

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, AUGUST 3, 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, Susan Eudaly, Gary Hicks, Don Morris, Lou Magdits, Jim Williams, and Ken Boeker

Council Members Absent: Donna Hawley and Mark Walburg

Department Directors in Attendance: Police Chief Mark Kearse, Environmental Services Director Brady Wilson, Fire Chief Robert Williams, Parks and Recreation Director Ken Kwantes, Finance Director Steffanie Rogers, Public Works Director Steve Hargis, 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 Councilman Don Barklage to lead in the Pledge of Allegiance.

I. CONSENT AGENDA

Councilman Barklage pointed out that the attendance roster of the July 20, 2009, City Council meeting minutes reflect that he was the only councilmember absent. However, roll call votes throughout the minutes indicate that Councilwoman Hawley and Councilman Walburg were also absent.

A motion was made by Williams and seconded by Eudaly to approve the consent agenda, as amended. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

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I. CONSENT AGENDA (continued)

The consent agenda consisted of the following:

(A) Approval of the City Council Minutes of:

July 6, 2009, City Council Meeting
July 6, 2009, Executive Session City Council Meeting
July 20, 2009, City Council Meeting
July 20, 2009, Executive Session City Council Meeting

II. PUBLIC HEARINGS

(A) Request for Ordinance to Rezone Tract A of McCutchen Acres PUD from R-1 Zoning to PUD District Zoning (McCutchen/Woessner): Community Development Director John Petersen explained that the subject property consists of about 6.7 acres contained within an approximate 40-acre tract. He explained that through a Planned Unit Development (PUD) the applicant has requested the construction of 54 units. Thirty-eight of the fifty-four units would be duplexes and the remaining sixteen units would be four-plexes. Mr. Petersen pointed out that there would be an internal road and Eighteenth Street would be extended between Forum and McCutchen Drives. He explained that the Planning and Zoning Commission is proposing that Eighteenth Street be constructed with any future development of Tracts A or B. Mr. Petersen mentioned that this has been a contentious zoning. He reported that the Planning and Zoning Commission recommend approval of the PUD as submitted.

A portion of the discussion that followed pertained to concerns with emergency vehicles being able to maneuver along the proposed 24-foot street width.

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

Mr. John McCutchen, petitioner, told the Council that he grew up on the subject property and his father purchased the property in 1958 with the intention that he and his sister would develop it at some point. He added that his father purchased the property on the east side so people would not have to face the sun going in or coming out. Mr. McCutchen indicated that it was his father's desire that the property be his legacy, his children's inheritance, as well as a benefit to Rolla. Mr. McCutchen told the Council that

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II. PUBLIC HEARINGS (continued)

(A) Request for Ordinance to Rezone Tract A of McCutchen Acres PUD from R-1 Zoning to PUD District Zoning (McCutchen/Woessner) (continued): his father recommended that he ask Mr. Dick Elgin and Mr. Mike Woessner for their help in developing the property. Mr. McCutchen said he is very pleased with what Mr. Woessner has proposed. He added that these units are needed for the town of Rolla and for the university to have the housing it needs. Mr. McCutchen asked the Council to consider approval of the proposed PUD.

Mr. Kent Davis, 1700 McCutchen Drive, addressed the Council on behalf of the residents, friends, and neighbors who live in the subdivision in and around McCutchen Drive, many, of whom are in attendance, and who oppose the rezoning of Tract A of McCutchen Acres, Phase I, from R-1 (Single Family District) zoning to PUD (Planned Unit Development District) zoning. He told the Council that the residents expected the property to be sold or subdivided and thought it would be a subdivision for single-family dwellings. Mr. Davis said he did not believe that any of them thought a developer would seek to have a portion of the land rezoned as PUD housing. He asked the Council to consider what kind of value does that place on the remaining acreage if the rezoning is allowed for Tract A. Mr. Davis stated it is doubtful that a developer would buy any of the remaining acreage around Tract A and leave it R-1 (Single Family District) zoning with the purpose of building single-family housing next to a 6.76 acre tract that has 54 duplexes and four-plexes. Any further development around the proposed PUD housing would most likely result in requests to the City for more of McCutchen acres to be rezoned to allow for more multi-family PUD housing. Mr. Davis explained that once a piece of property is reduced to a lower zoning level and the property is devalued, it is likely that property surrounding Tract A will end up the same way. He said the homeowners are also concerned with the possible devaluation of their properties if this tract of land is rezoned to allow PUD multi-family housing. Additionally, Mr. Davis commented on the proposed park in the subdivision and the land dedication for fee in-lieu-of requirements. He said the property owners would like to know if the park would be private or public and how it would be maintained and still satisfy ordinance requirements concerning public park land in-lieu-of payment. Mr. Davis indicated that most developers would choose the path of least cost in dealing with green space issues. Mr. Davis questioned whether it makes any sense at all to have a competing park across the street from Ber Juan Park. Mr. Davis pointed out the rezoning of Tract A, for PUD housing, would also result in additional traffic on McCutchen Drive, because the only access to the proposed PUD housing development would be from McCutchen Drive. He emphasized that McCutchen Drive is already heavily travelled as a cut-through from Old St. James Road to Tenth Street. There would be no other way to access the PUD

II. PUBLIC HEARINGS (continued)

(A) Request for Ordinance to Rezone Tract A of McCutchen Acres PUD from R-1 Zoning to PUD District Zoning (McCutchen/Woessner) (continued): development other than McCutchen Drive until Eighteenth Street is developed. Mr. Davis concluded by stating that the residents maintain the PUD will affect the character of the existing neighborhood. He referred the Council to the petitions with signatures from 182 concerned residents, contained in the agenda materials, opposing the rezoning of Tract A from R-1 (Single Family District) zoning to PUD. Mr. Davis asked the individuals in the Council Chambers who he spoke on behalf of, and who are opposed to the rezoning of Tract A of McCutchen Acres to PUD, to stand to show their opposition.

Dr. Tom Sager, 8 Laird Avenue, recalled that the Council recently rezoned property bordering on the Johnson-Laird Subdivision to commercial above the objection of almost all of the neighbors. He said this Council has a habit of siding with developers over people. Dr. Sager asked the Council not to do to the people near McCutchen Drive what was done to the people in his subdivision, and to please vote down the proposed rezoning request.

In addition to the concerns raised by Mr. Davis, Mr. Darel Luechtefeld, 1311 Eastwood Drive, addressed the Council and pointed out that California and Eastwood Drives are used to cut through from McCutchen Drive to Eighteenth Street. He said adding these extra units will only increase the traffic. Unless a patrol officer is in the area, Mr. Luechtefeld said it is like a racetrack from the top to the bottom of the hill on Eastwood Drive every day.

Mr. Alfred Chapman, 17401 County Road 8220, indicated that he is not against the rezoning of the property, although it does not meet the future land use of the Comprehensive Plan, which the City holds highly when other zoning changes are considered. He said his concern is the discrimination between private development and Planned Unit Developments (PUD). Mr. Chapman told the Council that private developments are required to install a square back curb. The cost difference between a roll back curb and a square back curb is about \$4,000 to the property owner. Mr. Chapman stated that if the safety of the people can be sacrificed for a PUD with roll back curbs, he said he did not know why the private sector could not have the opportunity for rollback curbs. He noted that the City seems to allow PUD's because that gives the City an out in order to be able to control the use of the property. Mr. Chapman said he hopes the Council will allow the property owners to use their property and allow other people, in the future, to have the same standards, whether residential, commercial, or PUD's.

II. PUBLIC HEARINGS (continued)

(A) Request for Ordinance to Rezone Tract A of McCutchen Acres PUD from R-1 Zoning to PUD District Zoning (McCutchen/Woessner) (continued): Mr. Chapman asked the Council, as the citizens' representatives, to put politics, discrimination, and segregation out of this picture and give everyone the same rules.

No one else present addressed the Council. Mayor Jenks closed the public hearing.

After a brief discussion, City Counselor John Beger read the following proposed ordinance for one 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 TRACT A OF PROPOSED MCCUTCHEN ACRES PUD, PHASE 1 FROM R-1 (SINGLE FAMILY DISTRICT) ZONING TO PUD (PLANNED UNIT DEVELOPMENT DISTRICT) ZONING (MCCUTCHEN/ WOESSNER).

III. CITIZEN COMMUNICATION

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

Dr. Tom Sager, 8 Laird Avenue, recalled that two months ago the Council held a hearing on whether to grant a variance so that Russ and Rena's Place, a liquor store, could move within 100 feet of the New Dimensional Christian Ministry Church. He pointed out that the owner of the subject building, Mr. Jack Dietzmann, asked the Council to consider the variance so he could sell his property to the owners of Russ and Rena's Place. Dr. Sager noted that the pastor of the Church objected stating that he worked with people with problems of substance abuse and that opening a liquor store across the street would create a terrible environment for those seeking to overcome substance abuse problems. He told the Council that last week he read in the Rolla Daily News that Russ and Rena's Place, along with four other businesses, were caught selling alcohol to minors. Dr. Sager pointed out that this is not the first time the Council has bent over backwards to the detriment of the City to help Mr. Dietzmann or other developers. The City's first attempt to break State law, by selling Buehler Park, was arranged by Mr. Dietzmann. He was to receive \$50,000 from the City for arranging this illegal sale for \$180,000 less than the park's commercial appraised value and he would have received this fee had it not been

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III. CITIZEN COMMUNICATION (continued)

(A) Open Citizen Communication: for the citizens of Rolla who opposed the sale, in court, using their own money. Dr. Sager asked the Council if this is the Christian thing to do helping a developer friend make a sale by driving out a church that is helping people to overcome substance abuse problems and then replacing the church with a liquor store that sells alcohol to minors.

No one else present addressed the Council.

IV. ACKNOWLEDGMENTS and SPECIAL PRESENTATIONS

None.

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

Mayor Jenks referred the Council to (A) the July 14, 2009, Preliminary Minutes of the Planning and Zoning Commission Meeting; (B) the June 2009 City's Cash Position and Expenditure Report; (C) the June 2009 Rolla Municipal Court Report; (D) the June 30, 2009 Development Review Committee Meeting Minutes; (E) the July 2009 Rolla Regional Economic Commission Report; (F) the June 17, 2009 Rolla Health and Recreation Center Advisory Committee Meeting Minutes; (G) The Centre FY 2009 Financial Analysis, and; (H) the SplashZone FY 2009 Financial Analysis.

VI. OLD BUSINESS

None.

VII. NEW BUSINESS

(A) Request for Ordinance to Approve the Final Plat of McCutchen Acres Phase I (McCutchen Family/Woessner): Community Development Director John Petersen reported that the Planning and Zoning Commission recommends approval of the subject subdivision. As pointed out earlier, Mr. Petersen noted the development of Eighteenth

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VII. NEW BUSINESS (continued)

(A) Request for Ordinance to Approve the Final Plat of McCutchen Acres Phase I (McCutchen Family/Woessner): Street is directly related to the further subdivision of the property. He noted that all development plans have been received and reviewed. However, the parkland dedication or “fee in-lieu-of” payment has not been received. Mr. Petersen explained that although the Planning and Zoning Commission has no problems with the subdivision, their recommendation is to approve the subdivision with the provision that the mandatory parkland dedication or fee in-lieu-of requirement in the City’s subdivision regulations be waived to allow for the utilization of the four-acre park to be a privately-owned/maintained park to be available to the residents of the area as it develops. Mr. Petersen pointed out that Parks and Recreation Director Ken Kwantes is not in favor of this.

In discussions with developer Mike Woessner, the Council suggested that it be specified that upon the further resubdivision of Tracts A or B, Eighteenth Street would be fully extended from McCutchen Drive to Forum Drive, meeting all city standards for commercial collector streets. Additionally, the Council expressed concern with the 4,000-square-foot footprint of the development. Mr. Woessner said the 4,000-square-foot footprint was requested in the event he decided to construct two-bedroom units rather than one-bedroom units. He indicated the current plan is to construct one-bedroom units with a 2,000-square-foot footprint.

Regarding the proposed rollback curbs, Mr. Woessner said he would rather install a rollback curb and install sidewalks on both sides of his development to make the development more desirable than pouring a square back curb and then having to tear it out and reinstalling it, therefore adding to the cost of the development. He pointed out that he will be doing some things in this particular development to try to be more “green” friendly.

Following Council discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. **ORDINANCE: AN ORDINANCE APPROVING MCCUTCHEN ACRES PHASE 1, A SUBDIVISION IN ROLLA, MISSOURI (MCCUTCHEN FAMILY/MIKE WOESSNER).**

Council discussion continued and Mr. Woessner requested that the lot coverage requirement for the duplexes not be less than conventional zoning, which is 40% coverage. This would permit a duplex footprint of not more than 3,200-square-feet.

VII. NEW BUSINESS (continued)

(A) Request for Ordinance to Approve the Final Plat of McCutchen Acres Phase I (McCutchen Family/Woessner) (continued): Regarding the fee in-lieu-of requirement for park land, Mr. Woessner said that 4.2 acres would be dedicated for a private park. He pointed out that he is giving twice as much ground for park as is required in the City's subdivision regulations. Mr. Woessner said he does not feel that he should be required to pay a fee in-lieu-of for parkland (\$22,747) in addition to dedicating a private park. He said he believes this park will be a great asset to the development of the 38 acres and would help in attracting tenants. Mr. Woessner explained that the proposed park would be more like a nature area and there would be no playground equipment, ball fields, etc.

City Administrator John Butz pointed out that City ordinance states the Parks Director would make a recommendation regarding park dedication, but the Council makes the final determination. He said the developer always has the right to make the request of a parkland dedication rather than fee. If the Council prefers the parkland in-lieu-of fee of \$22,747, the developer could still proceed with the construction of a private park. However, it would be independent of the dedication requirement of the ordinance. Mr. Butz indicated this could financially be a deal breaker for the developer, but the decision ultimately becomes the Council's.

Based on the Council comments, Mayor Jenks said that an amended ordinance to reflect the reduction of the density issue, and the extension of Eighteenth Street would be submitted for Council consideration at its next meeting.

Following further discussion, a motion was made by Hicks and seconded by Boeker to require payment in-lieu-of parkland in the proposed PUD and that Tract C be reverted to development status. After additional discussion, a hand count on the motion showed six ayes, four nays, and two absent. Motion carried.

Mayor Jenks indicated that this amendment would also be included in an ordinance during the Council's next meeting.

(B) Request an Ordinance for Land Line Telephone Tax Settlement Agreement with AT&T/SBC: City Administrator John Butz explained that the subject settlement is the result of a class action suit brought on by a group of cities predominantly located in the urban areas of Missouri. Once negotiated, the settlement included all Missouri communities. Mr. Butz told the Council that this settlement is with AT&T/SBC landline. The settlement amount for Rolla is \$1,056.99. Mr. Butz explained that the 5% payment

VII. NEW BUSINESS (continued)

(B) Request an Ordinance for Land Line Telephone Tax Settlement Agreement with AT&T/SBC (continued): in-lieu-of or franchise fee for telecommunications applies to Rolla's incumbent carriers, cell phone carriers, and anyone else providing telephone service. He told the Council that the subject ordinance must be approved by September.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT WITH AT&T/SBC LANDLINE.

(C) Motion for Lease Renewal with FAA in Support of Air Traffic Operations: City Administrator John Butz informed the Council that for the past several years the City has had a Federal Communications Administration (FAA) based Remote Communications Outlet (RCO) equipment at the Rolla National Airport terminal building. The current five-year lease is about to expire and the FAA is requesting an extension for an additional five years at \$71 per month. A motion was made by Spadoni and seconded by Eudaly to authorize City Administrator John Butz to execute the subject lease with the FAA. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

VIII. CLAIMS AND/OR FISCAL TRANSACTIONS

(A) Motion to Award the Bid for a Street Department Roller: Public Works Director Steve Hargis reported that bids were recently received for a replacement asphalt dual drum roller. He noted that three bids were received and staff is recommending that the bid be awarded to the low bidder, Cummins, McGowan and West, St. Louis, Missouri, for a price of \$30,204. After a brief discussion, a motion was made by Hicks and seconded by Eudaly to award the bid for the asphalt dual drum roller to Cummins, McGowan and West, St. Louis, Missouri for \$30,204. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

(B) Motion to Award Benefit Consultant/Broker Services: Finance Director Steffanie Rogers told the Council that for the past three years the City has used a consultant for consulting, actuarial and brokerage services for medical, dental and prescription drug plans, flexible spending accounts, and other insurance plans available to City employees. Because there was some turnover with the City's current consultant, Welsch, Flatness & Lutz, and the contract has expired, staff requested proposals for these services. Ms. Rogers reported that fourteen proposals were received and the Health Insurance

VIII. CLAIMS AND/OR FISCAL TRANSACTIONS (continued)

(B) Motion to Award Benefit Consultant/Broker Services (continued): Committee selected four finalists. After a day of interviews, the Committee recommendation is to award health insurance consultant services to Hays Companies. A motion was made by Williams and seconded by Morris to award the proposal for health insurance benefit consultant/broker services to Hays Companies. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

IX. MAYOR/CITY COUNCIL COMMENTS

(A) Airport Committee Reappointments (Two-Year Terms): Mayor Jenks requested the reappointment of Mr. Ed Schmitt, Mr. Larry Sherrell, and Mr. Doug Behrick, to two-year terms each on the Airport Committee. A motion was made by Eudaly and seconded by Spadoni to approve the reappointments of Mr. Ed Schmitt, Mr. Larry Sherrell, and Mr. Doug Behrick, each to two-year terms on the Airport Committee. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

(B) Discussion Regarding Food Sales Tax Exemption in Community Improvement District (CID): Mayor Jenks indicated that this item was requested by Councilwoman Hawley. Since Councilwoman Hawley was unable to attend this meeting, he asked the Council if they wished to discuss it. No Council comments were made.

(C) Discussion Regarding Request for Qualifications (RFQ) of Community Improvement District (CID) Consultant: Mayor Jenks indicated that this item was requested by Councilwoman Hawley.

City Administrator John Butz reported that he has completed the draft "Request for Qualifications" (RFQ) for both legal bond services and financial advisor and copies will be provided to the Council via e-mail. After staff has reviewed the proposals, interviews will be conducted, the firms will be selected, and Council will then be asked to consider award.

X. COMMENTS FOR THE GOOD OF THE ORDER

(A) Missouri S&T: Mayor Jenks announced that he received a letter from Missouri S&T thanking the City for its assistance in the construction of the roundabout at Highway E and Interstate I-44.

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

(B) Benton Square Roundabout and Fountain: Councilman Magdits noted that the weekend newspaper indicated that the construction of a roundabout and fountain are being planned for Benton Square.

Mayor Jenks confirmed that there are plans for a fountain and roundabout in this area. He explained that the fountain is to be donated by the two developers in memory of Mrs. Kitty Robertson. He said it is his understanding that the roundabout would be located at Sixth and Cedar Streets. Mayor Jenks mentioned the City would be responsible for development of the roundabout.

City Administrator John Butz told the Council that at this point the City has not made any financial commitment for the roundabout.

XI. EXECUTIVE SESSION

None.

XII. ADJOURNMENT

Having no further business, the meeting adjourned at approximately 8:24 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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