areas, there are not going to be people here to provide the customers for the commerce that seems to be an overriding idea.

Mr. Dan James, 53 Laird, said the residents have been hearing the same thing repeatedly since 1993. He said he is not opposed to rezoning, but would like to see a plan. Regarding the Planning and Zoning Commission's comment on facing commercial property toward Pinetree Road, Mr. James stated that it leaves dumpsters, delivery trucks, and bright lights for the residents. He said that is the wrong approach to take for commercial property.

Dr. Tom Sager, 8 Laird, stated that he is against the proposed rezoning request for the reasons the Council has already heard.

Mr. Richie Broxton, who currently resides in Nashville, Tennessee, said that he is in the process of moving to Rolla. Mr. Broxton said he understands the people's concerns. In order to take any development to the next level to make it attractive to anyone, you have to be able to get it to a point to where you can possibly make it attractive for them to actually come and look at it.

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 A FRACTIONAL PART**

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V. PUBLIC HEARINGS (continued)

(D) Request to Rezone a Fractional Part of 1349 Highway 72 from R-3 Zoning to C-2 and C-1 Zoning (Huffman) (continued): OF 1349 HIGHWAY 72 FROM R-3 (MULTI-FAMILY DISTRICT) ZONING TO C-1 (NEIGHBORHOOD BUSINESS DISTRICT) ZONING AND C-2 (GENERAL RETAIL DISTRICT) ZONING (HUFFMAN).

After discussion, a motion was made by Morris and seconded by Magdits to suspend the rules and that the ordinance be read for its final reading, by title. A hand count on the motion showed four ayes, six nays, and two absent. Motion failed.

VI. NEW BUSINESS

(A) Request for Ordinance to Approve Parson's Addition, a Resubdivision of a Fractional Part of Lots 4, 5, & 6, of Block 3, Frisco Addition: Community Development Director John Petersen stated as mentioned earlier, Mr. Parsons requested the rezoning to allow his business to expand. To provide for the reorientation and splitting of a lot required the filing of a plat. Mr. Petersen explained the original subdivision had a double-fronted lot pattern going north/south. In order to separate the commercial building from the residential, this necessitated the resubdivision. The Planning and Zoning Commission recommend approval of the plat as submitted.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3909: AN ORDINANCE APPROVING PARSON'S ADDITION, A RESUBDIVISION OF A FRACTIONAL PART OF LOTS 4, 5, & 6 OF BLOCK 3, FRISCO ADDITION, A SUBDIVISION IN ROLLA, MISSOURI (PARSONS). 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 ten ayes, zero nays, and two absent. Motion carried. City Counselor Beger then read the proposed ordinance for its final reading, by title. A motion was made by Hicks and seconded by Williams to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Morris, Boeker, Spadoni, Williams, Brown, Magdits, Jordan, Walburg, Hicks, and Eudaly. Nays; None. Absent; Hawley and Barklage. Motion carried. The ordinance passed.

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VI. NEW BUSINESS (continued)

(B) Request for Ordinance to Approve Deer Crossing East II Subdivision (Renick):

Community Development Director John Petersen informed the Council that the property owner wishes to sell a lot to an individual to construct a house. All fees have been paid. The storm water management fee and the parkland dedication requirement would be imposed when future development occurs in the area.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3910: AN ORDINANCE APPROVING DEER CROSSING EAST II, A SUBDIVISION IN ROLLA, MISSOURI (RENICK). 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 ten ayes, zero nays, and two absent. Motion carried. City Counselor Beger then read the proposed ordinance for its final reading, by title. A motion was made by Williams and seconded by Jordan to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Brown, Eudaly, Williams, Jordan, Spadoni, Hicks, Magdits, Boeker, Morris, and Walburg. Nays; None. Absent; Hawley and Barklage. Motion carried. The ordinance passed.

(C) Motion to Approve the Application for the Enhancement Funds for the Rolla Cemetery Pedestrian/Bike Path:

Public Works Director Steve Hargis reported that about a week ago staff learned that the Missouri Department of Transportation Department (MoDOT) would have a some enhancement monies available for bike paths through the stimulus package. He noted there are about \$507,000 that would be available. Mr. Hargis said staff is proposing to construct a small stretch of the bike trail that would ultimately connect with the Acorn and Deible Trails in the area of Lions Club Park. Mr. Hargis explained the trail would run from Green Acres Park south through the Rolla Cemetery to Rolla Street near Christy Drive. He continued by outlining the estimated project costs, which totals \$140,300 with \$89,300 being reimbursed from the stimulus package.

The primary focus of the discussion that followed concerned the bike path being constructed through the City cemetery.

After discussion, a motion was made by Eudaly and seconded by Brown to authorize staff to apply for \$89,300 of enhancement funding through the recent federal stimulus legislation. A hand count on the motion showed four ayes, six nays, and two absent. Motion failed.

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VI. NEW BUSINESS (continued)

(C) Motion to Approve the Application for the Enhancement Funds for the Rolla Cemetery Pedestrian/Bike Path (continued): This item was discussed further following Executive Session Action below.

(D) Motion to Approve the Street and Parking Lot Closings for the Route 66 Summerfest on June 5 and 6: Public Works Director Steve Hargis explained that a request has been received to close certain streets and parking lots during the annual Route 66 Summerfest scheduled for June 5 and 6, 2009. Staff recommends approval of the request.

A motion was made by Williams and seconded by Eudaly to close the requested streets and parking lots as requested for the 2009 Route 66 Summerfest on June 5 and 6, 2009. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

VII. CLAIMS AND/OR FISCAL TRANSACTIONS

(A) Motion to Approve Authorized Financial Institutions and Dealers Listing: Finance Director Steffanie Rogers told the Council that Mid-America Bank, Rolla, Missouri, recently requested that they be added to the City's list of Authorized Financial Institutions and Dealers. A motion was made by Williams and seconded by Morris to authorize the addition of Mid-America Bank, Rolla, Missouri to the City's list of Authorized Financial Institutions and Dealers. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

VIII. MAYOR/CITY COUNCIL COMMENTS

(A) Appointment of Nick Barrack to the Board of Public Works to Fill the Unexpired Term of Maurice Alfermann (August 2010): Mayor Jenks requested the appointment of Mr. Nick Barrack to the Board of Public Works to fill the unexpired term of Mr. Maurice Alfermann, who recently passed away. If approved, Mr. Barrack's term would expire August 2010. A motion was made by Spadoni and seconded by Hicks to approve the appointment of Mr. Nick Barrack to the Board of Public Works to fill the unexpired term of Mr. Maurice Alfermann. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

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VIII. MAYOR/CITY COUNCIL COMMENTS (continued)

(B) Council Positions:

1) Mayor Pro-Tempore: A motion was made by Williams and seconded by Spadoni that Councilman Lou Magdits continue in the position of Mayor Pro-Tempore. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

2) Planning and Zoning Council Representative: Mayor Jenks reminded the Council that Councilman Mark Walburg is the Council's current Planning and Zoning Commission representative and Mr. Walburg has indicated that he would like to continue in that position. Additionally, Mayor Jenks noted that Councilman Brown is also a member of the Planning and Zoning Commission and desires to continue his position. Mr. Brown would continue as a regular board member and not as a representative to the City Council. According to State Statutes, there is no conflict with Councilman Brown also serving. A motion was made by Williams and seconded by Eudaly that Councilman Mark Walburg continue as the City Council's Planning and Zoning Commission representative. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

IX. COMMENTS FOR THE GOOD OF THE ORDER

None.

X. 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. A roll call vote on the motion showed the following: Ayes; Hicks, Magdits, Jordan, Williams, Brown, Boeker, Eudaly, Walburg, Morris, and Spadoni. Nays; None. Absent; Hawley and Barklage. Motion carried.

The Council adjourned into Executive Session at approximately 9:38 p.m.

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XI. EXECUTIVE SESSION ACTION

The Council reconvened into open session at approximately 9:49 p.m.

City Counselor John Beger reported that during Executive Session the Council discussed purchased real estate owned by the City. The Council took no action at this time.

VI. NEW BUSINESS (continued)

(C) Motion to Approve the Application for the Enhancement Funds for the Rolla Cemetery Pedestrian/Bike Path (continued): Following adjournment from Executive Session, City Administrator John Butz stated that it was suggested that the City make a request for \$100,000 in enhancement funds, rather than \$89,300 and try to reroute the bike path. A motion was made by Williams and seconded by Morris to reconsider the previous motion authorizing staff to apply for enhancement funding through the federal stimulus legislation. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

A motion was made by Eudaly and seconded by Brown to authorize staff to apply for \$100,000 in enhancement funding through the recent federal stimulus legislation. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

XII. ADJOURNMENT

Having no further business, the meeting adjourned at approximately 9:52 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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