

**ROLLA CITY COUNCIL MEETING MINUTES
TUESDAY, JANUARY 22, 2013; 6:30 P.M.
ROLLA CITY HALL COUNCIL CHAMBERS
901 NORTH ELM STREET**

Presiding: Mayor William S. Jenks, III

Council Members in Attendance: William Lindgren, Jr., Greg Sawyer, Steven Leonard, Susan J. Eudaly, Kelly Long, Don Morris, Jim Williams, Carrolyn Bolin, Tony Bahr, and Fran Mazanec

Council Members Absent: Monty Jordan and Lou Magdits

Department Directors in Attendance: Finance Director Steffanie Rogers, Community Development Director John Petersen, Fire Chief Robert Williams, Police Chief Mark Kearse, Environmental Services Director Brady Wilson, and Public Works Director Steve Hargis

Other City Officials in Attendance: City Administrator John Butz, City Counselor Carolyn Buschjost, and City Clerk Carol Daniels

Mayor William S. Jenks, III called the meeting to order at approximately 6:30 p.m. and asked Councilman William Lindgren, Jr., to lead in the Pledge of Allegiance.

I. PUBLIC HEARINGS

(A) Ordinance to Approve Changes to Chapter 42 of the Rolla City Code Pertaining to Sign Regulations: Community Development Director John Petersen indicated the Planning and Zoning Commission recently reviewed proposed revisions to the City's sign ordinance and there are particularly four subsections that were impacted by the revisions. Mr. Petersen noted additional definitions have been added pertaining to the types of signs in Section 1 of the proposed ordinance. Section 2 of the proposed ordinance includes several new classifications for certain exempt signs. Mr. Petersen pointed out that Section 3 deals with General Sign provisions, specifically clarifying setback requirements. He stated that probably the most important amendment to the sign code is eliminating paragraph (c) in Section 4 relating to non-conforming signs. Mr. Petersen said the elimination is proposed due to the potential adverse impact on businesses required to eliminate non-conforming signs and the cost/difficulty of implementing the requirement.

JANUARY 22, 2013

**CITY COUNCIL MEETING MINUTES
JANUARY 22, 2013
PAGE 2**

I. PUBLIC HEARINGS (continued)

(A) Ordinance to Approve Changes to Chapter 42 of the Rolla City Code Pertaining to Sign Regulations (continued): After Council discussion, Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the proposed amendments to the sign ordinance. No one present responded. Mayor Jenks closed the public hearing.

City Counselor Carolyn Buschjost read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE AMENDING CHAPTER 42 OF THE ROLLA CITY CODE, ARTICLE III, KNOWN AS THE PLANNING AND ZONING CODE, BY AMENDING CERTAIN PROVISIONS AND BY ENACTING NEW REGULATIONS.

II. SPECIAL PRESENTATIONS

None.

III. OLD BUSINESS

None.

IV. NEW BUSINESS

(A) Ordinance to Approve the Final Plat of Blue's Lake Plat No. 10 (Dietzmann): Mayor Jenks noted the applicant, Mr. Jack Dietzmann, has requested the Council consider the first and final readings of the subject ordinance.

Using visual aids, Community Development Director John Petersen pointed out the location of the subject property, which is located west of Blue's Lake Parkway and south of Martin Springs Drive. He informed the Council this is the proposed location of a 110-bed nursing home facility. Mr. Petersen said the Development Review Committee (DRC) has reviewed the proposed subdivision plat and all requested changes have been made. The Planning and Zoning Commission unanimously recommend approval of the subject plat.

IV. NEW BUSINESS (continued)

(A) Ordinance to Approve the Final Plat of Blue's Lake Plat No. 10 (Dietzmann) (continued): City Counselor Carolyn Buschjost read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 4065: AN ORDINANCE APPROVING THE FINAL PLAT OF BLUE'S LAKE PLAT NO. 10, A SUBDIVISION IN ROLLA, MISSOURI (DIETZMANN). A motion was made by Eudaly and seconded by Bolin 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. Ms. Buschjost then read the proposed ordinance for its final reading, by title. A motion was made by Williams and seconded by Sawyer to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Morris, Bolin, Leonard, Williams, Lindgren, Bahr, Mazanec, Sawyer, Eudaly, and Long. Nays; None. Absent; Magdits and Jordan. Motion carried. The ordinance passed.

(B) Ordinance Vacating Portions of a Utility Easement in Lot 1 Deer Crossing East Subdivision & Lot 8 La Chateau Place Subdivision (Robinson): Community Development Director John Petersen informed the Council that the applicant has purchased Lot 1 Deer Crossing East Subdivision and Lot 8 La Chateau Place Subdivision. He is requesting the vacation of the 30-foot wide easement and replacing it with a 10-foot wide easement. Mr. Petersen noted the applicant, Mr. Robinson, has asked the Council to consider the first and final readings of the subject ordinance at this meeting.

City Counselor Carolyn Buschjost read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 4066: AN ORDINANCE VACATING A 20 FT. WIDE UTILITY EASEMENT ORIGINALLY DEDICATED FROM LOT #1 OF DEER CROSSING EAST SUBDIVISION, AND A 10 FT. WIDE UTILITY EASEMENT ORIGINALLY DEDICATED FROM LOT #8 IN LA CHATEAU PLACE SUBDIVISION AND TO SUBSTITUTE SAID UTILITY EASEMENT WITH A 10 FT. WIDE REPLACEMENT UTILITY EASEMENT ALSO DEDICATED FROM LOT #8, AS DESCRIBED HEREIN. (ROBINSON). A motion was made by Eudaly and seconded by Bahr to suspend the rules and that the ordinance be read for its final reading, by title. After some discussion, a voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. Ms. Buschjost then read the proposed ordinance for its final reading, by title. A motion was made by Williams and seconded by Bolin to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Lindgren, Long, Bahr, Williams, Leonard, Eudaly, Sawyer, Bolin, Morris, and Mazanec. Nays; None. Absent; Jordan and Magdits. Motion carried. The ordinance passed.

IV. NEW BUSINESS (continued)

(B) Ordinance Vacating Portions of a Utility Easement in Lot 1 Deer Crossing East Subdivision & Lot 8 La Chateau Place Subdivision (Robinson) (continued): City Administrator John Butz noted that as part of the dedication of a subdivision, the City owns park property on either Lot 8 or Lot 9. He said the City has never had any plans to develop this property as a park. At some point, Mr. Butz indicated the Council might want to consider whether City park property needs to be maintained on that stretch. Mr. Butz suggested the Council might want to consider selling the property.

V. CLAIMS and/or FISCAL TRANSACTIONS

(A) Resolution to Award the Financing Bid for the Purchase of Three Pieces of Street Division Equipment: Finance Director Steffanie Rogers recalled that during the Council's last meeting the Council awarded bids for the purchase of a street sweeper, trackloader, and backhoe. In the fiscal year 2013 budget, this equipment was budgeted for \$430,521 for a five-year term with an approximate payment of \$90,000 per year. After bids were reviewed and the value of the trade-ins was established, Ms. Rogers said it was determined that \$340,521 was the amount to be financed. She reported that on January 15, 2013, financing bids were opened and staff is recommending the bid be awarded to U.S. Bank at an interest rate of 1.45% for a five-year term for an annual payment of \$70,079.02.

Councilwoman Eudaly indicated she was queried as to how the bidders list is established. For instance, she noted there is no Commerce Bank located within Phelps County.

Ms. Rogers explained that financial institutions interested in being included on the bid list must be approved by the City Council.

City Administrator John Butz added that as long as a company is in good financial standing, it has usually been approved by the Council. He said the City's policy allows a 20 basis point spread between a company with local presence and one without a local presence. A local presence is considered within Phelps County.

City Counselor Carolyn Buschjost read the following proposed resolution for one reading, by title. RESOLUTION NO. 1790: 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 US BANK, MISSOURI. A motion

V. CLAIMS and/or FISCAL TRANSACTIONS (continued)

(A) Resolution to Award the Financing Bid for the Purchase of Three Pieces of Street Division Equipment (continued): was made by Williams and seconded by Morris to approve the proposed resolution. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. The resolution passed.

(B) Resolution to Approve the Financing Bid for the Purchase of a Fire Truck to Municipal Leasing Consultants: Finance Director Steffanie Rogers recalled that during the Council's last meeting the bid was awarded for the fire truck financing to Municipal Leasing Consultants. During the paperwork process, Municipal Leasing Consultants requested that a resolution be signed as part of the financing. In order to lock in the 1.97% rate for a ten-year term, she said Mayor Jenks needed to sign the resolution before January 18, 2013. In order to officially authorize the bid, Ms. Rogers asked the Council to consider approval of the proposed resolution.

City Counselor Carolyn Buschjost read the following proposed resolution for one reading, by title. RESOLUTION NO. 1791: 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 MUNICIPAL LEASING CONSULTANTS, VERMONT. A motion was made by Williams and seconded by Long to approve the proposed resolution. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried. The resolution passed.

VI. MAYOR/CITY COUNCIL COMMENTS

(A) Motion to Appoint Councilman Tony Bahr to the University of Missouri Extension Council (Feb. 2015): A motion was made by Eudaly and seconded by Long to appoint Councilman Tony Bahr to the University of Missouri Extension Council until February 2015. A voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

(B) Motion to Reappoint Mr. Paul Stigall to the Planning and Zoning Commission (Jan. 2017): A motion was made by Sawyer and seconded by Eudaly to reappoint Mr. Paul Stigall to the Planning and Zoning Commission until January 2017. 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.

(1) Mr. Jim Corey, 414 Bill Avenue, reported that he has brought to the attention of the Police Department, some Council members, and Mayor Jenks about the noise coming from Fat Cats Entertainment Complex, which is located off Highway 72 East. He said he remembered when Mr. and Mrs. Nick Barrack, owners of the property, visited the surrounding properties saying they would like to rezone the property. Mr. Corey said he told the Barrack's they could put anything on the property except a bar; however a bar was eventually permitted on the property. Mr. Corey told the Council he has called the Police many times about the noise coming from Fat Cats and ultimately signed a complaint. He also told the Council he has witnessed people drinking outside the establishment.

Councilman Morris indicated that he has been contacted by residents as long as six weeks ago regarding the noise problems from Fat Cats. The first contact came from a woman on Oxford Drive. Mr. Morris said she phoned him because she had already called the Police. The Police responded, the music was turned down for a while and then the music became louder. He said she phoned the Police again and was not getting any satisfaction. Mr. Morris said he phoned the Police Department and the music was finally turned down.

Mr. Morris told the Council that Mr. Josh Noe, owner of Fat Cats, asked him to come over and look at the facility. He said he believes the biggest problem with Fat Cats is the loud music, as opposed to the bar. Mr. Morris said something is going to have to be done about the loud music. He pointed out that City Code indicates the music should not be heard within 50 feet of Fat Cats after 11 p.m. Mr. Morris added that the people, who have contacted him about the loud music, all live further than 50 feet of Fat Cats.

Regarding the zoning issue, City Administrator John Butz said there was an application for a conditional use permit and a C-3 (Highway Commercial District) zoning. Both are required for bars, and both were rejected. The subject property is currently zoned C-2 (General Retail District), and does not allow for a bar. However, he said it does allow for a restaurant, which can have limited alcohol sales. Mr. Butz said the question is, when does it change from being a restaurant that serves some alcohol to being a bar. He pointed out there is not a lot of direct guidance on this in the ordinance. Community Development staff monitors this and the City Council has the right to review

VII. CITIZEN COMMUNICATION (continued)

(A) Open Citizen Communication (continued): (1) continued: it. The Council can then determine whether it is in compliance and can ultimately revoke a business license, if they feel something was placed on the application that was not followed through with appropriately.

Mr. Josh Noe, 65 Rose Court and owner of Fat Cats Entertainment Complex, told the Council the steel building has no insulation, and therefore the music is bouncing and carrying. He indicated he has been in discussions with Merle's Music and other businesses trying to find the best solution to the noise problem. Mr. Noe said he definitely plans to put up soundproofing. He told the Council that last week when he learned there were complaints from the Oxford Drive area, he visited the area. Mr. Noe said in the back yard of one of the residence there is a creek and a straight opening to the back parking lot of Fat Cats. He noted the residence on Oxford Drive is actually closer to his business than Mr. Corey's residence. Mr. Noe said he is working on getting the soundproofing installed. He expects to have it installed within 60 days. Mr. Noe added that future concerts would be changed from 8:30 a.m. to 11:30 p.m. to 8 a.m. to 11 p.m.

After discussion, a motion was made by Bahr and seconded by Leonard to set aside consideration of this item for 90 days to give Mr. Noe an opportunity to alleviate the problem and to readdress this issue during the April 1, 2013, City Council meeting.

Mr. Noe said if he does not have this remedied within the next 45 days, he said he would discontinue the concerts, because he said he did not open the business to cause problems with the neighborhood.

After additional discussion, a voice vote on the motion showed ten ayes, zero nays, and two absent. Motion carried.

(2) Mr. Francis "Frank" Chandler Furman, 403 Hutchinson, pointed out that he was the City's representative on the Phelps County Extension Council. He reported the University of Missouri Extension Council, Phelps County will be conducting its 2013 election from January 28 through February 1. Mr. Furman asked the Council to show Rolla's support for the Extension Council and to exercise their right to vote. Ballots will be available online, at the University of Missouri Extension Center in the Phelps County Courthouse, the Farm Bureau in Rolla, the Phelps County Bank in St. James, and the Bank of Newburg in Doolittle. Mr. Furman indicated it has been a long fight to get these elections to be public.

No one else present addressed the Council.

VIII. COMMENTS FOR THE GOOD OF THE ORDER

(A) Edmund Ward Bishop Award: Councilwoman Sue Eudaly congratulated Mayor Jenks on receiving the Edmund Ward Bishop Award, which was presented to him Saturday evening during the Rolla Area Chamber of Commerce banquet.

(B) Army Dump Truck: Councilman Bahr asked Public Works Director Steve Hargis why the City purchased an Army dump truck.

Mr. Hargis responded it was purchased through State Surplus and the City plans to use it to haul shot rock. He said shot rock destroys the beds of the City's trucks and the Army truck bed is more durable.

City Administrator John Butz added the beds on the City's dump trucks are being replaced more frequently because of the damage from the large rocks.

(C) Renaming of Highway 72 Proposal: Councilman Lindgren asked City Administrator John Butz for an update on his proposal to rename a portion of Highway 72 in honor of the late Missouri Governor Mel Carnahan of Rolla.

Mr. Butz reported he was initially in contact with the Missouri Department of Transportation (MoDOT) who referred him to Representative Jo Ann Emerson's office. They are still looking at how the City goes about considering a dedication like this.

Mr. Lindgren said he had hoped it would be done before he leaves the Council in April.

IX. EXECUTIVE SESSION

A motion was made by Williams and seconded by Bolin 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; Eudaly, Williams, Lindgren, Bahr, Bolin, Long, Mazanec, Sawyer, Morris, and Leonard. Nays; None. Absent; Magdits and Jordan. Motion carried.

The Council adjourned into Executive Session at approximately 7:39 p.m.

**CITY COUNCIL MEETING MINUTES
JANUARY 22, 2013
PAGE 9**

X. EXECUTIVE SESSION ACTION

The Council reconvened into open session at approximately 7:59 p.m.

City Counselor Carolyn Buschjost reported that during Executive Session, the City Council approved the final terms of a commercial lease as well as the ordinance allowing the Mayor to execute, on behalf of the City of Rolla, said lease agreement between the City of Rolla and Terla, Inc. or Brewer Science, Inc.

XI. ADJOURNMENT

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

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

JANUARY 22, 2013