

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, MARCH 1, 2010
ROLLA CITY HALL COUNCIL CHAMBERS
901 NORTH ELM STREET
6:30 P.M.**

Presiding: Mayor William S. Jenks, III

Council Members in Attendance: Monty Jordan, Stan Spadoni, Susan Eudaly, Don Morris, Lou Magdits, Jim Williams, and Mark Walburg

Council Members Absent: Don Brown, 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, Environmental Services Director Brady Wilson, Recreation Center Director Scott Caron, 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, Rolla Fire and Rescue Training Officer Ron Smith, 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 Stan Spadoni 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 seven ayes, zero nays, and five absent. Motion carried.

The consent agenda consisted of the following:

(A) Approval of the City Council Minutes for the following:

- February 1, 2010, City Council Meeting
- February 1, 2010, City Council Executive Session Meeting
- February 8, 2010, Special Rolla City Council Workshop Meeting
- February 16 2010, City Council Meeting
- February 16, 2010, City Council Executive Session Meeting

MARCH 1, 2010

**CITY COUNCIL MEETING MINUTES
MARCH 1, 2010
PAGE 2**

II. PUBLIC HEARINGS

None.

III. ACKNOWLEDGMENTS AND SPECIAL PRESENTATIONS

(A) Denny LaBantschnig Proclamation: By proclamation, Mayor Jenks recognized Mr. Denny LaBantschnig, owner and president of Denny Ford Lincoln Mercury, for his efforts in coordinating for the past 19 years, the highly successful and community, supported Fill-A-Ford for the Holidays community food drive. This food drive greatly benefits area food banks, charitable organizations, and churches who help those in need. The proclamation stated that during the 2009 Fill-A-Ford food drive, over 48 trucks, the most ever, were filled with food and distributed to 24 area food pantries where hundreds of individuals were provided with nourishing food supplies for the winter months and beyond. Mayor Jenks concluded by stating that he has proclaimed Monday, March 1, 2010, as “Denny LaBantschnig Day” in Rolla, Missouri. Mayor Jenks then officially presented the proclamation to Mr. LaBantschnig.

Mr. LaBantschnig then took to the podium and informed the Council that presently 23% of Missourians go to bed hungry every night and most of them are children and the elderly. He stressed that there has never been a greater need than right now for food pantries. Mr. LaBantschnig said he stands very humbled by this proclamation and is sincerely grateful for the thoughts and prayers. He emphasized that this is not all about him, rather the food pantries and the hundreds of people that have contributed their time and efforts so generously to make sure the goal is reached.

Mayor Jenks requested that Item III. C. be considered before Item III. B.

(C) City of Rolla Audit Report: Mr. Andy Marmouget, partner with Davis, Lynn and Moots, CPAs, reported that his firm has completed the audit of the City’s financial statements for the year ended September 30, 2009. He provided the Council with an overview of the audit report and management letter. Mr. Marmouget referred the Council to the footnote, located on Page 58 of the audit report that describes the relationship between RMU (Rolla Municipal Utilities) and MoPEP (Missouri Public Energy Pool). He mentioned that a question surfaced during the audit whether the assets and liabilities of MoPEP should be included with RMU’s financial statements. Mr. Marmouget

MARCH 1, 2010

III. ACKNOWLEDGMENTS AND SPECIAL PRESENTATIONS (continued)

(C) City of Rolla Audit Report (continued): explained that under the accounting rules if there is a joint venture between governments, the assets and liabilities of that organization would go on that entity's financial statements, if they have a legal right to those assets and liabilities. After review of the contract between MoPEP and RMU, Mr. Marmouget said the determination was reached that the contract with MoPEP is a long-term contract for the purchase of power. It does not give RMU the right to the assets or an obligation to the liabilities. Therefore, those assets and liabilities are not included in RMU's financial statements in accordance with the accounting rules.

Regarding the auditors' recommendation letter to management, Mr. Marmouget noted that the sole recommendation pertained to the Depreciation and Replacement Reserve Account. He informed the Council that the State Revolving Loan Fund (SRF) requires the City to set up a depreciation and replacement reserve account and to fund it for the SRF improvements. Mr. Marmouget stated that the auditors' recommendation is that the account be set up and funded. To date, the reserve account should contain approximately \$500,000.

City Administrator Butz explained the rule has been in effect as long as the City has been a participant in the SRF. It is the Department of Natural Resources (DNR) staff's opinion that as long as the City is investing dollars into maintaining its system, DNR was not concerned about this condition. Mr. Butz noted that the State Auditor advised City staff that it is a requirement of the SRF financing. With the State Auditor's response, the City agreed to build up the reserve sufficient to meet the reserve requirement. Mr. Butz reported that the City presently has about \$361,000 in cash in the account. The account dropping below \$500,000 is what triggered that the City did not have the required reserve amount.

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

Councilman Williams announced that a junior bowling event would be coming to Rolla this year. He noted that there would probably be at least 350 teams of junior bowlers and the event would be held during seven or eight weekends.

Councilwoman Eudaly reported that the American Solar Challenge would be coming to Rolla on June 23.

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

Mayor Jenks referred the Council to (A) the Preliminary Minutes of the February 9, 2010, Planning and Zoning Commission Meeting; (B) the January 2010, City's Cash Position and Expenditure Report; (C) the January 2010, Rolla Municipal Court Report; (D) the January 26, 2010, Development Review Committee Meeting Minutes; (E) the January 20, 2010, Rolla Health & Recreation Center Advisory Committee Meeting Minutes; (F) the Centre FY 2010 Financial Analysis, and; (G) the January 6, and January 27, 2010, Parks and Recreation Sales Tax Ad Hoc Committee Meeting Minutes.

V. OLD BUSINESS

(A) Discussion Regarding a Possible Ordinance for a "Smoke Free Workplace":

City Administrator John Butz explained that during its last meeting, the Council reviewed the draft ordinance prepared by SAFERolla. At that meeting, the Council voiced about ten areas of concern with the proposed ordinance. Mr. Butz outlined the specific areas of concern as listed in the agenda materials.

Mayor Jenks reported that the County has informed the City that the cost of doing its real estate appraisals would increase to 3%. He pointed out that this expense was not budgeted and the additional cost to the City will be about \$30,000. Since it is estimated to cost the City between \$8,000 and \$9,000 to place the smoking issue on the ballot, Mayor Jenks said he does not personally feel the City can afford to place it on the ballot in the current budget year.

After Council discussion, City Administrator John Butz reported that of the calls his office is receiving about this matter, he is being asked when citizens would be given an opportunity to speak to the issue. At this point, Mr. Butz told them they could speak to the Council during the Citizen Comment portion at the end of the meeting. He said this seems to deter them from wanting to come to the meetings and talk at the back end after the Council discussion has taken place. Mr. Butz added that one of the messages he is hearing, is to not rush the process and give the citizens a forum to speak.

Following Council discussion, the Council decided to consider separately each of the ten concerns mentioned during the last Council meeting.

CITY COUNCIL MEETING MINUTES
MARCH 1, 2010
PAGE 5

V. OLD BUSINESS (continued)

(A) Discussion Regarding a Possible Ordinance for a “Smoke Free Workplace” (continued): A motion was made by Morris and seconded by Eudaly to accept the exception to Section 4(A) of the proposed ordinance, which would allow businesses to have a detached smoking area. A voice vote on the motion showed six ayes, one nay, and five absent. Motion carried.

A motion was made by Magdits and seconded by Eudaly that Section 5, pertaining to the prohibition of smoking in private clubs, be excluded to the extent the workers are paid. A voice vote on the motion showed five ayes, two nays, and five absent. Motion carried.

Regarding Section 7, a motion was made by Magdits and seconded by Eudaly to allow outdoor smoking. A voice vote on the motion showed six ayes, one nay, and five absent. Motion carried.

City Administrator John Butz indicated that he felt that Section 8(A), pertaining to a residence that houses a business or has a hired employee, is already addressed in the draft ordinance. He said the wording might need to be tightened, but it is not intended under the draft ordinance that if you were to hire a babysitter, etc., you would somehow be in violation of the ordinance. He pointed out that residences are exempted from that enforcement. Mr. Butz said that staff would double check the wording and make it clear that it does not apply in those cases. The Council took no action on this item.

Regarding Section 8(B), City Administrator Butz explained that the ordinance is saying no more than 20% of the hotel rooms could be smoking rooms. For example, if the hotel were to construct an additional 40 rooms, only eight of those rooms could be smoking rooms. Mr. Butz said it is not limited to the existing body of rooms. If more rooms are added, the 20% rule still applies. The Council took no action on this item.

City Administrator Butz pointed out that Section 12(D) stipulates that the Health Department would be the enforcing agency. If the Fire Department witnesses a violation during a safety inspection, they would be responsible for notifying the Health Department, who would enforce the ordinance. After some discussion, a motion was made by Morris and seconded by Eudaly to not make any changes to Section 12(D). A voice vote on the motion showed five ayes, two nays, and five absent. Motion carried.

V. OLD BUSINESS (continued)

(A) Discussion Regarding a Possible Ordinance for a “Smoke Free Workplace” (continued): Regarding Section 13(E), City Administrator Butz indicated that the abatement of smoke would be handled like other nuisance abatements from an unsafe condition. To declare a nuisance, a public hearing before the City Council would be held to determine whether there is a health violation that would require sanitizing and cleaning of the building.

Phelps/Maries County Health Department Director Jodi Waltman addressed the Council and relayed that when a violation is found during a routine inspection or if a complaint is received by the Columbia/Boone County Health Department, counseling would be done with the business owner and a follow up inspection would be conducted. If the follow up inspection indicates non-compliance, the non-compliance would be reported to the city administrator to determine if a public hearing should be conducted.

Mr. Butz added that, at that point, the business license could be pulled for non-compliance.

After some Council discussion, the consensus of the Council was not to change Section 13(E).

Pertaining to Section 14, with regard to the City’s ability to dictate to the Health Department, Mr. Butz indicated the City has received confirmation that the Phelps County Commissioners have supported this, much like the food codes. Should the City want to charge fees to compensate, a contract would be needed.

City Counselor John Beger was asked to define the wording “liberally construed,” as contained in Section 17 of the ordinance and as it pertains to implementation and enforcement of the proposed ordinance.

Mr. Beger responded that it is going to mean whatever the court says it means. He added that it is the sense of the Council that it should be broadly applied to prohibit smoking wherever possible as defined by the ordinance.

After some dialogue, a motion was made by Magdits and seconded by Eudaly to remove Section 17 from the ordinance. A voice vote on the motion showed six ayes, one nay, and five absent. Motion carried.

V. OLD BUSINESS (continued)

(A) Discussion Regarding a Possible Ordinance for a “Smoke Free Workplace” (continued): Following a lengthy discussion on whether to consider any exceptions to Section 3 of the proposed ordinance, pertaining to prohibition of smoking in enclosed public places, the Council decided to defer consideration until after a presentation has been made by some of the business establishments.

Councilman Jordan suggested that a public hearing pertaining to the proposed ordinance be scheduled for the Council’s next meeting.

Councilman Magdits recommended that the revisions to the ordinance be made available to the public before public comment is heard.

VI. NEW BUSINESS

(A) Discussion Regarding the Agricultural Lease Renewal at the Rolla National Airport: City Administrator John Butz explained that the City has about 900 acres it leases agriculturally at the Rolla National Airport to Mr. Russ Adams. He noted that Mr. Adams has been leasing this property from the City since about 1995. Mr. Butz explained that the term of the lease has been for five years with five-year extensions. This month, the five-year lease will end and there is a provision in the lease that allows Mr. Adams to exercise an additional five years. Mr. Butz referred the Council to a letter from Mr. Adams, wherein he exercises the five-year option. This extension provides for an additional \$1,000 lease payment per year for a total of \$15,470 annually. Mr. Butz explained that during the lease renewals, Mr. Adams would request an additional five-year extension. However, the City is getting to the point where it needs to find out what the market is. Mr. Butz suggested that in about three years, the City bid the lease for another five, ten, or fifteen years. He explained that no action is necessary at this meeting and Mr. Adams’ lease will be extended for an additional five years for \$16,470. Mr. Butz added that the Council could grant another five-year option, which would require a new lease that would be prepared and brought back to the Council. This proposal is what Mr. Adams is requesting, and he has proposed increasing that amount another \$1,000 per year during that term for \$17,470 a year.

Mr. Russ Adams, lessee, addressed the Council and told them that he has had the agricultural lease since 1995. He indicated that he has made several improvements, spent a lot of money on fertilizer, and would like to continue to do so. Mr. Adams told the

**CITY COUNCIL MEETING MINUTES
MARCH 1, 2010
PAGE 8**

VI. NEW BUSINESS (continued)

(A) Discussion Regarding the Agricultural Lease Renewal at the Rolla National Airport (continued): Council that he notified Mr. Butz that he would like to exercise the option for another five years. Additionally, he requested that the Council grant him another option to renew for another five years. Mr. Adams stated that he feels his payments have been reasonable.

Following discussion, a motion was made by Morris and seconded by Spadoni to direct staff to draft a lease giving Mr. Adams an additional five-year option through 2020 for \$17,470. After additional discussion, a voice vote on the motion showed four ayes, three nays, and five absent. Motion carried.

(B) Resolution to Endorse the Phelps County Emergency Dispatch Sales Tax: City Administrator John Butz informed the Council that one important issue on the April 6, 2010, election ballot is the tax proposed by the Phelps County Commission that, in essence, would replace the County's 15% landline surcharge that has been paying for 911 and countywide dispatch services since 1993. Mr. Butz told the Council that the tax revenues have decreased due to the increase in cell phones and the reduction in the number of landlines. He noted that cell phone users do not pay anything toward the operation and support of the 911 Dispatch Center. Mr. Butz reported that the City of Rolla pays about \$300,000 a year for its own dispatch services, not including 911. The task force that was appointed to study this issue decided to replace the landline surcharge with a ¼-cent sales tax, which would apply to every purchase that is made, whether from a local resident or the travelling public. Mr. Butz referred the Council to the proposed resolution that would support the ¼-cent sales tax.

Following some discussion, City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1709: A RESOLUTION ENDORSING THE PHELPS COUNTY EMERGENCY DISPATCH SALES TAX ("PROPOSITION 911") ISSUE ON THE APRIL 6, 2010 ELECTION. A motion was made by Williams and seconded by Morris to approve the proposed resolution. A voice vote on the motion showed seven ayes, zero nays, and five absent. Motion carried. The resolution passed.

VII. CLAIMS and/or FISCAL TRANSACTIONS

(A) Motion to Accept Fiscal Year 2009 Independent Audit: As addressed earlier in the meeting by Mr. Andy Marmouget, the City's independent auditor, Finance Director

MARCH 1, 2010

VII. CLAIMS and/or FISCAL TRANSACTIONS (continued)

(A) Motion to Accept Fiscal Year 2009 Independent Audit (continued): Steffanie Rogers reiterated that there was one finding in the FY 2009 financial audit. The finding pertained to the depreciation and replacement reserves. Ms. Rogers stated that the proposal is to consider sewer fee increases over the next two years to offset the requirement from the Department of Natural (DNR) revolving loan. Ms. Rogers asked the Council to consider accepting the FY 2009 independent audit.

A motion was made by Morris and seconded by Eudaly to accept the Fiscal Year 2009 Independent Audit. A voice vote on the motion showed seven ayes, zero nays, and five absent. Motion carried.

City Administrator Butz added that staff plans to discuss the City's recommendation with DNR to be sure they are comfortable with the City taking two years to phase in the funds. As an option to eliminate the audit finding, the Council could transfer a portion of the capital improvement sales tax into this account. Mr. Butz said staff is not recommending this, but that this would be the only way the audit finding could be immediately satisfied until the reserves are built back up by the sewer fee increases over the next two years.

(B) Motion to Award the Bid for One (1) 36 HP All-Wheel Drive Diesel Tractor with 72-inch Mower Deck: Parks and Recreation Director Ken Kwantes recalled that in January 2010, staff recommended the Council delay the purchase of the diesel tractor due to budget concerns. Since the sales tax revenue has increased, Mr. Kwantes stated that staff recommends the purchase of one Kubota F-3680 diesel tractor with 72 inch mower deck from Schaeperkoetter Sales & Service for \$15,994.67. A motion was made by Jordan and seconded by Eudaly to award the bid for one Kubota F-3680-2010, 36 horsepower, all-wheel drive diesel tractor with 72-inch mower deck to Schaeperkoetter Sales & Service, Sterling, Missouri for \$15,994.67. A voice vote on the motion showed seven ayes, zero nays, and five absent. Motion carried.

(C) Motion to Award the Bid for a 2010 Zero Turning Radius Diesel Mower with a 60-inch Mower Deck: Parks and Recreation Director Ken Kwantes noted that the purchase of a zero turning radius diesel mower was also postponed due to budget concerns. Mr. Kwantes stated that staff is now recommending that the bid be awarded to Schaeperkoetter Sales & Service for \$11,658.33. A motion was made by Morris and seconded by Jordan to award the bid for one 2010 Kubota ZD326S from the low bidder, Schaeperkoetter Sales & Service, Sterling, Missouri for \$11,658.33. A motion was made

VII. CLAIMS and/or FISCAL TRANSACTIONS (continued)

(C) Motion to Award the Bid for a 2010 Zero Turning Radius Diesel Mower with a 60-inch Mower Deck (continued): by Morris and seconded by Jordan to award the bid for one 2010 Kubota ZD326S from the low bidder, Schaeperkoetter Sales & Service, Sterling, Missouri for \$11,658.33. A voice vote on the motion showed seven ayes, zero nays, and five absent. Motion carried.

City Administrator Butz pointed out that by scaling back to one large and one small mower, the City is saving about \$5,000.

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, stated that he was listening with interest to the Council's discussion pertaining to smoking. He relayed that he was in line with his grandson at the SplashZone and someone in front of him lit up a cigarette as well as someone behind him. Dr. Sager told the Council that he suggested his grandson leave the line and go play so he did not have to breathe the smoke. Dr. Sager encouraged the Council to consider not allowing smoking in the portion of the proposed ordinance pertaining to service lines.

As an addendum to the Chamber report heard earlier in the meeting, Dr. Sager mentioned that there is a new restaurant in Rolla called Napoli's. He indicated that it is an excellent restaurant and encouraged everyone to try it.

Mr. Michael Greenly, 1210 North Oak Street, told the Council that he owns the Grotto, which is a bar located in downtown Rolla that primarily caters to Missouri S&T students. He mentioned that he has spoken with the owners of the other establishments in Rolla, which would be classified as a bar, regarding the proposed smoking ordinance. Mr. Greenly said he feels comfortable in saying that he represents the bar industry in his statement tonight. He stated that the bar owners are united in their fear that a smoking ban would have a negative impact on their businesses. Mr. Greenly respectfully requested that the proposed ordinance be written to exempt bars from the prohibited areas. He mentioned that the four businesses that would be affected are the Grotto, TJ's, the Locker Room, and Bruno's.

No one else present addressed the Council.

IX. MAYOR/CITY COUNCIL COMMENTS

(A) Appointment of Mr. Jack Morris to the Planning and Zoning Commission to fill the Unexpired Term of Mr. Carl Pietsch (June 2010) and to Appoint Mr. Morris to a Four-year Term beginning June 2010 – June 2014: A motion was made by Spadoni and seconded by Eudaly to to appoint Mr. Jack Morris to the Planning and Zoning Commission to complete the unexpired term of Mr. Carl Pietsch and to reappoint Mr. Morris to a four-year term on the Planning and Zoning Commission beginning June 2010. A voice vote on the motion showed seven ayes, zero nays, and five absent. Motion carried.

(B) Discussion Regarding Possible Council Presentations from Community Partners: Mayor Jenks remarked that Councilman Don Morris has suggested the need to promote the positive entities that serve the Rolla community. Mayor Jenks stated that he agrees with Mr. Morris and, with the Council's permission, Mayor Jenks said he would like to ask these entities to give presentations about what they provide. Mayor Jenks suggested hearing from such entities as the Phelps County Regional Medical Center (PCRMC), the United States Geological Survey (USGS), the Department of Natural Resources (DNR), the U.S. Forest Service, and the Lions Club.

Councilman Morris added that anytime the Council has an opportunity to let the Rolla citizens know more about something that is positive in our community, the Council needs to do it. He relayed that he got this idea while visiting with a friend who works at PCRMC. Mr. Morris said there are many places in Rolla that give this community great value.

Since no Council opposition was noted, Mayor Jenks indicated that staff would proceed with contacting these entities for presentations.

X. COMMENTS FOR THE GOOD OF THE ORDER

None.

XI. EXECUTIVE SESSION

None.

**CITY COUNCIL MEETING MINUTES
MARCH 1, 2010
PAGE 12**

XII. ADJOURNMENT

Having no further business, the meeting adjourned at approximately 8:58 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

MARCH 1, 2010