

**ROLLA CITY COUNCIL MEETING MINUTES  
MONDAY, JUNE 1, 2009  
ROLLA CITY HALL COUNCIL CHAMBERS  
901 NORTH ELM STREET  
6:30 P.M.**

**Presiding:** Mayor William S. Jenks, III

**Council Members in Attendance:** Don Brown, Monty Jordan, Don Barklage, Stan Spadoni, Gary Hicks, Don Morris, Lou Magdits, Jim Williams, Ken Boeker, Donna Hawley, and Mark Walburg

**Council Members Absent:** Susan Eudaly

**Department Directors in Attendance:** Public Works Director Steve Hargis, Police Chief Mark Kearse, Environmental Services Director Brady Wilson, Fire Chief Robert Williams, Parks and Recreation Director Ken Kwantes, 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., and asked Councilwoman Donna Hawley to lead in the Pledge of Allegiance.

**I. CONSENT AGENDA**

A motion was made by Williams and seconded by Morris to approve the consent agenda, as submitted. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

The consent agenda consisted of the following:

**(A) Approval of the City Council Minutes of:**

May 4, 2009, City Council Meeting  
May 18, 2009, City Council Meeting

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**II. PUBLIC HEARINGS**

None.

**III. CITIZEN COMMUNICATION**

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

Ms. Debbie Castle, managing member of Scott Family Investments, and who owns property located within 185 feet of Mr. Floyd Huffman's property, addressed the Council. Ms. Castle told the Council the Huffmans are a good neighbor, and they reside on the property. She said she is concerned with the type of neighbor they might have with R-3 (Multi-Family District) zoning or with commercial zoning. In her opinion, Ms. Castle said there is a better probability of a good neighbor if light commercial zoning is placed on the property. She said if the Council votes against this request, they would be doing a disservice to the people who live next to it.

No one else present addressed the Council.

**IV. ACKNOWLEDGMENTS and SPECIAL PRESENTATIONS**

**(A) Siemens Building Technologies (Energy & Environmental Solutions):** Mr. Greg Modlish and Mr. Joe Suggs of Siemens Building Technologies explained that on behalf of Missouri Water Utility Partnership, Siemens Building Technologies performed a preliminary assessment to determine whether there were opportunities for City of Rolla facilities to save energy. Mr. Modlish explained that Siemens Building Technologies is here to help the City of Rolla reduce utility costs in wastewater and water treatment plants, as well as other municipal facilities. Additionally, Siemens Building Technologies would assist in improving the reliability and performance of those community assets and minimize the impact on the environment. Mr. Modlish continued his presentation by highlighting ways the City could reduce energy usage and save money. Mr. Modlish said it is reasonable to say the City could have a project well underway as early as October. He indicated the City could potentially be working on a fully, self-funded energy saving and environmentally responsible project completely paid by utility cost savings. Following the presentation, Mr. Modlish and Mr. Suggs entertained questions from the Council.

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**IV. ACKNOWLEDGMENTS and SPECIAL PRESENTATIONS (continued)**

**(A) Siemens Building Technologies (Energy & Environmental Solutions) (continued):** City Administrator John Butz added that it is very rare the City would have private companies make proposals to the Council. He explained it is being done as part of an energy management initiative prompted by the Environmental Protection Association. Mr. Butz emphasized the City has not selected Siemens Building Technologies to provide this service. He said the City would go through an entire "Request for Proposal" (RFP) process and hear other proposals.

**V. REPORT OF MAYOR AND COUNCIL/REPORTS OF BOARDS AND COMMISSION/CITY DEPARTMENTS**

Mayor Jenks referred the Council to **(A)** the May 12, 2009, Preliminary Minutes of the Planning and Zoning Commission Meeting; **(B)** the April 2009 City's Cash Position and Revenue/Expenditure Report; **(C)** the April 2009, Rolla Municipal Court Report; **(D)** the April 28, 2009, Development Review Committee Meeting; **(E)** the May 7, 2009, Rolla Board of Adjustment Meeting Minutes; **(F)** the April 15, 2009, Rolla Health & Recreation Center Advisory Committee Meeting Minutes; **(G)** the Centre FY 2008/2009 Financial Analysis, and; **(H)** the May 2009, Rolla Regional Economic Commission Report.

Regarding the Recreation Center report, Councilwoman Hawley noted that it shows a \$5 million deficit. She said she thought there would be \$5 million revenue shown in the report to offset the deficit. Councilwoman Hawley asked how the City is going to address the issue since a fund cannot remain in the deficit.

City Administrator John Butz responded that a deficit could occur in an annual operation. He said the law says expenses cannot exceed revenues in an unencumbered balance. Mr. Butz explained that in 2004 when the City did the refinancing of the Recreation Center, a portion of those bonds were used to pay out the bond holders in the original 1999 General Obligation (G.O.) bond and a balance of about \$4.9 or \$5 million was set aside.

**VI. OLD BUSINESS**

**(A) Ordinance to Rezone 1349 Highway 72 from R-3 Zoning to C-2 and C-1 Zoning (Huffman):** Community Development Director John Petersen recalled that approximately a month ago the Council set aside consideration of the subject proposal.

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**VI. OLD BUSINESS (continued)**

**(A) Ordinance to Rezone 1349 Highway 72 from R-3 Zoning to C-2 and C-1 Zoning (Huffman) (continued):** He pointed out that one of the biggest issues in this particular project is the fact that Pinetree Road is an arterial street, but is stressed further to the north near Redbud in terms of traffic volume. Mr. Petersen mentioned that this is a concern for the City, but is not something that means the project should not go forward. He reported that the Planning and Zoning Commission reviewed the rezoning request and recommends approval with the conditions as outlined in the proposed ordinance.

Additionally, Mr. Petersen called the Council's attention to a letter he received today from the applicants, asking the Council to consider withdrawing the northern portion of the original rezoning request from consideration.

After a lengthy discussion, a motion was made by Hawley and seconded by Walburg to postpone consideration of the subject ordinance until the June 15, 2009, Council meeting. A hand count on the motion showed two ayes, nine nays, and one absent. Motion failed.

A motion was then made by Morris and seconded by Boeker to amend the ordinance, as requested by the applicants, by withdrawing the northern portion of the original rezoning request from consideration. After discussion, a hand count on the motion showed eight ayes, three nays, and one absent. Motion carried.

City Counselor John Beger read the following proposed ordinance for its final reading by title, as amended. ORDINANCE NO. 3916: 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 OF 1349 HIGHWAY 72 FROM R-3 (MULTI-FAMILY DISTRICT) ZONING TO C-2 (GENERAL RETAIL DISTRICT) ZONING (HUFFMAN). A motion was made by Williams and seconded by Morris to approve the proposed ordinance, as amended. A roll call vote on the motion showed the following: Ayes; Jordan, Williams, Brown, Boeker, Spadoni, Barklage, Magdits, and Morris. Nays; Hawley, Walburg, and Hicks. Absent; Eudaly. Motion carried. The ordinance passed.

**VII. NEW BUSINESS**

**(A) Discussion Regarding the Ordinance on the Inter-Fund Transfers Policy:** City Administrator John Butz recalled the Council discussed this issue during a Council

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**VII. NEW BUSINESS (continued)**

**(A) Discussion Regarding the Ordinance on the Inter-Fund Transfers Policy (continued):** workshop in either November or December 2008. However, Council set aside consideration of this issue until after receipt of the State Audit report. Mr. Butz noted the State Auditor included a comment on inter-fund transfers in her report and suggested the Council clarify its policy in an ordinance. He explained that inter-fund transfers are a way of assigning the oversight or overhead costs of administration to all City activities and functions. Mr. Butz indicated that the simplest approach is to assign a fixed dollar amount or a flat percentage of operations based on either gross revenues or total expenses. Currently, the City uses the process of assigning 7% of operating revenues. Mr. Butz referred the Council to two options, i.e., fixed fee basis and percent of total budget, included in the agenda materials, and expanded on each option. He asked the Council for feedback pertaining to an amendment to Sections 13-21 and 13-27 of the Rolla City Code.

After a lengthy discussion, a motion was made by Williams and seconded by Boeker to authorize City Administrator John Butz to prepare an ordinance amending Sections 13-21 and 13-27 of the Rolla City Code by incorporating Alternative 1, as outlined in the agenda materials. Following additional discussion, a voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(B) Council Concern with the Chamber's Sub-Leasing of Forest Service Property:** City Administrator John Butz mentioned that the issue of the existing contract between the City and the Chamber of Commerce surfaced during the last Council meeting in response to the Chamber of Commerce presentation. The contract pertains to the lodging tax and managing the properties of the Forest Service that the City is in the process of acquiring. Mr. Butz noted the Chamber had announced that they had relocated from their existing Forest Service business office to the Visitor's Center and had subleased the space to Congresswoman Emerson's office. Mr. Butz clarified that on June 16, 2008, this matter was brought to the City Council and, by a unanimous vote, and the Chamber was authorized to make this move. He pointed out the City Council authorized proceeding with this transfer by a unanimous vote of the Council members present and that Councilmen Jordan, Hicks, and Magdits were absent from this meeting. Any revenues coming from the rental of the office building would go into the fund to maintain those properties and grounds. Mr. Butz explained that the contract with the Chamber stipulates that written consent must be obtained from the lessor and "lessor" is defined in the contract as the Mayor or the City Administrator. Once this was brought to Council and was approved, Mr. Butz indicated that notification was sent to the Chamber. Much dialogue followed with no action taken.

**VII. NEW BUSINESS (continued)**

**(C) Request for Ordinance Regarding Clarification on the Gross Receipts Fee on the RMU Service Availability Fee (SAF):** City Administrator John Butz commented that the State Auditor's report indicated it was unclear in the City's interpretation if the gross receipts fee should be charged on the service availability fee. To clarify the application, Mr. Butz recommended that an amendment be made to Section 35-161 of the Code, which specifically references the service availability fee as a gross receipt.

Discussion followed concerning the applicability of the 5% gross receipts fee on water, and power customers using over 50 KW. Mr. Butz indicated that he would research the history on these issues.

After discussion, a motion was made by Barklage and seconded by Morris that the ordinance be read for its first reading, by title. A voice vote on the motion showed ten ayes, one nay, and one absent. Motion carried. City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE AMENDING SECTION 35-161 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, PERTAINING TO TRANSFERS TO GENERAL REVENUE FUND.

**(D) Resolution Establishing the Rolla Enhanced Enterprise Zone and Board:** City Administrator John Butz explained that the subject resolution authorizes the formation of the Rolla Enhanced Enterprise Zone (EEZ) and board. By Statute, there is a seven-member board and six names have been included in the proposed resolution. Mr. Butz noted that the proposed board consists of Ms. Molly Malone representing the School District, and Mr. Bud Dean representing other taxing entities. The Mayor's nominees include Councilman Don Morris, Mr. Doug Cresswell, Mr. Ted Day, and Ms. Mary Davis. On Friday, the City received confirmation that Mr. Keith Strassner is willing to serve on the board.

Rolla Regional Economic Commission Executive Director Elizabeth Bax asked the Council to consider passage of the proposed resolution to establish the Enhanced Enterprise Zone (EEZ) in Rolla and to establish a seven-member board to oversee the Rolla EEZ. Ms. Bax said she is requesting approval of the resolution because she is in desperate need of a tool for recruitment of business to this area. She said this EEZ would provide an excellent tool for expansion of existing businesses. Additionally, all the communities around Rolla have or are in the process of implementing the EEZ. Following her presentation, Ms. Bax entertained questions from the Council.

**VII. NEW BUSINESS (continued)**

**(D) Resolution Establishing the Rolla Enhanced Enterprise Zone and Board (continued):** A motion was made by Hicks and seconded by Jordan to amend the proposed resolution by adding Mr. Keith Strassner as a member of the EEZ board. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

City Counselor John Beger read the following proposed resolution for one reading, by title, as amended. RESOLUTION NO. 1687: A RESOLUTION ESTABLISHING THE ROLLA ENHANCED ENTERPRISE ZONE AND ESTABLISHING A SEVEN-MEMBER BOARD TO OVERSEE THE ROLLA ENHANCED ENTERPRISE ZONE. A motion was made by Williams and seconded by Hicks to approve the proposed resolution. A voice vote on the motion showed ten ayes, one nay, and one absent. Motion carried.

**VIII. CLAIMS AND/OR FISCAL TRANSACTIONS**

**(A) Motion to Award the City of Rolla Bank Depository Services:** Finance Director Steffanie Rogers reported that bids were received for the City's depository services from First Community National Bank with a fixed rate of 2.52% and from Phelps County Bank with a fixed rate of 2.16%. She pointed out that the subject agreement is for a four-year term and no fees or minimum balance is required on any of the accounts. Ms. Rogers indicated that staff is recommending the bid be awarded to First Community National Bank.

A motion was made by Williams and seconded by Morris to award the City's depository services to First Community National Bank for a four-year period with a fixed rate of 2.52%. A voice vote on the motion showed nine ayes, zero nays, and one absent. Motion carried.

**(B) Motion to Proceed with Replacing Cardio Equipment for the City of Rolla Recreation Center:** Recreation Center Director Scott Caron informed the Council that annually over the past six years the City has replaced five to six pieces of equipment from the Centre. This year staff is recommending the replacement of five pieces. The total replacement costs for the five pieces are \$27,060 with trade-in. A motion was made by Williams and seconded by Morris to authorize the purchase of the requested cardio equipment. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**VIII. CLAIMS AND/OR FISCAL TRANSACTIONS (continued)**

**(C) Motion to Award the Bid for the Deible Loop Pedestrian Bike Path Phase I and II:** Public Works Director Steve Hargis reported that bids were received for Phase I and II of the Deible Loop Pedestrian Bike Path. He noted that this path generally runs from Highway O to Lions Club Park on Deible Branch, which parallels Lions Club Drive. Mr. Hargis recommended that the bid be awarded to the low bidder, Don Maggi, Inc., Rolla, Missouri, for \$264,538.65, pending Missouri Department of Transportation (MoDOT) approval. After some discussion, a motion was made by Jordan and seconded by Barklage to award the bid for Phases I and II of the Deible Loop Pedestrian Bike Path to Don Maggi, Inc., for \$264,538.65, pending MoDOT approval. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(D) Motion to Award the Bid for Project 244 FY 2009 Street Improvements:** Public Works Director Steve Hargis reported that bids were received for concrete work on the City's streets that are being rebuilt this year. The streets included in this project are Faulkner Avenue, Nineteenth Street adjacent to Lee's Chicken, Lanning Lane west of Highway 63, Parkwood Drive, and Kent Lane. Mr. Hargis told the Council that staff is recommending that the bid be awarded to the low bidder, Don Maggi, Inc., for \$122,156.78. Following a brief discussion, a motion was made by Williams and seconded by Hicks to award the bid for Project 244, FY 2009 Street Improvements, Phase I to Don Maggi, Inc., for \$122,156.78. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**IX. MAYOR/CITY COUNCIL COMMENTS**

**(A) Appointment of Steve Bowles to the City of Rolla Police Personnel Board:** Mayor Jenks requested the appointment of Mr. Steve Bowles to the Police Personnel Board. A motion was made by Jordan and seconded by Brown to appoint Mr. Steve Bowles to the Police Personnel Board with his term expiring in June 2010. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(B) Appointment of Dave McKee to the Rolla Board of Adjustment:** Mayor Jenks requested the appointment of Mr. Dave McKee to the Rolla Board of Adjustment. A motion was made by Brown and seconded by Hicks to appoint Mr. Dave McKee to the Rolla Board of Adjustment with his term expiring July 2014. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**IX. MAYOR/CITY COUNCIL COMMENTS (continued)**

**(C) Three Council Appointments to the Environmental Services Review Board to Serve a One-Year Term ending May 31, 2010:** Mayor Jenks requested the appointment of Councilman Williams, Councilwoman Eudaly, and Councilman Jordan to the Environmental Services Review Board. A motion was made by Hicks and seconded by Walburg to appoint Councilman Williams, Councilwoman Eudaly, and Councilman Jordan to the Environmental Services Review Board. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(C) Appointment to the City Administrator's Review Committee:** In addition to Councilman Magdits and himself, Mayor Jenks requested the appointment of Councilman Don Brown to the City Administrator's Review Committee. After a brief discussion, a motion was made by Jordan and seconded by Hicks to appoint Councilman Don Brown to the City Administrator's Review Committee. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**X. COMMENTS FOR THE GOOD OF THE ORDER**

**(A) Councilman Spadoni:** Councilman Spadoni stated that according to a Rolla Daily News article, the cost of the State audit could reach \$50,000, which he indicated is quite excessive. He commented that he thought the audit results were favorable for both the City and Rolla Municipal Utilities (RMU) and reflected well on the City. Based on the comments in the newspaper and the cost factor, Councilman Spadoni said he is concerned how the audit costs would be paid. As an elected official, Councilman Spadoni said the last thing he wants to see are employees being laid off. Councilman Spadoni asked Councilwoman Hawley, one of the lead petitioners of the State audit, if she has any suggestions or thoughts on how the State audit will be paid.

Councilwoman Hawley responded that considering the fact the Council has not even begun to address the issues that were in the State audit, and the fact the State Auditor found tax evasion, fraudulent billing, Hancock Amendment violations, all sorts of things that are illegal, unconstitutional and unethical, she said she believes the City would save many times over the \$30,000 or \$24,000 that it is actually going to cost if those practices are stopped. Councilman Hawley added that if the Council had not been so difficult to work with by allowing RMU to run amok, then the petition would not have been necessary. She said there would have been transparency and accountability from the

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**X. COMMENTS FOR THE GOOD OF THE ORDER (continued)**

**(A) Councilman Spadoni (continued):** outset. The fact that this was not done, Councilwoman Hawley said she feels the City got off very cheap with only \$30,000 from the State Auditors. In the long run, Councilwoman Hawley emphasized the City would save a lot more money, because more attention will be paid to the Missouri State Statutes and the Missouri Constitution and the Council will create ordinances that are abiding by them. Councilman Hawley stressed that this is a shame because there are many illegal things going on at RMU that should have been found a long time ago if this Council had been doing its job. She concluded that it will be easy to find \$30,000 and it will not mean that any single employee loses a job because of it. She said it is a sad day when it comes to the point where a thousand people sign a petition to make the Council do its job.

**XI. EXECUTIVE SESSION**

A motion was made by Hicks and seconded by Jordan 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; Boeker, Walburg, Spadoni, Williams, Brown, Magdits, Morris, Barklage, Hicks, and Jordan. Nays; Hawley. Absent; Eudaly. Motion carried.

The Council adjourned into Executive Session at approximately 9:13 p.m., following a brief recess.

**XII. EXECUTIVE SESSION ACTION**

The Council reconvened into open session at approximately 9:30 p.m.

City Counselor John Beger reported that during Executive Session the City Council met with Ms. Kate Howell of ReMax, the City's listing agent for certain surplus City real estate, to decide listing prices. By a vote of ten ayes to one nay, it was decided to list 100 E. Third Street for sale at \$28,000; 583 Sycamore for sale at \$23,900, and; 584 Sycamore for sale at \$23,900.

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**XIII. ADJOURNMENT**

Having no further business, the meeting adjourned at approximately 9:31 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

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CITY CLERK

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MAYOR

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