

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, MARCH 18, 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., Monty Jordan, Greg Sawyer, Steven Leonard, Susan J. Eudaly, Kelly Long, Don Morris, Lou Magdits, Jim Williams, Carrolyn Bolin, Tony Bahr, and Fran Mazanec

Department Directors in Attendance: Finance Director Steffanie Rogers, Community Development Director John Petersen, Police Chief Mark Kearse, Parks and Recreation Director Scott Caron, and Environmental Services Director Brady Wilson

Other City Officials in Attendance: City Administrator John Butz, City Counselor Carolyn Buschjost, Assistant Public Works Director Gary Heavin, Assistant Fire Chief Ron Smith, Communications Director Scott Grahl, and City Clerk Carol Daniels

Mayor William S. Jenks, III called the meeting to order at approximately 6:30 p.m. and asked a member of the Rolla Ministerial Alliance to give the invocation.

Councilman Kelly Long led in the Pledge of Allegiance.

I. PUBLIC HEARINGS

(A) Public Hearing on the Potential Sale of Southern Half of Forest Service

Property: City Administrator John Butz explained the subject property was acquired by the City from the Forest Service in 2007. In the original conveyance from the Federal Government, which took congressional action to make it available, there was a provision the City could opt to buy and ultimately own this property and the City exercised that option in 2007. Mr. Butz reported the hotel tax proceeds are being used to pay down that obligation. The property was appraised at \$511,000 and the City is making annual payments of \$25,550 per year.

Following a brief Council discussion, Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the possible sale of this property.

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I. PUBLIC HEARINGS (continued)

(A) Public Hearing on the Potential Sale of Southern Half of Forest Service Property (continued): Ms. Gina Zervos, President of Rolla Area Chamber of Commerce Board of Directors, told the Council the Board of Directors discussed the sale of the subject property and they are very much in support of the sale of the land.

No one else present addressed the Council. Mayor Jenks closed the public hearing.

(B) Public Hearing to Rezone Property at 112 E. 12th Street from C-1 (Neighborhood Commercial District) Zoning to CC (Center City District) Zoning (Christian Campus Ministry Fellowship House): Community Development Director John Petersen informed the Council that the applicant is requesting the rezoning of the property at 112 E. 12th Street from C-1 (Neighborhood Commercial District) to CC (Center City District) to permit the improvement and expansion of the Christian Campus Ministry Fellowship House. Currently, he noted that 41 people reside in the building. Mr. Petersen said the applicant plans to demolish the structure and construct a new structure of about 8,978 square feet, which will provide housing for 64 people. He reported the Planning and Zoning Commission recommend approval of the subject-rezoning request.

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

City Counselor Carolyn Buschjost read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 4076: AN ORDINANCE TO REZONE PROPERTY AT 112 EAST 12TH STREET FROM C-1 (NEIGHBORHOOD COMMERCIAL DISTRICT) TO CC (CENTER CITY DISTRICT) ZONING. (CHRISTIAN CAMPUS MINISTRY FELLOWSHIP HOUSE). 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 twelve ayes, zero nays, and zero absent. Motion carried. Ms. Buschjost then read the proposed ordinance for its final reading, by title. A motion was made by Bahr and seconded by Morris to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Magdits, Eudaly, Bahr, Lindgren, Bolin, Leonard, Mazanec, Sawyer, Long, Jordan, Morris, and Williams. Nays; None. Absent; None. Motion carried. The ordinance passed.

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II. SPECIAL PRESENTATIONS

(A) Review of the 2011/2012 City of Rolla Audit: Mr. Andy Marmouget, partner with Davis, Lynn and Moots, CPAs, reported his firm has completed the audit of the City's financial statements for the year ended September 30, 2012. Mr. Marmouget indicated that earlier this evening he provided a detailed overview of the audit report and financial statements with the City's Audit/Finance Committee. He then provided an overview of the audit report and management letter with the entire Council. Mr. Marmouget said he was pleased to report no material weaknesses were noted.

(A.1.) Motion to Accept Fiscal Year 2012 Independent Audit: A motion was made by Jordan and seconded by Long to accept the independent audit report for fiscal year 2012. A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

(B) Fort Leonard Wood – Sustainable Ozark Partnership: This item was heard following Item V.B. below.

(C) Fourth Quarter 2012 Tourism Report and Marketing Plan: Rolla Area Chamber of Commerce Executive Director Stevie Kears provided an overview of the Fourth Quarter 2012/Year End Tourism Report and the 2013 Marketing Efforts.

III. OLD BUSINESS

None.

IV. NEW BUSINESS

(A) Preliminary Consideration of Zoning for Family Entertainment Complexes: City Administrator John Butz mentioned the Council has had much discussion during the past two months pertaining to Fat Cats Entertainment Complex. He noted the definitions in the City's zoning ordinances do not address this type of facility, which is a diverse entertainment complex geared to multiple ages. Mr. Butz said he asked Community Development Director John Petersen to check with other cities, speak with other planners, and come up with something that would be a "catch all" for Rolla. He said staff is proposing that a family entertainment complex be included in C-2 (General Retail District) zoning under a conditional use provision. Mr. Butz indicated the applicant

IV. NEW BUSINESS (continued)

(A) Preliminary Consideration of Zoning for Family Entertainment Complexes: would still be required to layout exactly what they are proposing and the Council would conduct a public hearing. Before the Planning and Zoning Commission reviews the proposed amendment to the zoning ordinance, Mr. Butz asked the Council to first consider the draft prepared by Mr. Petersen.

Council discussion followed, primarily pertaining to the current Fat Cats Entertainment Complex. No changes were recommended to the proposed draft of the ordinance pertaining to the zoning of family entertainment and recreation complexes.

(B) Follow-up Discussion on Hookah Related to Smoking Ordinance: City Administrator John Butz recalled that during its last meeting the Council had some discussion pertaining to hookah. He referred the Council to the correspondence staff received within the past two days, which provides a good definition of “hookah” in addition to some wording from existing ordinances in St. Louis and Columbia, Missouri, where they have granted the exception in their ordinance for the selling of tobacco products. Mr. Butz pointed out that under that exception hookah bars are finding an opportunity to operate. He informed the Council there are about 35 Missouri communities with some form of a smoking restriction, some very comprehensive like Rolla’s and others with something in between. Mr. Butz noted that about 15 of the 35 communities have total bans, and 19 have some type of exception, i.e., casinos, traditional bars with 70% liquor sales. He said the City’s current ordinance does not allow hookah, because it falls under the definition of “smoking.” Mr. Butz indicated language would have to be added to Rolla’s ordinance, similar to what has been included in St. Louis’ and/or Columbia’s ordinances.

After discussion, a motion was made by Leonard and seconded by Magdits that an ordinance be drafted amending the smoke-free workplace ordinance stipulating that retail establishments in which food is not prepared on the premises and where more than 60% of the volume of trade or business carried on is the sale of tobacco and tobacco-related products. A hand count on the motion showed two ayes, nine nays with one not voting. Motion failed.

(C) Ordinance to Approve the Final Plat of Pathways Addition (Pathways): Community Development Director John Petersen explained there is a provision in the City’s subdivision regulations that allows the creation of a “flag lot.” He said the advantage of having a “flag lot” in the subdivision regulations allows people to use parts

IV. NEW BUSINESS (continued)

(C) Ordinance to Approve the Final Plat of Pathways Addition (Pathways) (continued): of their property that would otherwise not be acceptable. Mr. Petersen explained that Pathways Community Healthcare, Inc., 1450 East 10th Street, Rolla, Missouri, is planning to construct a second structure. The existing structure faces Tenth Street and the new structure would be constructed behind it. Mr. Petersen indicated Pathways does not want the buildings to be physically connected. He reported the Planning and Zoning Commission unanimously recommend approval of the proposed subdivision.

City Counselor Carolyn Buschjost read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 4077: AN ORDINANCE APPROVING THE FINAL PLAT OF PATHWAYS ADDITION, A MINOR SUBDIVISION, BEING A RE-SUBDIVISION OF LOT 2, POPE ADDITION, ROLLA, MISSOURI. (PATHWAYS). A motion was made by Leonard and seconded by Long to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed twelve ayes, zero nays, and zero 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 Eudaly to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Long, Sawyer, Leonard, Eudaly, Lindgren, Bahr, Bolin, Jordan, Morris, Mazanec, Williams, and Magdits. Nays; None. Absent; None. Motion carried. The ordinance passed.

(D) Motion to Close Certain Streets & Parking Lots During 2013 Route 66 Summerfest: Assistant Public Works Director Gary Heavin indicated the requested street and parking lot closings for this year's Route 66 Summerfest on May 31 and June 1, 2013, are virtually the same as last year's. After a brief discussion, a motion was made by Williams and seconded by Eudaly to approve the request to close certain streets and parking lots on May 31 and June 1, 2013, for the Route 66 Summerfest celebration. A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

V. CLAIMS and/or FISCAL TRANSACTIONS

(A) Motion to Award Bid for Disinfection Equipment for Southeast Wastewater Treatment Plant: Assistant Public Works Director Gary Heavin explained the subject equipment is necessary to complete the Southeast Wastewater Treatment Plant disinfection system improvements. The City's engineering consultant, HDR/Archer-

V. CLAIMS and/or FISCAL TRANSACTIONS (continued)

(A) Motion to Award Bid for Disinfection Equipment for Southeast Wastewater Treatment Plant (continued): Elgin, recommends the bid be awarded to Envirodyne Systems, Inc., for \$133,332. Staff recommends approval. A motion was made by Williams and seconded by Bolin to award the bid for the Southeast Wastewater Treatment Plant disinfection equipment to Envirodyne Systems, Inc., for \$133,332. After a brief discussion, a voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

(B) Motion to Replace Kimmel Field Light Poles: Parks and Recreation Director Scott Caron informed the Council that in 1984 the lights and poles for the three ball fields (Kimmel, North, and South) were installed. He reported that one of the light poles in Kimmel Field toppled during a storm in January and, according to Musco Sports Lighting, the replacement cost for a single pole is \$17,802. Mr. Caron informed the Council the life span of a wooden pole is typically 25 to 30 years. According to Musco, the cost to replace all the poles in Kimmel Field would be \$67,500 with an installation cost of \$12,500. Mr. Caron said he contacted Rolla Municipal Utilities (RMU) about assisting with the installation. Since their work schedule is currently full, they may not be able to provide much assistance. However, Mr. Caron indicated City staff would be able to assist to help reduce the installation costs. He said staff recommends replacing all the lights on Kimmel Field using the reimbursement costs from the City's insurance and using additional funds from the Park Land Reserve Account. After a brief discussion, a motion was made by Williams and seconded by Morris to replace all the lights and poles on Kimmel Field and use funds from Park Land Reserve Account for any amount beyond the insurance reimbursement. City Administrator John Butz reminded the Council it would take a two-thirds majority affirmative vote of the Council to use the full \$63,000 net funds from the Park Land Reserve Account. A voice vote on the motion showed twelve ayes, zero nays, and zero absent. Motion carried.

II. SPECIAL PRESENTATIONS (continued)

(B) Fort Leonard Wood – Sustainable Ozark Partnership: Mr. Steve Tupper reported to the Council that just over a week ago a notice was discovered, which had been issued by a contractor working for the Corps of Engineers, performing a programmatic environmental assessment of the Army's 2020 plan. The plan is the Army's attempt to look at themselves at the conclusion of the two wars (Afghanistan and Iraq) and to draw down their forces. Mr. Tupper explained that in the Army's case, they have to reduce the number of soldiers from about 570,000 to approximately 480,000. Mr. Tupper explained

II. SPECIAL PRESENTATIONS (continued)

(B) Fort Leonard Wood – Sustainable Ozark Partnership (continued): the Army's 2020 plan identified 21 installations where there would be potential cuts. He reported that Fort Leonard Wood is on the list of 21 installations. Mr. Tupper said the list indicated the total number of permanent paid positions is about 9,400 or a 41% reduction at Fort Leonard Wood. He informed the Council this is open for a public comment period, which closes on March 21, 2013. Mr. Tupper said he believes it is appropriate for the communities in the area to respond by saying we believe that this makes a significant impact on us. Mr. Tupper entertained questions and comments from the Council following his presentation.

VI. MAYOR/CITY COUNCIL COMMENTS

(A) Appointment of Mr. Brendon Fox to Complete the Unexpired Term of City Attorney (Prosecuting) Robert J. Stoltz: Mayor Jenks indicated he received three applications for the position of City Attorney. He told the Council he rated the three applicants based on education, experience, and community service. Mayor Jenks said all three applicants are about equal with the exception of jury trial and prosecution experience, which Mr. Brendon Fox has. He pointed out that Mr. Fox is currently a prosecutor for Phelps County. In his opinion, Mayor Jenks said he believes Mr. Fox is best qualified for the position and he is recommending his appointment as City Attorney. A motion was made by Williams and seconded by Long to appoint Mr. Brendon Fox as City Attorney to complete the unexpired term of Mr. Robert J. Stoltz. After some discussion, a voice vote on the motion showed eleven ayes, one nay, and zero absent. Motion carried.

Discussion followed regarding whether the position of City Attorney should continue as an elected position or be made an appointed position. The Council suggested checking with other cities to see how many attorneys are elected or appointed.

(B) St. Patrick's Day Parade: Councilwoman Eudaly pointed out that people in the parade were throwing candy, t-shirts, and beads from the floats. She said she does not understand why we have an ordinance against throwing candy from floats/vehicles if it is not going to be enforced.

Police Chief Mark Kearse indicated this issue was discussed during the staff briefing today. Although officers tried to get the people in the parade to stop throwing the items, they were unsuccessful. Chief Kearse said he plans to have additional officers on duty next year who will be stationed at the start of the parade at Sixth and Pine Streets.

VI. MAYOR/CITY COUNCIL COMMENTS (continued)

(B) St. Patrick's Day Parade (continued): City Administrator John Butz pointed out the ordinance stipulates there is no throwing candy, etc., from the floats/vehicles, but the items can be handed out or tossed from someone walking. He said the idea was not to hand out items from the float.

(C) Parade Debris: Councilwoman Bolin commended the Public Works Department for the great job they did in cleaning up the litter from the St. Patrick's Day parade.

VII. CITIZEN COMMUNICATION

(A) Mr. Nate Willis – Hookah Bars: Mr. Nate Willis, Thomas Jefferson Hall, Rolla, Missouri, said he completely agrees with the smoking ban and that these laws are put in place to protect the non-smokers. However, he indicated he has some arguments the Council should seriously consider in favor of the exemption of the hookah bar. Mr. Willis noted it is a safer alternative to under-aged drinking. In order to legally smoke tobacco in the United States you have to be at least 18 years old. If 18 to 20 year olds are at a hookah bar, they are not out getting drunk at fraternity parties. Overall, it is a safer environment for these people. Mr. Willis pointed out that hookah has been around for 300 years, it has been around the United States for at least twelve years, and there is absolutely no evidence to suggest it is a fad. Mr. Willis told the Council they have the power to change this law and this is a common sense issue.

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

(1): Mr. Josh Noe, owner of Fat Cats Entertainment Complex, indicated he wanted to update the Council on what he is trying to do. He said some churches and schools who are interested in using his facility have contacted him. Mr. Noe invited the Council to tour his facility so he can show them how it can be more than just an establishment for adults. He apologized for all the stress and the circus his business has created. Mr. Noe said it was never his intent to cause a problem for Rolla.

(2): Ms. Jodie Waltman, Administrator of the Phelps/Maries County Health Department, thanked the Council for its decision about the hookah bars. She said this is an important public health issue. Ms. Waltman said there are no studies that show hookah smoke is any less dangerous than cigarette smoke. She pointed out it is often viewed by young

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(B) Open Citizen Communication (continued):

(2) continued: people as being a less harmful experience than cigarette smoke because of water-cooling. Ms. Waltman said the water does not filter the harmful effects of the smoke and is just as damaging to the lungs and cardiovascular system as cigarette smoke. It would be important, if we had a hookah bar in this community, for the Public Health Department to invest in a public health campaign to make sure adults who made this choice to make a well-informed decision as to how they could harm their health by this choice. Ms. Waltman concluded by stating a great deal of our rising health care costs are due to smoking-related illnesses and the more we can convey to the community that smoking is a not a good choice, it helps young people make choices that are safer for themselves.

No one else present addressed the Council.

VIII. COMMENTS FOR THE GOOD OF THE ORDER

None.

IX. EXECUTIVE SESSION

A motion was made by Long and seconded by Bolin to adjourn into Executive Session pursuant to RSMo. 610.021 to discuss litigation/privileged communications. A roll call vote on the motion showed the following: Ayes; Jordan, Williams, Bahr, Lindgren, Bolin, Leonard, Mazanec, Sawyer, Magdits, Long, Morris, and Eudaly. Nays; None. Absent; None. Motion carried.

The Council adjourned into Executive Session at approximately 9:22 p.m.

X. EXECUTIVE SESSION ACTION

The Council reconvened into open session at approximately 9:35 p.m.

City Counselor Carolyn Buschjost reported that during Executive Session, the City Council discussed two matters of litigation, including matters of attorney/client privileged communications. No final decisions were made.

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XI. ADJOURNMENT

Having no further business, the meeting adjourned at 9:36 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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