

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, OCTOBER 19, 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, Susan Eudaly (arrived at 6:39 p.m.), Gary Hicks, Don Morris, Lou Magdits, and Jim Williams

Council Members Absent: Stan Spadoni, Ken Boeker, Donna Hawley, and Mark Walburg

Department Directors in Attendance: Environmental Services Director Brady Wilson, Fire Chief Robert Williams, Public Works Director Steve Hargis, Recreation Center Director Scott Caron, Police Chief Mark Kearse, and Community Development Director John Petersen

Other City Officials in Attendance: City Administrator John Butz, City Counselor John Beger, 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, Councilman Lou Magdits led in the Pledge of Allegiance.

I. PUBLIC HEARINGS

(A) Request for Ordinance to Rezone Property at 110 Spilman Avenue from R-1 Zoning to C-3 Zoning (Voss): Community Development Director John Petersen told the Council that the subject property contains approximately .54 acres and it adjoins Walgreens on the west side of Spilman Avenue. If the Council approves the requested rezoning, a buffer yard would be required to the west and the south because of the zoning that currently exists. Mr. Petersen reported that the Planning and Zoning Commission recommend approval of the proposed rezoning request.

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

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I. PUBLIC HEARINGS (continued)

(A) Request for Ordinance to Rezone Property at 110 Spilman Avenue from R-1 Zoning to C-3 Zoning (Voss) (continued): Mr. Fred Voss, owner of the subject property located at 110 Spilman, stated that he would be happy to address any questions from the Council. He thanked the Council for the opportunity to rezone the subject-property.

No one else present addressed the Council concerning the subject-rezoning request. Mayor Jenks closed the public hearing.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3937: 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 110 SPILMAN AVENUE FROM R-1 (SINGLE FAMILY DISTRICT) ZONING TO C-3 (HIGHWAY COMMERCIAL DISTRICT) ZONING (VOSS). A motion was made by Hicks 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 six ayes, one nay, and five 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 Morris to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Jordan, Williams, Brown, Barklage, Magdits, Morris, and Hicks. Nays; None. Absent; Hawley, Boeker, Spadoni, Walburg, and Eudaly. Motion carried. The ordinance passed.

(B) Request for Ordinance to Rezone Property at 515 E. 19th Street from M-2 Zoning to C-3 Zoning (Maxwell): Community Development Director John Petersen explained that the subject property is relatively small consisting of 6,756 square feet and is presently zoned M-2 (Heavy Manufacturing District). Mr. Wayne Maxwell, owner of the subject property, is requesting the rezoning to C-3 (Highway Commercial Business) because the building is currently vacant and he would like to lease it to a commercial-type business. Mr. Petersen pointed out that this type of commercial business is not permitted in an M-2 (Heavy Manufacturing District) zone. Additionally, by rezoning the property to C-3 (Highway Commercial District), some of the legal non-conformities of this site for M-2 (Heavy Manufacturing District) development, such as setbacks and coverage, would be brought into compliance.

Councilwoman Susan Eudaly entered the meeting at approximately 6:39 p.m.

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I. PUBLIC HEARINGS (continued)

(B) Request for Ordinance to Rezone Property at 515 E. 19th Street from M-2 Zoning to C-3 Zoning (Maxwell) (continued): Mr. Petersen reported that the Planning and Zoning Commission recommends approval of the subject-rezoning request. He added that his office has not received any comments regarding the requested rezoning.

Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject-rezoning request. No one 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 NO. 3938: 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 515 E. 19TH STREET FROM M-2 (HEAVY MANUFACTURING DISTRICT) ZONING TO C-3 (HIGHWAY COMMERCIAL DISTRICT) ZONING (MAXWELL). A motion was made by Hicks 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 eight ayes, zero nays, and four 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 Hicks to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Williams, Brown, Magdits, Eudaly, Morris, Barklage, Hicks, and Jordan. Nays; None. Absent; Boeker, Walburg, Spadoni, and Hawley. Motion carried. The ordinance passed.

II. SPECIAL PRESENTATION

(A) Sewer Gas Recovery – Dr. Tom Sager: Dr. Tom Sager, 8 Laird Avenue, gave a presentation regarding renewable energy and the feasibility of generating electric and thermal power from wastewater. He noted that biogas generation reduces emissions of green house gases and would provide considerable carbon offsets in most proposed systems of carbon taxes and credits. Dr. Sager pointed out that as of September 2007, there were 79 wastewater treatment plants in 24 states and they generated a total of 223 megawatts in capacity. In any of the decisions the City makes, Dr. Sager said it should consider environmentally friendly options because they are often the most cost effective.

III. OLD BUSINESS

(A) Request from Mr. Mike Woessner to Withdraw the McCutchen Planned Unit Development (PUD): Community Development Director John Petersen reported that a few days ago, Mr. Mike Woessner, co-applicant of the McCutchen Planned Unit Development (PUD), submitted a letter to him expressing the desire to withdraw their request to rezone the property to a PUD. Mr. Petersen explained that this means the property will remain zoned R-1 (Single Family District). A brief discussion followed.

(B) Request for Ordinance to Approve the Final Plat of McCutchen Acres No. 1 (McCutchen Family/Woessner): Community Development Director John Petersen recalled that on August 3, 2009, the Council considered the McCutchen Planned Unit Development (PUD) as well as the subdivision. Since the withdrawal of the PUD, he pointed out that the subdivision plat is the same as was presented in August with the exception of the proposed PUD in Tract E. Mr. Petersen recalled that during the August 3, 2009, meeting, the Council voted that the applicant would pay the \$22,747 parkland dedication fee in-lieu-of requirement for the 37.3 acres property. In addition, the Council discussed possibly requiring the developer to extend Eighteenth Street from McCutchen Drive to Forum Drive upon the further resubdivision of Tracts A and B. Although not voted on by the Council, staff was directed to place this provision in the subdivision ordinance. Mr. Petersen pointed out the applicant has asked the Council to amend the proposed ordinance to allow the storm water management fees to be paid as any of the five lots are sold.

After some discussion, a motion was made by Williams and seconded by Morris to amend the proposed ordinance to reflect that the parkland and storm water fees in-lieu-of be satisfied on a pro rata basis as the tracts are further developed. Following additional discussion, a voice vote on the motion showed seven ayes, one nay, and four absent. Motion carried.

The Council then discussed at length whether Tract E should be included with Tracts A and B in Section 2 of the proposed ordinance, as it relates to the extension of Eighteenth Street from McCutchen to Forum Drive. However, no Council action was taken on this matter.

City Counselor John Beger read the following proposed ordinance, as amended for its final reading, by title. ORDINANCE NO. 3939: AN ORDINANCE APPROVING MCCUTCHEN ACRES NO. 1, A SUBDIVISION IN ROLLA, MISSOURI (MCCUTCHEN FAMILY/MIKE WOESSNER). A motion as made by Williams and

III. OLD BUSINESS (continued)

(B) Request for Ordinance to Approve the Final Plat of McCutchen Acres No. 1 (McCutchen Family/Woessner) (continued): seconded by Morris to approve the proposed ordinance, as amended. A roll call vote on the motion showed the following: Ayes; Barklage, Hicks, Brown, Jordan, Williams, Magdits, Eudaly, and Morris. Nays; None. Absent; Hawley, Spadoni, Walburg, and Boeker. Motion carried. The ordinance passed.

IV. NEW BUSINESS

(A) Request for Ordinance to Consider New Codes Pertaining to RMU: City Administrator John Butz stated that this is a follow up to the tasks of the Rolla Municipal Utilities Policy Review Committee that was appointed in December 2008. After several meetings, the Committee adopted several general policy recommendations and staff has rewritten Chapter 35 of the City Code to incorporate the elements of the Committee's recommendations. Mr. Butz pointed out that the key elements of the Committee's recommendations focus on the Council's role in rates and budgets. At the suggestion of the Committee, Mr. Butz told the Council that he contacted the Attorney General's Office asking them for a final review of the proposed ordinance. However, calls to the Attorney General's Office have not been returned. Mr. Butz explained that usually the Attorney General's Office prefers not to give legal opinions to cities and recommend consulting their city attorney.

The Council dialogue that followed included a few recommended changes to the proposed ordinance.

Dr. James Stoffer, President of the Rolla Board of Public Works, addressed the Council and indicated that this process has taken a great deal of time and effort on everyone's part. He said he thinks we have something that is functioning and workable and the Board will do its best to adhere to it.

Counselor John Beger read the following proposed ordinance for its first reading, by title.
ORDINANCE: AN ORDINANCE REPEALING ARTICLE XI, SECTIONS 35-148 THROUGH 35-166 OF THE GENERAL ORDINANCES OF THE CITY OF ROLLA, MISSOURI, KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, AND ENACTING NEW SECTIONS IN LIEU THEREOF PERTAINING TO THE BOARD OF PUBLIC WORKS.

IV. NEW BUSINESS (continued)

(A) Request for Ordinance to Consider New Codes Pertaining to RMU (continued):

City Administrator John Butz indicated that he would draft the requested changes and submit the amended ordinance to the Council for consideration at its next meeting.

Regarding the Attorney General's opinion pertaining to the proposed ordinance, City Counselor John Beger stated that as a practical matter, the Attorney General's Office would not give an opinion on an ordinance. He said the Attorney General's Office will usually respond if a specific provision is submitted and the City expresses its concern whether the provision complies with a certain statute or case law.

(B) Request for Ordinance to Revise the City's Sunshine Law Policy:

City Administrator John Butz explained that the Missouri Sunshine Law requires that all governing bodies adopt a Sunshine Law Policy. Rather than having a general policy, a few years ago the Council chose to adopt the entire Sunshine Law. Mr. Butz noted that one of the State auditors felt that this was not necessarily adopting a policy, but rather adopting a law. Since the Sunshine Law changes every year and frequently with minor changes that no one hears about or knows about, the City's ordinance becomes outdated. Mr. Butz explained that staff is proposing the draft, included in the agenda materials, as the new policy that summarizes the key elements of the Sunshine Law.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE REPEALING ARTICLE VIII, SECTIONS 2-251 THROUGH 2-307 OF THE GENERAL ORDINANCES OF THE CITY OF ROLLA, MISSOURI, KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, AND ENACTING NEW SECTIONS IN LIEU THEREOF PERTAINING TO THE SUNSHINE LAW.

(C) Request for Ordinance to Amend Certain Sections of the Rolla City Code Pertaining to Parking:

Public Works Director Steve Hargis explained that the proposed ordinance takes the existing ordinances and renumbers them in such a way that is consistent with the Geographic Information System (GIS). For the most part, the proposed ordinance includes all the timed parking restrictions.

After a brief discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE REPEALING SECTIONS 27-93 THROUGH 27-118, AND SECTION 27-129 OF THE GENERAL

IV. NEW BUSINESS (continued)

(C) Request for Ordinance to Amend Certain Sections of the Rolla City Code Pertaining to Parking (continued): ORDINANCES OF THE CITY OF ROLLA, MISSOURI KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, AND ENACTING NEW SECTIONS IN LIEU THEREOF PERTAINING TO PARKING.

(D) Motion to Award the Agreement for a Proposed Development Agreement with Siemens Industry: Public Works Director Steve Hargis referred the Council to the proposed project development agreement that is being proposed by Siemens Building Technologies, Inc. The proposed agreement stipulates that Siemens will conduct a detailed, technical audit of City-owned facilities to evaluate the various electrical and mechanical systems. From that audit, Siemens will prepare a list of potential energy conservation measures the City can use to save energy, the cost of those measures, and the expected life of the improvements. Mr. Hargis told the Council that the value for these audit services is \$31,825. Should the City decide not to proceed after the details have been provided, the City would be required to pay Siemens the \$31,825.

Following some discussion, a motion was made by Hicks and seconded by Eudaly to approve the proposed project development agreement with Siemens Building Technologies, Inc. A voice vote on the motion showed eight ayes, zero nays, and four absent. Motion carried.

(E) Request for Ordinance to Approve the Plat of Rolla Park Third Addition (Lahontan, LLC): Community Development Director John Petersen explained that a request has been made to subdivide one lot, containing approximately 13,000-14,000 square feet, into two lots. He noted that the proposed subdivision meets all standards. Mr. Petersen reported that the Planning and Zoning Commission recommend approval of the plat as submitted.

Mayor Jenks noted the applicant has requested the Council consider approval of the proposed ordinance at this meeting.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3940: AN ORDINANCE APPROVING ROLLA PARK THIRD ADDITION, A MINOR SUBDIVISION, A REPLAT OF LOT 9, ROLLA PARK SECOND ADDITION LOCATED IN ROLLA, MISSOURI (LAHONTAN/WARREN DEAN). A motion was made by Jordan and seconded by Brown to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed eight ayes, zero nays, and four absent. Motion carried.

IV. NEW BUSINESS (continued)

(E) Request for Ordinance to Approve the Plat of Rolla Park Third Addition (Lahontan, LLC) (continued): 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; Morris, Williams, Brown, Magdits, Jordan, Barklage, Hicks, and Eudaly. Nays; None. Absent; Boeker, Spadoni, Hawley, and Walburg. Motion carried. The ordinance passed.

V. CLAIMS and/or FISCAL TRANSACTIONS

(A) Motion to Award the Bid for a Dump Truck Equipped with Snow Plow and Salt Spreader: Public Works Director Steve Hargis informed the Council that staff is requesting the purchase of one replacement dump truck, complete with a plow and salt spreader, from the State bidder, International Truck Corporation for \$132,238.26. He noted that the City would be lease/purchasing this truck.

After a brief discussion, a motion was made by Williams and seconded by Hicks to award the bid for a new dump truck, equipped with a plow and salt spreader, to International Truck Corporation (State bid) for \$132,238.26. A voice vote on the motion showed eight ayes, zero nays, and four absent. Motion carried.

(B) Motion for a Change Order on Project No. 244, FY 2009 Street Improvements: Public Works Director Steve Hargis explained that staff is requesting a change order totaling \$35,544.10 for some concrete work on Phase I of the FY 2009 Street Improvements. He noted that the original contract for this project was for \$122,156.78, which represents a 29% increase in the contract. Mr. Hargis said the major change order is for the replacement of drives and sidewalks on some existing concrete along Parkwood Drive and Lanning Lane. The drive and sidewalks were removed because they did not meet the current practice on handicapped accessibilities recently established by the Missouri Department of Transportation (MoDOT). Mr. Hargis also noted that another change involves replacing the existing curb and sidewalk next to Aldi's and Town and Country Bank on Lanning Lane. Following discussion, a motion was made by Williams and seconded by Brown to authorize the change orders totaling \$35,544.10 for concrete work on Project No. 244, FY 2009 Street Improvements, Phase I. A voice vote on the motion showed eight ayes, zero nays, and four absent. Motion carried.

V. CLAIMS and/or FISCAL TRANSACTIONS (continued)

(C) Motion to Award the HNTB Contract Amendment: Public Works Director Steve Hargis referred the Council to the proposed amendments to the HNTB Contract relating to the Rolla West project. The requested amendments are as follow: 1) Provide assistance in developing plans for the roundabout for the Bryant Drive extension and improvements to Kingshighway; 2) Coordinate with Burlington Northern Santa Fe Railroad in developing a final bridge design with the railroad in conjunction with the proposed extension of Bryant Drive, and; 3) Coordinate the design of the precast concrete bridge. Mr. Hargis informed the Council that the total not-to-exceed price for this phase is \$24,450. After some discussion, it was decided to delay action on this matter until the November 2, 2009, Council meeting so the Council could see an updated layout of the project and receive information regarding the Community Improvement District (CID).

(D) Motion to Award the Bid for the Purchase of Glock Handguns: In line with the Police Department's Equipment Replacement Schedule, Police Chief Mark Kearse asked the Council to consider the replacement of the Department's handguns. Staff is recommending that the bid be awarded to OMB Guns, the sole Glock authorized master distributor in Missouri, for \$19,570, less a trade-in value of \$285/weapon.

A motion was made by Morris and seconded by Hicks to authorize the purchase of 45 Glock .40 caliber handguns for \$19,570 less the trade-in value of \$285/weapon (net cost of \$8,740) to OMB Guns, and to authorize the surplus sale of department-owned weapons to Rolla Police Officers at the same trade-in value. A voice vote on the motion showed eight ayes, zero nays, and four absent. Motion carried.

VI. MAYOR/CITY COUNCIL COMMENTS

None.

VII. CITIZEN COMMUNICATION

(A) Open Citizen Communication: No one present addressed the Council.

VIII. COMMENTS FOR THE GOOD OF THE ORDER

(A) Deplorable Condition of Hillcrest Shopping Center: Councilman Hicks pointed out the unsafe, unhealthy, and deplorable conditions in the Hillcrest Shopping Center, the south end of the Auto Zone building, the former A&P Store, and the offices to the north. He said he believes it is time the Council looks at some means of addressing these problems.

City Administrator John Butz suggested that staff would bring back, at the next Council meeting, what would be involved to secure the building. He said this is required under the property maintenance code and the City can at least do that without condemning the property.

“Comments for the Good of the Order” continued following “Executive Session Action.”

IX. EXECUTIVE SESSION

A motion was made by Williams 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; Brown, Eudaly, Williams, Jordan, Hicks, Barklage, Magdits, and Morris. Nays; None. Absent; Hawley, Spadoni, Boeker, and Walburg. Motion carried.

The Council adjourned into Executive Session at approximately 8:29 p.m.

X. 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 Council was advised of a bid received on a parcel of surplus City property and the contingencies attached to the bid. By a vote of seven to one, the Council made a counter offer, which will be made public if a contract agreement is reached.

Additionally, Mr. Beger reported the Council was also apprised of a lack of interest in two other surplus parcels of property, which have been listed for sale. No action was taken to alter the listing on those parcels of property.

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

(B) EEZ Public Hearing: Mayor Jenks reminded everyone that an Enhanced Enterprise Zone (EEZ) Public Hearing would be conducted at the Phelps County Courthouse on Wednesday at 7 p.m. He encouraged everyone to attend because this is a very important meeting for the future of the county.

XI. ADJOURNMENT

Having no further business, the meeting adjourned at approximately 8:45 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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