

**ROLLA CITY COUNCIL MEETING MINUTES  
MONDAY, JUNE 7, 2010; 6:30 P.M.  
ROLLA CITY HALL COUNCIL CHAMBERS  
901 NORTH ELM STREET**

**Presiding:** Mayor William S. Jenks, III

**Council Members in Attendance:** Don Brown, Monty Jordan, Don Barklage, Stan Spadoni, Geoffrey Horning, Gary Hicks, Don Morris, Lou Magdits, Jim Williams, Ken Boeker, Tony Bahr, and Mark Walburg

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

**I. CONSENT AGENDA**

A motion was made by Williams and seconded by Spadoni to approve the minutes of the previous meetings, as submitted. A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

The consent agenda consisted of the following:

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

- May 3, 2010, Rolla City Council Meeting
- May 3, 2010, Rolla City Council Executive Session Meeting
- May 17, 2010, Rolla City Council Meeting

**(B) Motion to Approve Storm Water Easements for Bryant Drive Area:** A motion was made by Hicks and seconded by Morris to approve the storm sewer easement with William Jonathan Delano, III, for the Bryant Drive Area. A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

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**II. PUBLIC HEARINGS**

None.

**III. ACKNOWLEDGMENTS AND SPECIAL PRESENTATIONS**

**(A) Introduction of RREC Executive Director Ms. Cyndra Lorey:** Rolla Regional Economic Director Cyndra Lorey addressed the Council and said that she looks forward to her future with Rolla and doing the best she can as far as developing the economy and strongly focusing on existing businesses, which is the key to growth. Ms. Lorey said it is always important to look to the future to bring new and exciting companies to the community. She indicated that she looks forward to doing this with a targeted focus approach to the right type of companies that we all agree upon as the type of companies that will help Rolla grow; always keeping in mind that we want to maintain the uniqueness that makes Rolla what it is today.

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

Mayor Jenks referred the Council to **(A)** the May 11, 2010, Preliminary Minutes of the Planning and Zoning Commission Meeting; **(B)** the April 30, 2010, City's Cash Position and Expenditure Report; **(C)** the April 2010 Rolla Municipal Court Report; **(D)** the April 27, 2010, Development Review Committee Meeting Minutes; **(E)** the April 21, 2010, Rolla Health & Recreation Center Advisory Committee Meeting Minutes, and; **(F)** The Centre FY 2010 Financial Analysis.

**V. OLD BUSINESS**

**(A) Ordinance to Annex a One Acre Tract South of and Adjoining Martin Springs Drive and Zone the Property to C-3 Zoning (Dietzmann):** Community Development Director John Petersen recalled that during the Council's last meeting it was noted that this is an area that is strongly commercial and tends toward hospitality. He pointed out that the owner/developer of the subject property is erecting a structure that is going to be targeted as more of a commercial office building. Mr. Petersen told the Council that the entire tract consists of approximately one acre. He reported that the Planning and Zoning Commission recommend approval of the proposed annexation and zoning to C-3 (Highway Commercial District) as requested by the applicant.

**V. OLD BUSINESS (continued)**

**(A) Ordinance to Annex a One Acre Tract South of and Adjoining Martin Springs Drive and Zone the Property to C-3 Zoning (Dietzmann) (continued):** City Counselor John Beger read the following proposed ordinance for its final reading, by title. ORDINANCE NO. 3957: AN ORDINANCE TO ANNEX A ONE ACRE TRACT SOUTH OF AND ADJOINING MARTIN SPRINGS DRIVE AND WEST OF BLUES LAKE PARKWAY (1811 MARTIN SPRINGS DRIVE) INTO THE CITY PURSUANT TO THE PROVISIONS OF SECTION 71.012 RSMo., AND ZONE THE PROPERTY TO C-3 (HIGHWAY COMMERCIAL DISTRICT) ZONING (DIETZMANN). 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; Walburg, Boeker, Spadoni, Williams, Brown, Horning, Magdits, Jordan, Morris, Barklage, Hicks, and Bahr. Nays; None. Absent; None. Motion carried. The ordinance passed.

**VI. NEW BUSINESS**

**(A) Discussion Regarding the City of Rolla Dangerous Animal Ordinance:** Police Chief Kearse recalled that the Council recently requested a review of the current dangerous animal ordinance due to a recent incident involving a pit bull dog that attacked another dog, which was on a leash. Since the pit bull dog did not kill the other dog, Chief Kearse stated, according to City Code, it could not be deemed “dangerous”. Chief Kearse suggested that Section 5-79(b), of the City Code, pertaining to definitions of dangerous animals, be amended to read “Any animal which has inflicted severe or fatal injury to a domestic animal, livestock or poultry without provocation while outside the owner’s property.”

In addition to the proposed amendment to Section 5-79(b) of the Code, Chief Kearse indicated the Council might want to consider the following options: (1) Complete ban on Pit Bull type dogs; (2) Enforcement of a spaying and neutering program, and; (3) Liability insurance policy requirement for owners of certain breeds. Regarding the spaying and neutering program, Chief Kearse said research has shown that Pit Bulls have more aggressive tendencies if they are not spayed or neutered. He added that he feels this program would be a good place to start.

After discussion, City Administrator John Butz indicated that staff would draft an ordinance for Council’s consideration at its next meeting with the suggested amendment to Section 5-79(b), and the spay and neuter program for pit bulls.

**VII. CLAIMS and/or FISCAL TRANSACTIONS**

**(A) Motion to Approve the Bid for Project 280 Bryant Drive Extension/Rolla West Phase II:** Public Works Director Steve Hargis recalled that bids were recently received for a box culvert to replace the one located downstream from the Bryant Drive extension project. He noted that five bids were received and the low bid was received from Dura-Last Concrete Products, L.L.C., Springfield, Missouri, for \$53,059.86. Staff recommends the bid be awarded to Dura-Kast Concrete Products, L.L.C.

A motion was made by Williams and seconded by Boeker to award the bid for Project 280, Bryant Drive Extension/Rolla West Phase II to the low bidder, Dura-Kast Concrete Products, LLC, Springfield, Missouri, for \$53.059.86. A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

**(B) Resolution Authorizing the 2010 Micro Surfacing Project:** Public Works Director Steve Hargis recalled that during the Council's May 3, 2010, meeting, Donelson Construction Company, L.L.C., was awarded the bid for this year's micro surfacing project. The subject resolution would authorize the Mayor to enter into a contract with Donelson Construction, L.L.C.

After discussion, City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1714: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE IN BEHALF OF THE CITY OF ROLLA, MISSOURI A CERTAIN AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI, AND DONELSON CONSTRUCTION COMPANY, L.L.C., PROJECT 284. A motion was made by Hicks and seconded by Morris to approve the proposed resolution. A voice vote on the motion showed eleven ayes, one nay, and zero absent. Motion carried. The resolution passed.

**(C) Resolution Authorizing the FY 2010 Street Improvements Project:** Public Works Director Steve Hargis mentioned that during the Council's May 30, 2010, meeting, the bid for the subject project was awarded to the low bidder, Don Maggi, Inc. The subject resolution would authorize the Mayor to enter into a contract with Don Maggi, Inc. Mr. Hargis added that most of the work associated with this project would be done in the Line-Barnitz area.

City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1715: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE IN BEHALF OF THE CITY OF

**VII. CLAIMS and/or FISCAL TRANSACTIONS (continued)**

**(C) Resolution Authorizing the FY 2010 Street Improvements Project (continued):**

ROLLA, MISSOURI A CERTAIN AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND DONALD MAGGI, INC., FOR FY 2010 STREET IMPROVEMENTS, PROJECT 279. A motion was made by Jordan and seconded by Barklage to approve the proposed resolution. A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried. The resolution passed.

Councilman Williams asked about the status of the Melrose Asphalt contract.

City Administrator John Butz stated that to date, Melrose Asphalt has not provided a bond. They have been told that if it is not received by the next Council meeting, the bid would be awarded to another bidder.

Councilman Williams indicated that he would like to see a copy of the report pertaining to the boring on Faulkner Avenue.

Mr. Butz responded that a copy of the report would be included in the next Council agenda.

**VIII. CITIZEN COMMUNICATION**

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

Ms. Jasmine Light, 37 Redbud Lane, addressed the Council and said she does not necessarily agree with stating that only pit bull dogs need to be spayed or neutered. If the Council is going to consider this, she said it should be a requirement for all dogs.

No one else present addressed the Council.

**IX. MAYOR/CITY COUNCIL COMMENTS**

**(A) Appointment of Dr. Aaron Zalis to the RREC Board:** A motion was made by Spadoni and seconded by Morris to appoint Dr. Aaron Zalis to the Rolla Regional Economic Commission (RREC) to replace Dr. Jerry Giger who submitted his resignation.

**IX. MAYOR/CITY COUNCIL COMMENTS (continued)**

**(A) Appointment of Dr. Aaron Zalis to the RREC Board (continued):** A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

**(B) Appointment of Dr. Ruth Stoecker to the Rolla Public Library Board:** A motion was made by Barklage and seconded by Jordan to appoint Dr. Ruth Stoecker to the Rolla Library Board to replace Mr. Larry Bowen who completed his term limit on the Board. A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

**(C) Environmental Services Review Board Appointments:** A motion was made by Spadoni and seconded by Boeker to reappoint Councilman Monty Jordan, Councilman Jim Williams, and to appoint Councilman Don Brown to the Environmental Services Review Board. A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

**(D) Appointment of Steve Malott to the TIF Commission:** A motion was made by Jordan and seconded by Spadoni to appoint Mr. Steve Malott to fill a vacancy on the Tax Increment Financing Commission. A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

**X. COMMENTS FOR THE GOOD OF THE ORDER**

**(A) Former American Inn Site:** Councilman Hicks pointed out that the former American Inn site located off North Bishop Avenue remains an eyesore. He asked if City staff could break up the concrete and stockpile it on Sharp Road. He said it is the worst looking part of Bishop Avenue, has been that way for over a year, and believes it is time to do something about it.

City Administrator John Butz said he is not sure what the City can do. He indicated that he is not aware of any laws about a vacant lot where the structure has been removed and the foundation remains. Mr. Butz said it must be determined that a dangerous condition exists.

Councilman Hicks said it is dangerous because there are ten-foot drop offs and there must be something the City can do.

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

**(A) Former American Inn Site (continued):** City Administrator Butz indicated that staff would look into it further to determine if there is something that could be specifically addressed.

**(B) HyPoint Industrial Park Walking Track:** Councilman Gary Hicks mentioned that he received information that the City's concrete crew might be asked to construct a concrete walking path at HyPoint Industrial Park. If this is true, he said he hopes this does not preclude them from doing other necessary work in the city.

City Administrator John Butz confirmed that over a year ago the City offered to do the labor on this project with the Rolla Community Development Corporation (RCDC) paying for the cost of the materials. Mr. Butz pointed out that this is City property. Because there is other work in the City that needs to be done, this project has been postponed.

**(C) Cul-de-sac Work:** Councilman Hicks commended the City's concrete crew for their work on the installation of a box culvert in the cul-de-sac located off Seventh Street.

**(D) Solar House at Tenth and Poole:** Councilman Tony Bahr reported that he has received three complaints about the siding coming off the Solar House that is located at the corner of Tenth and Poole Streets. He noted that it has been blowing off for about a year and is very unsightly. Councilman Bahr asked if the City could contact someone at the University and ask that it be repaired.

City Administrator Butz explained that the City is not permitted to conduct abatements on State property. However, he said the University is conscious about being a good neighbor. Mr. Butz said he would contact the University and apprise the Council of his conversation with them.

**(E) Workplace Smoking Ban Vote:** Councilman Don Brown read from the attached prepared statement regarding the Council's recent vote on the workplace smoking ban.

**XI. EXECUTIVE SESSION**

A motion was made by Spadoni and seconded by Boeker to adjourn into Executive Session pursuant to RSMo. 610.021 to discuss Real Estate (Section 2), and Negotiations

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**XI. EXECUTIVE SESSION (continued)**

with Employee Groups (Section 9). A roll call vote on the motion showed the following: Ayes; Magdits, Hicks, Bahr, Brown, Boeker, Spadoni, Walburg, Barklage, Horning, Jordan, Morris, and Williams. Nays; None. Absent; None. Motion carried.

The Council adjourned into Executive Session at approximately 7:40 p.m.

**XII. EXECUTIVE SESSION ACTION**

The Council reconvened into opened session at approximately 8:56 p.m.

City Counselor John Beger reported that during Executive Session the Council discussed certain development agreements, which included acquisition of rights-of-way. The Council recommended certain changes in the agreements to Administration, but no formal action was taken.

Additionally in Executive Session, Mr. Beger reported the Council discussed the proposed lease of City property to the Phelps County Landfill Board, but no formal action was taken.

Lastly, in Executive Session, Mr. Beger indicated the Council was advised of the status of collective bargaining with City employees. No formal action was taken by the Council.

**XIII. ADJOURNMENT**

Having no further business, the meeting adjourned at approximately 8:57 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

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CITY CLERK

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MAYOR

**JUNE 7, 2010**

There seems to be some confusion and misunderstanding about the vote taken at the last council meeting regarding the work place smoking ban. Some of us who have consistently supported the ordinance as submitted by the SAFER Rolla committee voted against the proposal. The original ordinance which has been passed and been implemented in the majority of the cities in Missouri with few problems has been amended several times in Rolla. The last amendment came at the last council meeting just before the vote on the ordinance. This last amendment made the ordinance almost worthless in my opinion and could possibly have made air quality worse in some businesses for employees to work in. It was also not equitable to all businesses affected.

The amended ordinance would have been based on % of food and beverage sales with food and beverage not being defined. It would also have made the determination of who was affected (basically beverage sales) up to the business owner without much or perhaps any documentation. Thus the ordinance became a voluntary one which we all ready have in Rolla

The question now becomes what now. We can wait until the federal government takes up the issue and as 70 % of the states now have an effective ordinance that is a possibility as we are a very mobile society these days, but these issues are usually left up to states and communities. We could wait until the state of Missouri takes up the issue and as 75% of the adults in our state don't smoke this makes sense, but the legislature in our state continues to avoid this issue. That is quite obvious as we have the 3<sup>rd</sup> highest number of adults who smoke at 25% in the United States and the lowest tobacco tax in the nation per pack of cigarettes. We could wait until Phelps County passes an effective ordinance but based on my observations this will not happen. It takes 7 votes to pass an ordinance in Rolla. The four councilmen in wards 1 and 2 support an effective ordinance on a smoke free workplace. If and when enough of the other 8 of you determines the City of Rolla needs an effective ordinance let us know and we can revisit the issue.