

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, JUNE 21, 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, Jim Williams, Ken Boeker, and Mark Walburg

Council Members Absent: Lou Magdits and Tony Bahr

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, Recreation Center Director Scott Caron, 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 Councilman Jim Williams to lead in the Pledge of Allegiance.

Because Rolla City Hall will be closed on Monday, July 5, 2010, in observance of the Independence Day holiday, and because Rolla Municipal Court, which is held in the City Council Chambers, is scheduled for Tuesday, July 6, 2010, the Council meeting will be held on Wednesday, July 7, 2010.

I. PUBLIC HEARING

(A) Request for Ordinance to Rezone Property at 1402 E. 10th Street from C-1 to R-3 Zoning (Blair): Community Development Director John Petersen explained that the subject-rezoning request is to down zone the property from C-1 (Neighborhood Business District) zoning to R-3 (Multi-Family District) zoning to accommodate six, four-plex units. He noted that the property is located just south of Casey's Convenience Store on Tenth Street and contains approximately 1.69 acres. Mr. Petersen reported that the Planning and Zoning Commission recommend approval of the zoning request.

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I. PUBLIC HEARING (continued)

(A) Request for Ordinance to Rezone Property at 1402 E. 10th Street from C-1 to R-3 Zoning (Blair) (continued): Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject-rezoning request. Since 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. 3958: 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 LOT 1, POPE PLACE SUBDIVISION (1402 E. 10TH STREET) FROM C-1 (NEIGHBORHOOD BUSINESS DISTRICT) ZONING TO R-3 (MULTI-FAMILY DISTRICT) ZONING (BLAIR). A motion was made by Jordan and seconded by Spadoni to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed ten ayes, zero nays, and two 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 Jordan to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Jordan, Williams, Brown, Boeker, Spadoni, Walburg, Barklage, Horning, Morris, and Hicks. Nays; None. Absent; Bahr and Magdits. Motion carried. The ordinance passed.

(B) Request for Ordinance to Annex a Corridor of State Route V and Approximately 116 Acres Adjacent to Highway V and Zone the Property M-2 and GI (RCDC/RMU and MoDOT): Community Development Director John Petersen explained that the subject property, consisting of approximately 116 acres, lies north of Interstate 44 and west of Highway V, and is located outside the Rolla city limits. He told the Council that the property is owned by the Rolla Community Development Corporation (RCDC), Rolla Municipal Utilities (RMU), and the right-of-way is owned by the Missouri Department of Transportation (MoDOT). Mr. Petersen indicated that the Planning and Zoning Commission recommend acceptance of the annexation and zoning as requested.

Mayor Jenks pointed out that there is a small stretch (about 300 feet) of Highway V that is still outside the city limits. He noted that this causes confusion for 911 dispatchers in the event of an emergency as to what law enforcement to contact. To eliminate the confusion, the City has contacted MoDOT about annexing this stretch into the city's limits.

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I. PUBLIC HEARING (continued)

(B) Request for Ordinance to Annex a Corridor of State Route V and Approximately 116 Acres Adjacent to Highway V and Zone the Property M-2 and GI (RCDC/RMU and MoDOT) (continued): Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject annexation/rezoning request. Since 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: AN ORDINANCE TO ANNEX A CORRIDOR OF STATE ROUTE V AND APPROXIMATELY 116 ACRES WEST AND NORTHWEST OF STATE ROUTE V INTO THE CITY PURSUANT TO THE PROVISIONS OF SECTION 71.012 RSMo., AND ZONE THE PROPERTY TO M-2 AND G-I DISTRICT ZONING (RCDC/RMU/MoDOT).

II. SPECIAL PRESENTATION

(A) Fidelity Cable Presentation – Cable Services and Rates: Mr. Craig Montgomery, Public Relations Manager with Fidelity Communications, provided an overview of the services and improvements provided to its customers over the past year. He noted that due to increased programming costs, Fidelity Cablevision must raise the monthly rate for some of its services starting July 1, 2010. Customers who do not subscribe to the advantage package will see a slight increase in their cable bill. Mr. Montgomery said phone charges and high-speed internet charges remain the same along with Fidelity's most popular triple play package, which includes cable television, phone, and high-speed internet.

III. OLD BUSINESS

(A) Resolution Authorizing the Performance Contract Agreement with Siemens Industry, Inc.: City Administrator John Butz stated the City has been discussing and working on this project for about a year. The City was motivated to do this project because the City's utility bill each year is about \$650,000 to \$700,000, which is about 3% of the City's total operating budget. Mr. Butz referred the Council to the Performance Contracting Agreement with Siemens Industry, Inc., and indicated that Siemens Industry staff is available to answer questions.

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III. OLD BUSINESS (continued)

(A) Resolution Authorizing the Performance Contract Agreement with Siemens Industry, Inc. (continued): Mr. Joe Suggs, Mr. Chris Koch, and Mr. Greg Modlish with Siemens Industry, Inc., addressed the Council and explained that legislation was approved years ago in almost every state that allowed cities to enter into a performance contract with the motivation to reduce energy usage. The legislation provides that any costs must be paid for through the savings.

Following discussion, City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1716: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI, A PERFORMANCE CONTRACTING AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI, AND SIEMENS INDUSTRY, INC. A motion was made by Williams and seconded by Morris to approve the proposed resolution. After a brief discussion, a voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. The resolution passed.

(B) Resolution to Award the Financing of an Energy Performance Contract: Finance Director Steffanie Rogers noted that the subject contract is with the Bank of America for financing of the Energy Performance Contract with Siemens, Industry, Inc. She pointed out that over 30 e-mails were sent requesting proposals from vendors and a summary of the six proposals received are included in the agenda materials. Ms. Rogers stated that staff is recommending approval of the Bank of America financing package.

City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1717: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI, A CONTRACT BETWEEN THE CITY OF ROLLA, MISSOURI, PHELPS COUNTY AND BANK OF AMERICA PUBLIC CAPITAL CORP., MISSOURI. A motion was made by Williams and seconded by Boeker to approve the proposed resolution. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. The resolution passed.

IV. NEW BUSINESS

(A) Park Sales Tax Committee Report: Motion to Accept the Report: Motion to Approve Park Sales Tax Strategy: Recreation Center Director Scott Caron recalled that last month staff presented a report and the findings from the Parks and Recreation

IV. NEW BUSINESS (continued)

(A) Park Sales Tax Committee Report: Motion to Accept the Report: Motion to Approve Park Sales Tax Strategy (continued): Sales Tax Review Committee. However, the Council was not asked to accept the report or set it on a path to implement the recommendations. Mr. Caron asked the Council to consider formally accepting the report and recommendations from the Committee. He emphasized that by doing this, the Council would not necessarily be accepting everything in the report. Mr. Caron referred the Council to the memorandum included in the agenda materials, which outlines the proposed strategy. He stated that it is proposed that the Council hold a workshop on July 26 to further discuss the the recommendations.

A motion was made by Williams and seconded by Morris to accept the Park Sales Tax Committee Report.

After a brief discussion, a motion was made by Williams and seconded by Morris to amend the motion to approve the Park Sales Tax Strategy. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

A motion was made by Williams and seconded by Morris to approve the motion, as amended, to approve the Parks Sales Tax strategy. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

(B) Resolution Authorizing a Land Lease Between the City of Rolla and the Phelps County Landfill Board: Environmental Services Director Brady Wilson stated that staff is proposing a partnership between the Phelps County Landfill Board (PCLB) and the City for a land lease involving a five-acre parcel located north of the Recycling Center at the dead end of McCutchen Drive. Mr. Wilson noted that this is City-owned property with a total parcel of 100 acres.

After some discussion, City Counselor Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1718: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI, TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI, A LAND LEASE AGREEMENT BETWEEN THE PHELPS COUNTY LANDFILL BOARD AND THE CITY OF ROLLA, MISSOURI FOR THE ESTABLISHMENT OF AN ORGANIC WASTE COMPOSTING/PROCESSING SITE. A motion was made by Williams and seconded by Spadoni to approve the proposed resolution. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. The resolution passed.

IV. NEW BUSINESS (continued)

(C) Discussion Regarding the Options for the Abatement of Certain Dangerous Buildings: Community Development Director John Petersen recalled that during the Council's last meeting, the issue of a couple of dilapidated and potentially dangerous buildings was discussed. One of the buildings is the property of the American Motor Inn located on North Highway 63 and was destroyed by fire. The property was cleared to its foundation. Mr. Petersen noted that the second structure is the Hillcrest Shopping Center, which is currently vacant. He showed the Council current photos of the two properties. Mr. Petersen said the City has three main options in addressing these concerns. One option would be for a summons to be issued to the property owner from the Municipal Court, based on Chapter 6, of the Rolla City Code pertaining to unsafe buildings. A second option would be for the Council to find that a nuisance exists and provide a compliance period. After the compliance period has been exhausted and no action is taken, the Council could authorize City staff to abate the nuisance and place a lien on the property. Mr. Petersen indicated that a third option might be to pursue the use of Tax Increment Financing (TIF), a Community Improvement District (CID) or some other tool to fund redevelopment.

After a lengthy discussion, a motion was made Morris and seconded by Spadoni to authorize Community Development Director John Petersen to sign a complaint on behalf of the City for the prosecutor to proceed. Following further discussion, a voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

(D) Request for Ordinance to Amend Section 5-79(b) of the City Codes Pertaining to Dangerous Animals: Police Chief Mark Kearse stated that at the Council's request, Section 5-79(b) of the Rolla City Code pertaining to dangerous animals is being submitted with changes by adding the wording "inflicted severe or fatal injury" to the portion dealing with attacks on other animals. Chief Kearse indicated that staff recommends approval of the proposed ordinance.

Mayor Jenks pointed out that this amendment applies to any animal and is not breed specific.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3959: AN ORDINANCE AMENDING SECTION 5-79(b) OF THE CODE OF THE CITY OF ROLLA, MISSOURI, PERTAINING TO ANIMALS AND FOWL. A motion was made by Jordan 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

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IV. NEW BUSINESS (continued)

(D) Request for Ordinance to Amend Section 5-79(b) of the City Codes Pertaining to Dangerous Animals (continued): motion showed nine ayes, one nay, and two 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 Spadoni to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Boeker, Walburg, Spadoni, Williams, Brown, Horning, Morris, Barklage, Hicks, and Jordan. Nays; None. Absent; Bahr and Magdits. Motion carried. The ordinance passed.

City Administrator John Butz mentioned that staff had planned to have discussion on the idea of spay/neuter, breed specific bans, etc. He said staff plans to present this at the July 7, 2010, meeting.

(E) Resolutions Authorizing Bryant Drive Extensions: Public Works Director Steve Hargis explained that the three proposed development agreements pertain to building Phase II of the Rolla West project. He reviewed that Phase I was built in conjunction with the Walgreens store. He explained that Phase II entails construction of a new road that goes between Fairground Chevrolet and McDonald's and would access Fairgrounds Road through the University Tech Park. Mr. Hargis explained that Phase IV and V would include the widening of Kingshighway to a new improved interchange at Interstate 44. He referred the Council to the three development agreements with Fairgrounds Associates, Inc., McDonald USA, LLC, and Missouri University of Science and Technology. Mr. Hargis noted that all three entities are granting rights-of-way for these improvements. He then entertained questions and comments from the Council.

1) Fairgrounds Associates, Inc.: City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1719: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI A CERTAIN DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND FAIRGROUND ASSOCIATES, INC. A motion was made by Williams and seconded by Boeker to approve the proposed resolution. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. The resolution passed.

2) McDonald's USA, LLC: City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1720: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA,

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IV. NEW BUSINESS (continued)

2) McDonald's USA, LLC (continued): MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI A CERTAIN DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND McDONALD'S USA, LLC. A motion was made by Williams and seconded by Barklage to approve the proposed resolution. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. The resolution passed.

3) Missouri University of Science and Technology: City Counselor John Beger read the following proposed resolution for one reading, by title. RESOLUTION NO. 1721: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI A CERTAIN DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND MISSOURI UNIVERSITY OF SCIENCE AND TECHNOLOGY. A motion was made by Barklage and seconded by Spadoni to approve the proposed resolution. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. The resolution passed.

V. CLAIMS and/or FISCAL TRANSACTIONS

None.

VI. MAYOR/CITY COUNCIL COMMENTS

(A) Appointment of Marsha Belvo to the Library Board: A motion was made by Brown and seconded by Spadoni to appoint Ms. Marsha Belvo to the Library Board to complete the unexpired term of Mr. Bob Medrow. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

VII. CITIZEN COMMUNICATION

(A) Open Citizen Communication: Mayor Jenks opened the floor to anyone wishing to address the Council. No one present responded.

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VIII. COMMENTS FOR THE GOOD OF THE ORDER

(A) Next Council Meeting: Mayor Jenks again reminded everyone that the Council's next meeting would be held on Wednesday, July 7, 2010.

(B) Scooters: Councilman Hicks asked Police Chief Mark Kearse if he could provide information regarding the laws regarding 49cc's or less scooters. He said he thought there was a law that required owners to have liability insurance. Mr. Hicks said he hopes the Police Department knows the laws and is strictly enforcing them. He mentioned that he has seen them driven in Rolla with two people riding on them.

Chief Kearse said he would research the matter and provide the Council with additional information.

(C) Development Prospects by Lowe's: City Administrator John Butz noted that he has sent a couple of e-mails to the Council briefing them on the development proposal near Lowe's on Highway 63 North. He stated that he is not at liberty to publicly say the name of the retailer. Mr. Butz told the Council that Capital Properties from Minnesota has secured an option on the eight and one-half acres between Drury Inn and Lowe's for what will be a terrific retail development. He informed the Council that another round of approval has been given for this site, but they are making it clear that the financing tool available through Tax Increment Financing (TIF) is going to be critical. Mr. Butz pointed out that this does not require eminent domain. The developers have reached a contract on the land, but it will be subject to some geology and the community offering TIF, which allows them to capture a portion of the real estate tax and the sales tax to offset some of the costs of the development. Mr. Butz stated that one of the requirements of TIF is that the Council does a solicitation. Mr. Butz said he wanted to let the Council know that the corporate decision has been deferred until September to give the City time to at least explore the diligence of TIF. He informed the Council that he needs to send out the request for proposals for development. Mr. Butz pointed out the Council would make the ultimate decision whether anyone is selected and whether TIF is ever used. He said he would like to issue the Request for Proposals for development for the Council to consider either at the July 7 or July 19 Council meeting.

Councilman Hicks suggested also including the Sharp Road properties in the solicitation.

Mr. Butz said the City has met with some firms who have expressed interest in the past, and they have been shown properties. He said he believes the Sharp Road property would qualify and it would be included in the proposal.

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

(D) Lions Club Carnival: Councilman Morris said he believes Rolla has one of the best opportunities for our community to enjoy fellowship with one another coming up from July 1 through 4 at the Lions Club Carnival. He encouraged everyone to take advantage of it.

City Administrator John Butz added that the fireworks displays at the Lions Club Carnival would be held on both July 2 and 4 at 11 p.m.

(E) Korean War Veterans: Councilman Spadoni announced that the 60th Anniversary celebration of the Korean War Veterans would be held at Zeno's on July 24, 25, and 26.

IX. CLOSED EXECUTIVE SESSION

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

The Council adjourned into Executive Session at approximately 8:22 p.m.

X. EXECUTIVE SESSION ACTION

The Council reconvened into opened session at approximately 8:46 p.m.

City Counselor John Beger reported that during Executive Session the City Council was advised on pending class action litigation involving other municipalities and potential for similar litigation in the future to involve the City of Rolla.

On another matter, the Council was advised on pending litigation involving two other municipalities and an independent statutorily created political subdivision of which Rolla Municipal Utilities is a member. He said it is unlikely this litigation would affect RMU or Rolla.

The Council was also advised on the status of RMU's pending matters before the Public Service Commission. No formal action was taken by the Council on any of the matters discussed.

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XI. ADJOURNMENT

Having no further business, the meeting adjourned at approximately 8:47 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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