

**ROLLA CITY COUNCIL MEETING MINUTES
TUESDAY, FEBRUARY 16, 2010
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, Stan Spadoni, Susan Eudaly, Don Morris, Lou Magdits, Jim Williams, and Mark Walburg

Council Members Absent: Don Barklage, Gary Hicks, Ken Boeker, and Donna Hawley

Department Directors in Attendance: Finance Director Steffanie Rogers, Public Works Director Steve Hargis, Police Chief Mark Kearse, Fire Chief Robert Williams, Environmental Services Director Brady Wilson, Parks and Recreation Director Ken Kwantes, 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 a member of the Rolla Ministerial Alliance to give the invocation.

Following the invocation, Councilman Monty Jordan 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 eight ayes, zero nays, and four absent. Motion carried.

The consent agenda consisted of the following:

(A) Acceptance of Part of Lot 38 Green Acres: City Administrator John Butz recalled that the Council offered \$500 to Mr. and Mrs. Edwin McDonald to purchase a portion of Lot 38 Green Acres, which is located across the creek adjacent to Green Acres Park. He reported to the Council that the McDonalds accepted the City's offer.

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II. PUBLIC HEARINGS

(A) Request to Rezone Lots 1,2,4,5,8 and Fractional Part of Lot 3, of Block 33, Bishops Addition and a Fractional Part of a Vacated Alley (801 North Park Street) from C-1 to R-3 (Sigma Phi Epsilon, Mo Gamma Chapter): Community Development Director John Petersen explained that the subject rezoning request would permit the reconstruction of the Sigma Phi Epsilon fraternity house. He told the Council that the rezoning is required because the fraternity intends to gut the current structure. Mr. Petersen added that this takes a legal/non-conforming use and makes it legal. He reported that the Planning and Zoning Commission's recommendation is to approve the requested rezoning. Mr. Petersen pointed out that the applicant has requested that the Council consider the first and final readings of the proposed ordinance at this meeting.

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

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3949: 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 LOTS, 1,2,4,5,8, AND A FRACTIONAL PART OF A VACATED ALLEY (801 N. PARK) FROM C-1 (NEIGHBORHOOD BUSINESS DISTRICT) ZONING TO R-3 (MULTI-FAMILY DISTRICT) ZONING (SIGMA PHI EPSILON). A motion was made by Williams and seconded by Eudaly to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed 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 then made by Williams and seconded by Spadoni to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Williams, Jordan, Spadoni, Walburg, Magdits, Eudaly, Morris, and Brown. Nays; None. Absent; Hawley, Hicks, Boeker, and Barklage. Motion carried. The ordinance passed.

III. ACKNOWLEDGMENTS AND SPECIAL PRESENTATIONS

(A) RC6 Semi-Annual Report: Mr. Gabe Mankin, Video Production Manager for Fidelity Communications, provided an overview of Rolla Channel 6's (RC6) finances for the period from January 1, 2009 through December 31, 2009. He told the Council that RC6 would be producing some public service announcements (PSAs) for Phelps

III. ACKNOWLEDGMENTS AND SPECIAL PRESENTATIONS (continued)

(A) RC6 Semi-Annual Report (continued): County Regional Medical Center (P.C.R.M.C.) and they will be aired within the next few weeks. Mr. Mankin noted that PCRMC has recently joined RC6 as a fully funded participating member. However, they would not become a full partner until May 2011. Mr. Mankin also expressed his appreciation for the the support he has received from students who have volunteered their time at RC6. Following his presentation, Mr. Mankin entertained questions from the Council.

(B) Rolla Municipal Utilities 2010 Fiscal Year First Quarter Report: Rolla Municipal Utilities (RMU) General Manager Rodney Bourne provided an overview RMU's fiscal year 2010 First Quarter Report. He pointed out that a complete copy of the report is available on the RMU website at www.rollamunicipalutilities.org. Mr. Bourne entertained questions from the Council following his presentation.

IV. OLD BUSINESS

(A) Request for Ordinance for a Smoke Free Workplace: City Administrator John Butz recalled that at its last meeting, the Council approved a motion to draft the proposed smoke-free workplace ordinance applicable to the city of Rolla. He pointed out that no modifications have been made to the wording in the sample ordinance. Mr. Butz explained that there is no statutory requirement as to how the Council should proceed with this issue. He informed the Council that they could opt to pass an ordinance, call for a non-binding referendum, conduct a public hearing, or form a committee to look into the specific wording in the draft ordinance. Mr. Butz added that if the Council chooses to place the non-binding referendum on the ballot, it could cost the City as little as \$1,500 to \$2,000, if the City has another issue on the ballot, and; to as much as \$22,000 as a stand-alone City issue.

During the discussion that followed, the following areas of concern within the ordinance were noted: (1) Sec. 12 (D).- the Fire Department as enforcing agency; (2) should the ordinance apply to private clubs; (3) concern with the 20 feet outdoor restrictions; (4) Sec. 4A - consider a designated, enclosed space for smokers, even if detached from primary business building; (5) Sec. 8B – allowing additional smoking rooms when hotel/motel is expanded; (6) Sec. 13E – specify what nuisance abatement consists of for removing smoke from business; (7) Sec. 14 – does City have ability to dictate to Health Department; (8) Sec. 17, “liberally construed” is ambiguous, and; (9) Sec. 8A-What if the residence houses a business and what about someone who cleans homes.

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IV. OLD BUSINESS (continued)

(A) Request for Ordinance for a Smoke Free Workplace (continued): After a lengthy dialogue, Mayor Jenks suggested postponing the first reading of the ordinance until more Council members are able to attend. He pointed out that it would take seven votes in favor of the proposed ordinance for it to pass. No objections were noted.

City Administrator John Butz suggested that when the full Council is present, each of the concerns that were noted could be separately considered or a committee could be formed to discuss the concerns.

A motion was made by Williams and seconded by Walburg that the Council's intent is to revise the proposed ordinance and then present it to the voters in the form a non-binding referendum. A hand count on the motion showed four ayes, four nays, and four absent. Mayor Jenks voted in favor of the motion. Motion carried.

City Administrator John Butz said that the specific concerns addressed about the proposed ordinance would be identified and submitted to the Council for consideration at their March 1, 2010 meeting.

V. NEW BUSINESS

(A) Motion to Consider the Renewal of the Billboard Lease with Lamar Advertising Company: City Administrator John Butz informed the Council that the City has had a lease with Lamar Advertising Company since 2002 for the two billboards located off the eastbound ramp to Interstate 44. The current lease has a \$1,500 per year lease payment. Due to the economy and the location of the billboards, Lamar indicated they have not been generating much in the way of revenue. Mr. Butz stated that Lamar has proposed that the lease be amended to 20% of the annual revenue, which would be a minimum of \$750. As Lamar's revenue base increases, the \$750 would be increased. After some discussion, a motion was made by Morris and seconded by Jordan to extend the lease with Lamar Advertising Company. Following additional discussion, a hand count on the motion showed one aye, seven nays, and four absent. Motion failed.

(B) Motion to Renew the Sharp Road Property Listing with Investment Realty: City Administrator John Butz noted that the City began listing what is known as the Sharp Road property in 2006 and the Council authorized renewal of the listing in February 2009. He told the Council that the current renewal expires at the end of February 2010

V. NEW BUSINESS (continued)

(B) Motion to Renew the Sharp Road Property Listing with Investment Realty (continued): and staff is recommending a one-year extension to the listing at the current listing price of \$1.5 million. A motion was made by Williams and seconded by Spadoni to renew the Sharp Road property listing with Investment Realty. A voice vote on the motion showed eight ayes, zero nays, and four absent. Motion carried.

(C) Reconsideration of Ordinance to Rezone Southeast Corner of Lions Club Drive and Rolla Street from R-R to R-3 (Woessner/Eppelsheimer): City Administrator John Butz pointed out that it requires at least seven yes votes from the Council to pass an ordinance. He recalled that the proposed ordinance to rezone the property located at the southeast corner of Lions Club Drive and Rolla Street failed at the Council's last meeting by a vote of six ayes and two nays. After that vote, Mr. Butz stated that Councilman Magdits asked if it was possible to reconsider the ordinance and he was given an incorrect response. Mr. Butz indicated that during the meeting, the Council could have reconsidered its vote as long as someone on the prevailing side made such a motion and Councilman Magdits had proposed to do that. He added that Roberts Rules of Order allows for the correcting of a mistake, if the Council considers it a mistake, at the following meeting.

A motion was made by Eudaly and seconded by Magdits to rescind the action taken by the Council at its last meeting regarding this matter. A hand count on the motion showed seven ayes, one nay, and four absent. Motion carried.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3950: 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 1301-1311 SOUTH ROLLA STREET (SOUTHWEST CORNER OF LIONS CLUB DRIVE AND ROLLA STREET FROM R-R (RURAL RESIDENTIAL ZONING) TO R-3 (MULTI-FAMILY DISTRICT) ZONING (WOESSNER/EPPELSHEIMER). A motion was made by Brown and seconded by Spadoni to suspend the rules and that the ordinance be read for its final reading, by title. A hand count on the motion showed five ayes, three 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 Jordan and seconded by Eudaly to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Walburg, Spadoni, Brown, Eudaly, Magdits, Jordan, and Morris. Nays; Williams. Absent; Boeker, Barklage, Hicks, and Hawley. Motion carried. The ordinance passed.

V. NEW BUSINESS (continued)

(D) Request for Ordinance to Consider the “Show Me Green Sales Tax Holiday”:

City Administrator John Butz recalled that in 2009 the Council opted in to the “Show Me Green Sales Tax Holiday,” which applies a 2.5% abatement of the City sales tax for energy star label appliances. He told the Council that it is difficult to determine the true impact of the abatement on the City’s budget. Mr. Butz added that he spoke with representatives from Sears and Lowes and they were pleased with the increase in sales activity for that week in 2009.

City Counselor John Beger read the following proposed ordinance for one reading, by title. ORDINANCE NO. 3951: AN ORDINANCE ALLOWING THE “2010 SHOW ME GREEN SALES TAX HOLIDAY” TO APPLY TO THE LOCAL SALES TAXES OF THE CITY OF ROLLA, MISSOURI BETWEEN APRIL 19, 2010, AND APRIL 25, 2010. A motion was made by Spadoni and seconded by Eudaly to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed 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 Eudaly to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Brown, Spadoni, Walburg, Eudaly, Jordan, Morris, and Williams. Nays; Magdits. Absent; Hicks, Hawley, Boeker, and Barklage. Motion carried. The ordinance passed.

(E) Request for Ordinance to Approve the Subdivision Plat of Blue’s Lake Plat No. 8 (Dietzmann):

Community Development Director John Petersen explained that this is a continuing process the City has with the developer of the Blue’s Lake subdivision. He explained that every time the developer wishes to construct a new building he must split off a lot to allow it to happen. Mr. Petersen advised that all standards have been met and all easements have been provided. Additionally, storm water obligations have been met. Mr. Petersen reported that the Planning and Zoning Commission recommend approval of the subject plat.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3952: AN ORDINANCE APPROVING BLUE’S LAKE PLAT NO. 8, A SUBDIVISION IN ROLLA, MISSOURI (DIETZMANN). A motion was made by Eudaly 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

V. NEW BUSINESS (continued)

(E) Request for Ordinance to Approve the Subdivision Plat of Blue's Lake Plat No. 8 (Dietzmann) (continued): ordinance for its final reading, by title. A motion was made by Williams and seconded by Spadoni to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Eudaly, Spadoni, Brown, Jordan, Morris, Walburg, Williams, and Magdits. Nays; None. Absent; Barklage, Hicks, Hawley, and Boeker. Motion carried. The ordinance passed.

VI. CLAIMS and/or FISCAL TRANSACTIONS

None.

VII. MAYOR/CITY COUNCIL COMMENTS

(A) Appointment of Robin K. Bunch to the Board of Adjustment: Mayor Jenks requested the appointment of Ms. Robin K. Bunch to the Board of Adjustment to complete the unexpired term of Mr. David McKee. Ms. Bunch's term would expire in July 2014. A motion was made by Brown and seconded by Spadoni to appoint Ms. Robin K. Bunch to the Board of Adjustment to complete the unexpired term of Mr. David McKee.

Councilman Brown suggested the appointment of an additional alternate to the Board of Adjustment, because the Board's last meeting was cancelled due to the lack of a quorum.

City Administrator Butz indicated that two alternates have been appointed, but staff would look at finding a third.

A voice vote on the motion showed eight ayes, zero nays, and four absent. Motion carried.

VIII. CITIZEN COMMUNICATION

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

VIII. CITIZEN COMMUNICATION (continued)

(A) Open Citizen Communication (continued):

(1) Dr. Tom Sager, 8 Laird Avenue, showed the Council pictures of a smoke hazard that exists in Rolla every June. He noted that a burnout contest is held during Summerfest where people spin tires for fun. To his knowledge, no business is involved in this activity. Dr. Sager said that if this were banned, no one's livelihood would be affected. He stressed that this is a serious health hazard and can be easily improved. He asked that in addition to considering banning cigarette smoking that the Council consider banning tire burnout contests within 330 yards of any dwelling and that people be advised that this is not a good thing for young children or people who are suffering from asthma or other respiratory problems.

(2) Mr. Bob McLaughlin, 2201 Vichy Road, suggested having all businesses erect a 3' x 2' sign stating whether they allow smoking and the people can vote with their wallet before entering the building. This, he said, would eliminate the need for a smoking ordinance.

Mr. McLaughlin asked the Council why there is no real tourist information about Rolla. He said Rolla has a civil war, pioneer, Native American, and a Route 66 history, but there are no tourist traps to attract people to Rolla. Mr. McLaughlin said people travelling Interstate 44 and Highway 63 have no reason to stop in Rolla, except to sleep. He asked if something could be done to make Rolla more of a tourist attraction.

Mayor Jenks responded that this should be addressed to the Rolla Area Chamber of Commerce, which is responsible for tourism. He reported that he attended a meeting last week involving Route 66 from Chicago to California. Mayor Jenks indicated there are some federal dollars involved and he feels this will probably develop into what Mr. McLaughlin is suggesting. He told Mr. McLaughlin that the City would pass on his suggestion to the Chamber.

IX. COMMENTS FOR THE GOOD OF THE ORDER

(A) Hillcrest Shopping Center: Councilman Morris asked if it has been determined whether there is anything the City can do regarding the condition of the former Hillcrest Shopping Center building.

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

(A) Hillcrest Shopping Center: City Administrator John Butz reported that staff is looking into the legalities of a process called an administrative search, which allows the City to go in, investigate, and abate more serious types of nuisances.

X. EXECUTIVE SESSION

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

The Council adjourned into Executive Session at approximately 8:21 p.m.

XI. EXECUTIVE SESSION ACTION

The Council reconvened into open session at approximately 8:49 p.m.

City Counselor John Beger reported that during Executive Session the Council was advised on a matter of potential litigation. No action was taken by the Council at this time.

XII. ADJOURNMENT

Having no further business, the meeting adjourned at approximately 8:50 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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