

**ROLLA CITY COUNCIL MEETING MINUTES
TUESDAY, SEPTEMBER 8, 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, Ken Boeker, and Mark Walburg

Council Members Absent: Donna Hawley

Department Directors in Attendance: Environmental Services Director Brady Wilson, Fire Chief Robert Williams, 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, Rolla Police Lieutenant Doug James, Communications Coordinator Scott Grahl, and City Clerk Carol Daniels

Mayor Jenks called the meeting to order at approximately 6:30 p.m., and asked a member of the Rolla Ministerial Alliance to give the invocation. Following the invocation, Councilwoman Sue Eudaly led in the Pledge of Allegiance.

I. CONSENT AGENDA

A motion was made by Williams and seconded by Eudaly 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:

July 13, 2009, Special City Council Workshop
August 3, 2009, City Council Meeting
August 17, 2009, City Council Meeting
August 17, 2009, Executive Session City Council Meeting

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I. CONSENT AGENDA (continued)

(B) Motion to Close Certain Streets in the City of Rolla for the October 24, 2009

Arts and Crafts Festival: Public Works Director Steve Hargis referred the Council to a request from the Rolla Downtown Business Association, included in the agenda materials, to close Pine Street from Sixth to Tenth Streets, and Ninth Street from Pine to Elm Streets, for the annual Arts and Crafts Festival. A motion was made by Williams and seconded by Eudaly to authorize the closing of Pine Street from Sixth to Tenth Streets, and Ninth Street from Pine to Elm Streets for the October 24, 2009, Arts and Crafts Festival. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

II. PUBLIC HEARINGS

(A) Request for Ordinance to Adopt the 2009/2010 City of Rolla Fiscal Year Budget:

City Administrator John Butz recalled the Council reviewed the proposed FY 2009/2010 budget in some detail a couple of weeks ago and that it is a very austere budget. Mr. Butz informed the Council that in Fiscal Year 2009 the City experienced a sales tax growth of about one-half percent. Although a one-half percent sales tax growth is not good, it is better than the statewide average of about a 5.8% decline. Mr. Butz told the Council that the proposed budget projects a 1% growth in sales tax, which has left very little room for any additional purchasing. He noted that the proposed budget contains a 1% across the board salary increase for all employees, but no merit increases have been budgeted. Mr. Butz told the Council that the only real revenue enhancement in the proposed budget is a 15% increase in sewer fees. The budget also proposes a restructuring, more than an increase, of the Recreation Center fees. He explained that some of the definitions and classifications of family have been changed as well as how the number of participants is counted. Mr. Butz said it would produce a net increase, although not a drastic one, for the Recreation Center. He concluded that staff tried to hold the line on all expenses by deferring some capital equipment and projects. Mr. Butz indicated that if the economy rebounds stronger than what is projected, staff would submit budget adjustments to the Council for consideration during its six-month review of the budget.

Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the proposed FY 2009/2010 budget.

II. PUBLIC HEARINGS (continued)

(A) Request for Ordinance to Adopt the 2009/2010 City of Rolla Fiscal Year Budget (continued): Mr. Earl Richards, 1000 Bluebird Lane, addressed the Council and stated that in the past he has made comments in the Rolla Daily News concerning the Recreation Center. He referred the Council to a copy of the August 4, 1998, ballot, which was submitted to the voters seeking approval of a one-half cent sales tax for the Recreation Center. Mr. Richards pointed out that there is nothing in the ballot language that addresses the operation of the Recreation Center and that it is completely a capital item. At the time this was proposed, Mr. Richards pointed out that if you look in the Rolla Daily News, you will find everything that says that the operation of the Recreation Center would be self-sufficient. He emphasized that there is nothing in the original ballot language that says that. After deciding what was going to be included in the Recreation Center, Mr. Richards said the question of how to finance it surfaced. Would the City wait until the one-half cent sales tax accumulates enough to cover the cost of the building and the equipment? Mr. Richards noted the tax started in January 1999 and the average annual income from the one-half cent sales tax is anywhere between \$1.8 and \$1.9 million. He referred the Council to the second ballot question and again emphasized that there is nothing in the ballot that indicates support of the operational fund of the Recreation Center. He said that somehow, after the building was constructed, the funds of the sales tax have been mixed up with the operation of the Recreation Center and it has never broken even. Mr. Richards emphasized that last year's recapture rate was 80%. He said that his complaint is that the sales tax money should be completely devoid of the Recreation Center. Rather, it should be in a capital fund to pay the bonds and when the bonds are paid, the sales tax should end. Mr. Richards emphasized that if this had been done, the Recreation Center would have been paid for by now. Mr. Richards expressed his objection because that is not what he thought he was voting for.

City Administrator John Butz responded that he agrees with many of Mr. Richards' points and comments. He stressed that the City's goal from day one has been to try to get the Recreation Center to achieve a 100% recapture rate. He explained that two questions were posed to the voters. The first question was the authorization of the sales tax, which was for 15 years and would include an indoor swimming pool and recreation center. Mr. Butz emphasized that it places no limitation on capital or operating costs. Regarding the second question, Mr. Butz said the bond was specific for the \$11.7 million for the purpose of constructing, furnishing, and equipping a recreation center. The sales tax can be used for the debt service payment on the \$11.7 million, but the language is not limiting to the additional sales tax.

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II. PUBLIC HEARINGS (continued)

(A) Request for Ordinance to Adopt the 2009/2010 City of Rolla Fiscal Year Budget (continued): Mr. Richards commented that the citizens of Rolla were led down the wrong path on this whole thing. He said he did not believe they voted for what Mr. Butz just outlined.

No one else present addressed the Council concerning the proposed FY 2009/2010 budget. Mayor Jenks closed the public hearing.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. **ORDINANCE: AN ORDINANCE ADOPTING AN ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2009, AND APPROPRIATING FUNDS PURSUANT THERETO.**

III. ACKNOWLEDGMENTS AND SPECIAL PRESENTATIONS

(A) Second Quarter Tourism Report: Rolla Area Chamber of Commerce Executive Director Stevie Kears provided an overview of the Second Quarter 2009, Tourism Report, a copy of which is included in the agenda materials.

(B) September 9, 2009, Tour of Missouri: Recreation Center Director Scott Caron reported that Stage 3 of the Tour of Missouri would be coming to Rolla tomorrow, Wednesday, September 9, 2009. Tomorrow's activities will begin in front of Castleman Hall at approximately 12:30 p.m. with the Health and Wellness Expo. Mr. Caron noted that the race would come through Rolla between 3 p.m. and 4 p.m. with the race finish in front of Castleman Hall.

(C) Cap and Trade Legislation: Dr. James Stoffer, President of the Rolla Board of Public Works, gave a presentation as to how the proposed cap and trade legislation would adversely affect electric energy costs. He pointed out that this is important because the cost of almost everything we use is dependent upon energy costs. Dr. Stoffer encouraged the Council and citizens to convince our legislators that there is an abundance of evidence that carbon dioxide is not an environmental pollutant. He appealed to the Council and Rolla citizens to contact Senator Claire McCaskill and persuade her to vote against the proposed legislation. He said this is very important if Rolla citizens do not want to see their electric rates double.

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III. ACKNOWLEDGMENTS AND SPECIAL PRESENTATIONS (continued)

(C) Cap and Trade Legislation (continued): Mayor Jenks added that Ameren UE, electric cooperatives, and those involved with energy in the state have sent a jointly signed letter to Congress asking them to take a very serious look at this legislation. He noted that this legislation has already passed the U.S. House of Representatives and is now in the U.S. Senate.

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

Mayor Jenks referred the Council to **(A)** the June 2009 Rolla Municipal Utilities Monthly Report; **(B)** the August 11, 2009, Preliminary Minutes of the Planning and Zoning Commission Meeting; **(C)** the July 2009 City's Cash Position and Expenditure Report; **(D)** the July 2009 Rolla Municipal Court Report; **(E)** the July 28, 2009 Development Review Committee Meeting Minutes; **(F)** The Centre FY 2008/2009 Financial Analysis; **(G)** SplashZone FY 2008/2009 Financial Analysis, and; **(H)** the August 2009 Rolla Regional Economic Commission Report.

V. OLD BUSINESS

(A) Ordinance to Rezone Property at 2204 Vichy Road from R-2 Zoning to R-3 Zoning (Chapman): Community Development Director John Petersen recalled that during the Council's last meeting, a minor subdivision of the subject property was approved. Without doing anything else, Mr. Petersen indicated the applicant might construct, at least two duplexes on the property. He noted that the applicant is requesting that the property be rezoned from R-2 (Two Family District) zoning to R-3 (Multi-Family District) zoning and wishes to construct two, three plexes on the two proposed lots. He told the Council that the Planning and Zoning Commission voted to recommend that the requested zoning be approved. Mr. Petersen reported that a legal petition against the subject rezoning has been submitted. In order for the zoning to pass, it would require eight affirmative votes of the City Council.

City Counselor John Beger read the following proposed ordinance for its final reading, by title. ORDINANCE: AN ORDINANCE AMENDING THE BASIC ZONING ORDINANCE NO. 3414, CHAPTER 42 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, AFFECTING THE REAL ESTATE KNOWN AS 2204 VICHY ROAD

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V. OLD BUSINESS (continued)

(A) Ordinance to Rezone Property at 2204 Vichy Road from R-2 Zoning to R-3 Zoning (Chapman) (continued): FROM R-2 (TWO FAMILY DISTRICT) ZONING TO R-3 (MULTI-FAMILY DISTRICT) ZONING (CHAPMAN). After a brief discussion, 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; Brown, Jordan, and Boeker. Nays; Eudaly, Williams, Spadoni, Hicks, Barklage, Magdits, Morris, and Walburg. Absent; Hawley. Motion failed. The ordinance failed.

VI. NEW BUSINESS

(A) Motion to Award Special Bond Counsel Services for the Rolla West Project: City Administrator John Butz recalled that in July 2009 the City Council and staff conducted a workshop to specifically discuss the Rolla West project. During the planning process, it was determined there was a need for financial advisory expertise regarding the formation of some form of an overlay taxing district, such as a Community Improvement District, Transportation Development District, or Neighborhood Improvement District. Mr. Butz stated that Missouri law allows for all of these taxing vehicles as ways to help fund the capital infrastructure costs of doing projects like Rolla West.

Mr. Butz reported that "Request for Proposals" were obtained for special bond counsel services, however only one proposal was returned. The proposal received was from Gilmore & Bell, P.C., for \$250/hour and they estimate it will take between 50 and 100 hours of work to form a Community Improvement District (CID). The total cost for this project is estimated between \$12,000 and \$25,000. Since the partners in this project are willing to pay a portion of these costs, it will cost the City about one-half of this amount. If the bonds are ultimately issued, Mr. Butz indicated the underwriter services would be paid from the bond proceeds. Due to Gilmore & Bell's tremendous experience in Missouri, staff is recommending a letter of engagement with Gilmore & Bell, P.C. as special counsel and, if needed, bond counsel on the Rolla West project.

A motion was made by Barklage and seconded by Morris to engage Gilmore & Bell, P.C., as special counsel and bond counsel, if needed, for the Rolla West Project. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

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VI. NEW BUSINESS (continued)

(B) Motion to Award Financial Advisory/Underwriter Services for the Rolla West Project: City Administrator John Butz reported that six proposals were received for the financial advisory/underwriter services for the Rolla West project. Based on staff review of the proposals, Mr. Butz explained that staff recommendation is to engage Stifel Nicolaus as the advisor, and potentially as the underwriter for the Rolla West project.

After a brief discussion, a motion was made by Williams and seconded by Morris to engage Stifel Nicolaus as advisor/underwriter for the Rolla West project. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

(C) Request for Ordinance to Approve the Proposed Sewer Rates for FY 2009/2010: Public Works Director Steve Hargis explained that the subject ordinance would increase the sewer rates to be in line with the proposed 2009/2010 fiscal year budget. He noted that the proposed increase is \$3.50/1000 gallons. This would increase the sewer rate for an average user of 6,000 gallons per month by \$3/month or \$21/annually.

Following a brief discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. **ORDINANCE: AN ORDINANCE AMENDING CHAPTER 35 OF THE GENERAL ORDINANCES OF THE CITY OF ROLLA, MISSOURI, KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, RELATING TO SEWERS AND WATER.**

VII. CLAIMS AND/OR FISCAL TRANSACTIONS

(A) Motion to Award the City of Rolla Health Insurance Excess Coverage: Finance Director Steffanie Rogers reported that Hays Companies, the City's benefit consultant/broker, obtained six proposals for the City's \$75,000 stop loss coverage. Staff is recommending that the bid for the Health Insurance Excess Coverage be awarded to RE Moulton with the quotation of \$267,260.76. She pointed out that this is a 4.6% increase over last year's bid. Ms. Rogers added that stop loss deductibles were also considered at \$80,000 and \$85,000. However, it is the recommendation of Hays Companies and staff to not only award the bid to RE Moulton, but to keep the deductible at \$75,000. A motion was made by Williams and seconded by Jordan to award the City's Health Insurance Excess coverage to RE Mouton at \$267,260.76 and to remain at the current deductible of \$75,000. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

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VIII. 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 he addressed the Council last month when he stated the Council approved a waiver for Russ and Rena's Place to move to a location within 100 feet of a church. He pointed out that Councilmen Hicks and Spadoni disputed this with Councilman Spadoni saying the church had already decided to move from their former location. Dr. Sager read from the April 20, 2009, Council minutes, wherein it stated that the pastors of the New Dimensional Christian Ministry International, Inc., indicated that they have considered moving, but there are currently no definite plans to move. Dr. Sager addressed Councilmen Hicks and Spadoni and stated that they had apparently not even bothered reading the minutes before approving them. He said if there is something in the minutes that is wrong, they should not be approved. However, if the minutes are correct, Dr. Sager said you should not claim at the subsequent meeting that they were incorrect.

No one else present addressed the Council.

IX. MAYOR/CITY COUNCIL COMMENTS

(A) Reappointment of Mr. Jack Mentink to the Board of Building Appeals (Five-Year Term): A motion was made by Hicks and seconded by Eudaly to approve the reappointment of Mr. Jack Mentink to the Board of Building Appeals for a five-year term. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

(B) Discussion Regarding the RMU Financial Management Plan (Item #9): Mayor Jenks pointed out that the Rolla Board of Public Works has a concern with Item No. 9 of the proposed Rolla Municipal Utilities (RMU) financial management plan.

Mr. Mark Rolufs, a member of the Rolla Board of Public Works, indicated that he is comfortable with most of the recommended financial management plan. After speaking with the other Board of Public Works members, he said they expressed some concern about Item 9, which reads, "After careful analysis RMU shall determine and modify, when necessary, all utility rates including user rates, service availability fees, etc. Rate changes occurring during a budget year shall be submitted to the City Council for

IX. MAYOR/CITY COUNCIL COMMENTS

(B) Discussion Regarding the RMU Financial Management Plan (Item #9) (continued): ratification by resolution. The City Council shall ratify said rates, however, if Council takes no action within 30 days the rates shall be considered ratified.” Mr. Rolufs pointed out that this does not take into consideration what would happen should the City Council vote “no” to the Board’s recommended rate change. He said he feels there needs to be some discussion on this matter.

After a lengthy dialogue among the Council, Mr. Rolufs, and Dr. James Stoffer, President of the Rolla Board of Public Works, the Council suggested that staff begin drafting the proposed ordinance with the Rolla Municipal Utilities Review Committee’s proposed recommendations and let the Council consider it as a package. If the appropriate wording cannot be determined to address the concern with Item 9, possibly some other area of the proposed ordinance could be amended to arrive at the same point. A brief discussion followed.

X. COMMENTS FOR THE GOOD OF THE ORDER

(A) Cap and Trade Legislation: Dr. James Stoffer, President of the Rolla Board of Public Works, asked the Council to consider authorizing Mayor Jenks to draft a letter to Senator Claire McCaskill, on behalf of the Rolla citizens, asking her to vote against the proposed cap and trade legislation. No Council opposition was noted. Mayor Jenks indicated that he would draft a letter to Senator McCaskill this week.

(B) Yard Sale Signs: Councilwoman Eudaly reminded residents that yard sale signs are not to be placed on utility poles, light standards, or fences and encouraged residents to place their signs on sticks. She stated that she would remove signs that are illegally posted, particularly in Ward III. Ms. Eudaly added that the signs are unsightly and it is against the law to place them on utility poles. She also encouraged the residents to immediately remove the signs following the sale.

(C) Tour of Missouri: Councilman Morris thanked Recreation Center Director Scott Caron and the folks in the community who have done a lot of hard work to make Rolla a better place so the Tour of Missouri could come to Rolla.

(D) 2009/2010 Fiscal Year Budget: Mayor Jenks echoed Councilman Morris’ comments regarding the Tour of Missouri. In addition, he expressed his appreciation to the Department Directors for their cooperation and hard work in finalizing the 2009/2010 fiscal year budget.

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XI. EXECUTIVE SESSION

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

The Council adjourned into Executive Session at approximately 8:27 p.m.

XII. EXECUTIVE SESSION ACTION

The Council reconvened into open session at approximately 8:43 p.m.

City Counselor John Beger reported that during Executive Session the City Council was advised on a new lawsuit filed against the City and the action taken thereon by outside defense counsel. No formal action was taken by the Council in this lawsuit.

On another matter, City Counselor Beger reported that the Council was advised on a potential matter of litigation involving overbilling for trash service to a commercial customer and the proposed resolution. By a vote of eleven to zero, the Council approved resolution of the issue involving repayment of \$261,174 in two equal payments.

XIII. ADJOURNMENT

Having no further business, the meeting adjourned at approximately 8:44 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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