

**ROLLA CITY COUNCIL MEETING MINUTES  
MONDAY, AUGUST 5, 2013; 6:30 P.M.  
ROLLA CITY HALL COUNCIL CHAMBERS  
901 NORTH ELM STREET**

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

**Council Members in Attendance:** Rhonda Sue Myers, Monty Jordan, Greg Sawyer, Steven Leonard, Kelly Long, Don Morris, Lou Magdits, Jim Williams, Brian Woolley, Walt Bowe, and Tony Bahr

**Council Members Absent:** Susan J. Eudaly

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

**Other City Officials in Attendance:** City Administrator John Butz, City Counselor Lance Thurman, Assistant Public Works Director Gary Heavin, 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.

Councilwoman Rhonda Sue Myers then led in the Pledge of Allegiance.

**I. CONSENT AGENDA**

A motion was made by Williams and seconded by Jordan to approve the consent agenda as submitted. A voice vote on the motion showed ten ayes, zero nays, and one absent. Motion carried.

The consent agenda consisted of the following:

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

- 1) Rolla City Council Meeting – July 1, 2013
- 2) Rolla City Council Meeting – July 15, 2013

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**II. NEW BUSINESS**

**(A) Nomination to Fill the Vacancy in Ward VI (until the April 2014 Election):**

Mayor Jenks indicated two individuals, Mr. Walter L. Bowe, III, and Mr. Mark Walburg, have expressed interest in filling the vacancy in Ward VI, which was created when Ms. Fran Mazanec moved out of the ward.

A motion was made by Bahr and seconded by Jordan to appoint Mr. Walter Bowe to fill the vacancy in Ward VI. A voice vote on the motion showed ten ayes, zero nays, and one absent. Motion carried.

Following the appointment, City Clerk Carol Daniels then administered the Oath of Office to Mr. Bowe.

**III. PUBLIC HEARINGS**

None.

**IV. ACKNOWLEDGMENTS AND SPECIAL PRESENTATIONS**

**(A) Update on Phelps for the Fort/AUSA/SOP:** Lieutenant Colonel, U.S. Army (Retired) Eric A. Goser thanked the Council for their support of Phelps for the Fort and the Association of the United States Army. He updated the Council on what their support has done and what it means for these two organizations. Lieutenant Colonel (Retired) Goser also invited the Council and citizens to Military Appreciation Day on September 28. He said more information on this event is available at [FugitiveRun.com](http://FugitiveRun.com).

**V. REPORT OF MAYOR and COUNCIL/REPORTS OF BOARDS AND COMMISSIONS/CITY DEPARTMENTS**

Mayor Jenks referred the Council to **(A)** the June 2013 Centre Financial Analysis; **(B)** the June 2013, SplashZone Financial Analysis; **(C)** the June 19, 2013, Parks and Recreation Commission Meeting Minutes; **(D)** the June 30, 2013, City's Cash Position and Expenditure Report; **(E)** the June 2013, Environmental Services Department Monthly Report; **(F)** the June 25, 2013, Development Review Committee Meeting Minutes;

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**V. REPORT OF MAYOR and COUNCIL/REPORTS OF BOARDS AND COMMISSIONS/CITY DEPARTMENTS (continued)**

(G) the May 2013 and June 2013 Rolla Municipal Utilities Monthly Reports; (H) the May 28, 2013, and June 25, 2013, Rolla Board of Public Works Meeting Minutes; (I) the June 2013, Rolla Animal Control Monthly Report; (J) the June 2013 Building Codes Division Monthly Report, and; (K) the July 2013 Rolla Fire Department Monthly Report.

**VI. OLD BUSINESS**

**(A) Ordinance Approving a Conditional Use Permit to Allow the Establishment of a Family Entertainment & Recreation Complex (FERC) at 1100 Highway 72 East**

**(Noe):** Community Development Director John Petersen noted Mr. Josh Noe, owner of Fat Cats Entertainment Complex, has applied for a conditional use permit (CUP) to allow the establishment of a Family Entertainment and Recreation Complex (FERC) at 1100 Highway 72 East. He recalled the Planning and Zoning Commission voted to recommend approval of the CUP with the following conditions: (1) The construction of a soundproof wall (which has been completed); (2) Access to the property is limited to a driveway going to Highway 72; (3) the existing wood fence will be maintained and extended to the north property line then to the west of the driveway (to be completed upon approval of CUP); (4) the CUP shall expire in nine months if the business becomes inactive, and; (5) the CUP is valid only for the current business occupant and does not follow the business to a new location.

City Counselor Lance Thurman read the following proposed ordinance for its final reading, by title. ORDINANCE NO. 4103: AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 1100 HWY 72 EAST, TO PERMIT THE ESTABLISHMENT OF A FAMILY RECREATION AND ENTERTAINMENT COMPLEX (FERC) (NOE).

A motion was made by Morris and seconded by Long to amend the proposed ordinance by stipulating the music shall cease at 10:30 p.m. from Sunday through Thursday and the music will cease at 11:30 p.m. on Friday and Saturday. After much discussion, a hand count on the motion showed five ayes, six nays, and one absent. Motion failed.

Mr. Josh Noe, owner of Fat Cats Entertainment Complex, informed the Council he would be willing to stop the live music by 12 a.m.

**VI. OLD BUSINESS (continued)**

**(A) Ordinance Approving a Conditional Use Permit to Allow the Establishment of a Family Entertainment & Recreation Complex (FERC) at 1100 Highway 72 East (Noe) (continued):** After further discussion, a motion was made by Long and seconded by Myers that the proposed ordinance be amended to stipulate that all live or hired talent performing in the subject FERC shall cease performing at midnight Friday and Saturday, and at 10:30 p.m. Sunday through Thursday. A voice vote on the motion showed ten ayes, one nay, and one absent. Motion carried.

After additional discussion, a motion was made by Long and seconded by Myers to approve the proposed ordinance, as amended. A roll call vote on the motion showed the following: Ayes; Jordan, Myers, Woolley, Leonard, Bowe, Sawyer, Magdits, and Long. Nays; Williams, Bahr, and Morris. Absent; Eudaly. Motion carried. The ordinance passed.

**(B) Ordinance Repealing Chapter 14 of the Rolla City Code and Enacting a New Chapter 14 Pertaining to Fire Protection:** Fire Chief Robert Williams provided a brief overview of the proposed changes made to the subject ordinance during the Council's last meeting.

City Counselor Lance Thurman read the following proposed ordinance for its final reading, by title, as amended. ORDINANCE NO. 4104: AN ORDINANCE REPEALING CHAPTER 14 OF THE GENERAL ORDINANCES OF THE CITY OF ROLLA, MISSOURI, KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, AND ENACTING A NEW CHAPTER 14 IN LIEU THEREOF PERTAINING TO FIRE PROTECTION. A motion was made by Sawyer and seconded by Jordan to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Woolley, Bowe, Leonard, Bahr, Magdits, Long, Morris, Sawyer, and Jordan. Nays; Williams and Myers. Absent; Eudaly. Motion carried. The ordinance passed.

**(C) Ordinance Amending Chapter 28 of the Rolla City Code Regarding High Grass:** City Administrator John Butz noted the subject ordinance would limit the height of grass, weeds, and rank vegetation to ten inches, which is consistent with the City's Property Maintenance Code. He pointed out the City's rights-of-way and parks need to be maintained to the standards of this ordinance.

Following some discussion, City Counselor Lance Thurman read the following proposed ordinance for its final reading, by title. ORDINANCE NO. 4105: AN ORDINANCE

**VI. OLD BUSINESS (continued)**

**(C) Ordinance Amending Chapter 28 of the Rolla City Code Regarding High Grass (continued):** REPEALING ARTICLE II, SECTIONS 28-11 THROUGH 28-22 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, AND ENACTING NEW SECTIONS IN LIEU THEREOF PERTAINING TO WEEDS AND OTHER RANK VEGETATION. 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; Sawyer, Bahr, Myers, Jordan, Leonard, Bowe, Williams, Magdits, Long, Morris, and Woolley. Nays; None. Absent; Eudaly. Motion carried. The ordinance passed.

**(D) Ordinance Establishing a Rolla Historic Preservation Commission:** Community Development Director John Petersen told the Council the State Historic Preservation Office and the Phelps County Historical Society have reviewed the subject ordinance. He then provided an overview of the contents of the subject ordinance and pointed out that no property owner can be compelled to have his or her property designated or listed as an historic property.

Following discussion, City Counselor Lance Thurman read the following proposed ordinance for its final reading, by title. ORDINANCE NO. 4106: AN ORDINANCE AMENDING CHAPTER 40 OF THE ROLLA CITY CODE ENTITLED “URBAN RENEWAL”, BY INCLUDING A NEW CHAPTER HEADING ENTITLED “ROLLA HISTORIC PRESERVATION COMMISSION” AND BY ADDING CERTAIN SECTIONS TO CHAPTER 40 PERTAINING TO THE ESTABLISHMENT OF AN HISTORIC PRESERVATION COMMISSION FOR ROLLA. A motion was made by Williams and seconded by Long to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Morris, Woolley, Leonard, Williams, Myers, Bahr, Magdits, Jordan, Bowe, Sawyer, and Long. Nays; None. Absent; Eudaly. Motion carried. The ordinance passed.

**VII. NEW BUSINESS**

**(A) Ordinance Amending Chapter 19 of the Rolla City Code by Adding Article III Pertaining to the Installation and Operation of Outdoor Wood Burning Furnaces:** City Administrator John Butz stated that about six weeks ago residents on Rolla Street complained about the smoke coming from a neighbor’s outdoor wood burning furnace. Mr. Butz noted outdoor wood burning furnaces are common in rural areas and they are beginning to become more popular in urban areas particularly as electric and gas prices

**VII. NEW BUSINESS (continued)**

**(A) Ordinance Amending Chapter 19 of the Rolla City Code by Adding Article III Pertaining to the Installation and Operation of Outdoor Wood Burning Furnaces (continued):** increase. Mr. Butz told the Council that about four outdoor wood burning furnaces are located within the Rolla city limits and a permit has been obtained for only one of them. He pointed out this does not mean the other furnaces are illegal because there is nothing in City Code that regulates them. Mr. Butz said adoption of the subject ordinance calls for a permit and places regulations on them. He told the Council that a first reading on the proposed ordinance is not necessary at this meeting. Mr. Butz suggested the Council first have some discussion and obtain feedback from the residents.

After some discussion, Community Development Director John Petersen provided a brief overview of the subject ordinance. He indicated the proposed ordinance is restrictive. To obtain a permit under the subject ordinance, a site plan would need to be submitted showing all structures within 400 feet.

Following additional discussion, Mr. Butz reiterated to the Council that a first reading of the proposed ordinance is not necessary at this meeting, unless the Council is comfortable with the proposed ordinance.

A motion was made by Myers and seconded by Morris to set aside consideration of the subject ordinance. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(B) Ordinance Repealing Sections 3-1, 3-2 & 3-3 of the Rolla City Code Pertaining to the Airport Advisory Committee and Enacting New Sections 3-1, 3-2, & 3-3 In Lieu Thereof:** City Administrator John Butz recalled that when the airport covenants were adopted, the Council agreed to amend the composition of the Airport Advisory Committee from six to eight members. Additionally, the services of the Committee would be expanded to include the industrial park development side of it. Mr. Butz emphasized the Committee is advisory only and they do not have specific authority. Only the Council is empowered to incur costs.

City Counselor Lance Thurman read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 4107: AN ORDINANCE REPEALING SECTIONS 3-1, 3-2, AND 3-3 OF THE GENERAL ORDINANCES OF THE CITY OF ROLLA, MISSOURI KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, AND ENACTING NEW SECTIONS 3-1, 3-2, AND 3-3, IN LIEU

**VII. NEW BUSINESS (continued)**

**(B) Ordinance Repealing Sections 3-1, 3-2, & 3-3 of the Rolla City Code Pertaining to the Airport Advisory Committee and Enacting New Sections 3-1, 3-2, & 3-3 In Lieu Thereof (continued):** THEREOF PERTAINING TO THE AIRPORT ADVISORY COMMITTEE. A motion was made by Jordan and seconded by Sawyer to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried. Mr. Thurman then read the proposed ordinance for its final reading, by title. A motion was made by Williams and seconded by Morris to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Myers, Long, Bahr, Williams, Jordan, Leonard, Sawyer, Magdits, Woolley, Morris, and Bowe. Nays; None. Absent; Eudaly. Motion carried. The ordinance passed.

**(C) Ordinance Repealing Section 30-25 of the Rolla City Code Pertaining to Signs on Public Right of Way, Utility Poles & Street Sign Poles and Enacting a New Section 30-25 In Lieu Thereof:** City Administrator John Butz explained the subject ordinance primarily pertains to one particular vehicle located near the Phelps County Courthouse that sits for no other purpose than a mobile billboard. When the vehicle is posted for violation, the owner simply moves the vehicle around the corner or moves it up a spot. Mr. Butz said City Counselor Lance Thurman suggested amending Section 30-25 of the City Code by adding the wording “where the primary purpose is for the advertisement upon any public right-of-way.” Mr. Butz noted he is recommending the maximum penalty for violation of this section be increased to \$250.

Following discussion, City Counselor Lance Thurman read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE REPEALING SECTION 30-25 OF THE GENERAL ORDINANCES OF THE CITY OF ROLLA, MISSOURI KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, AND ENACTING A NEW SECTION 30-25 IN LIEU THEREOF PERTAINING TO SIGNS ON PUBLIC RIGHT OF WAY, UTILITY POLES AND STREET SIGN POLES.

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

None.

**IX. CITIZEN COMMUNICATION**

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

(1) Mr. Casey Helfrich, 406 E. 11<sup>th</sup> Street, Rolla, Missouri, and the Arkansas and Missouri regional representative for Premier Pyrotechnics, Richland, Missouri, addressed the Council pertaining to the pyrotechnics portion of the Fire Protection ordinance, which pertains to the ban of indoor pyrotechnics, in places that serve alcohol. He said he feels it is unfair to ban fireworks indoors just on the basis that alcohol is served. Mr. Helfrich then entertained comments and questions from the Council regarding the e-mail he sent to the Council pertaining to this matter. In his opinion, Mr. Helfrich said just because alcohol is sold does not necessarily bring an extra safety hazard. There are already a number of measures in place and rules for the permitting process to allow for the safe use of indoor pyrotechnics.

Fire Chief Robert Williams indicated a proximal shoot is conducted every year in Castleman Hall at Missouri S&T. The Rolla Fire Department and the State Fire Marshal's Office conduct an inspection of the facility and the person setting off the pyrotechnics. Chief Williams said this is the only one that is currently being done in Rolla.

(2) Mr. Robert Stewart, 1308 Hillview Drive, said he attended the meeting to see if the Council received the e-mails he sent earlier in the week about the worldwide scam of putting fluoride in city water to help children's teeth. He noted that 95% of the fluoride is wasted and that children's teeth can be treated with fluoride in other ways than putting it in water. Mr. Stewart said a study shows that too much fluoride makes children dumber. He asked the Mayor to get the Council together to discuss this matter and to take some action on it.

(3) Ms. Margaret Hawley, 1190 South Rolla Street, noted that on June 17 she addressed the Council with a summary of her experiences from living next door to an outdoor wood-burning furnace. She requested the Council ban their use inside the city limits of Rolla. Ms. Hawley informed the Council that their last smoke nuisance incident was on June 26 when the temperature was in the 90s. However, she said she believes her neighbor has temporarily ceased operation of the furnace during the summer. Ms. Hawley pointed out there are some weaknesses in the proposed ordinance. The clearance of 150 feet from a furnace to a nearby inhabited home is inadequate. Ms. Hawley noted her neighbor's furnace is probably 200 feet from her home. Ms. Hawley said she hopes



**IX. CITIZEN COMMUNICATION (continued)**

**(A) Open Citizen Communication:** (3) (continued): court action will not be necessary. She indicated the Fire Department told her that an ordinance is really needed in order for them to take action. Ms. Hawley said a 15-foot minimum height of the chimney top would not address their problem. She added it needs to be amended to equal the roof level of nearby structures. Ms. Hawley pointed out the use needs to be regulated so the furnace is only in operation for residential heating for personal warmth, not for hot water all year round. She suggested if these furnaces were allowed to build up, the particulate matter would fill a concentrated area like a city. Ms. Hawley urged the Council to consider something stronger than what is in the proposed ordinance.

(4) Mr. Kenneth Hawley, 1190 S. Rolla Street, noted there was some discussion that because of the smell it was obvious their neighbors were burning materials that were not allowed according to the proposed ordinance for operations. He said this was discussed with the neighbor who has the outdoor wood-burning furnace and he showed him the stove and the pile of seasoned wood. He told Mr. Hawley he spent \$5,000 or more on the unit and he is not going to do anything to violate the warranty. Mr. Hawley said it is the manner the stove is designed to operate. When the furnace is not being used for heat, the unit constantly smolders, which builds up creosote. Mr. Hawley said the creosote is what he smells and what is bothersome. Mr. Hawley told the Council the proposed ordinance needs to be amended so it is very clear. Additionally, he asked that the ordinance be amended to specify that the operations part of the ordinance apply to all wood stoves, regardless of when they were installed.

(5) Mr. Ken Clugston, 900 Halifax, told the Council the music emanating from Fat Cats Entertainment Complex is not the real problem. Rather, it is the thumping sound from the bass guitar, which begins about 8 p.m. and ends around midnight. He stated the bass guitar is so loud it causes his home to vibrate. Mr. Clugston said another disturbing factor is the noise outside the building from people talking and yelling at one another and the spinning of their vehicle wheels when they leave the facility. Mr. Clugston said this noise continues until 2 a.m. to 3 a.m.

(6) Mr. Steven Peterson, 1606 Cedar Street, said he has a question and a possible suggestion for helping pay for The Centre. He indicated he has been reading in the paper how the Council is considering a one-eighth cent or quarter cent sales tax to fund the Parks and Recreation Department. Mr. Peterson asked if the citizens of Rolla could come up with a way of saving money in the Sanitation Department, could the money saved be transferred to Parks and Recreation.

**IX. CITIZEN COMMUNICATION (continued)**

**(A) Open Citizen Communication (continued):** (6) (continued): City Administrator John Butz responded Missouri law prohibits using funds from the Sanitation Department, because it is considered an enterprise fund. He said funds from the Sanitation Department could not be arbitrarily transferred to a governmental purpose, which is what The Centre is.

Mr. Peterson said his suggestion was centralizing trash collection and the money saved from that could possibly help Parks and Recreation.

Mr. Butz thanked Mr. Peterson for his interest and added the State Auditor would not allow it.

No one else present addressed the Council.

**X. MAYOR/CITY COUNCIL COMMENTS**

**(A) Appointment of Mr. Bill Marshall to the Rolla Enhanced Enterprise Zone Board to Complete the Unexpired Term of Ms. Mary Davis (June 2014):** A motion was made by Williams and seconded by Morris to appoint Mr. Bill Marshall to the Rolla Enhanced Enterprise Zone Board to complete the unexpired term of Ms. Mary Davis with his term ending June 2014. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(B) Appointment of Ms. Fran Mazanec to the Police Personnel Board to Replace Mr. Ken Kaunley (June 2017):** A motion was made by Long and seconded by Morris to appoint Ms. Fran Mazanec to the Police Personnel Board to replace Mr. Ken Kaunley with her term ending June 2017. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(C) Reappointment of Mr. Ed Schmidt, Mr. Steve Mason, and Mr. James Sowers to the Airport Advisory Committee (July 2015 each):** A motion was made by Williams and seconded by Jordan to reappoint Mr. Ed Schmidt, Mr. Steve Mason, and Mr. James Sowers to the Airport Advisory Committee with their terms each ending July 2015. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

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

**(D) Appointment of Mr. Mike Mathews of Brewer Science to the Airport Advisory Committee (July 2015):** A motion was made by Long and seconded by Williams to appoint Mr. Mike Mathews of Brewer Science to the Airport Advisory Committee with his term ending July 2015. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(E) Reappointment of Mr. Al Crump to the Rolla Board of Public Works (August 2017):** A motion was made by Williams and seconded by Myers to reappoint Mr. Al Crump to the Rolla Board of Public Works with his term ending August 2017. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

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

**(A) Farmers Markets:** Councilman Woolley encouraged everyone to support the local farmers markets. He noted the Rolla Downtown Farmers Market is open every Tuesday from 7 a.m. until noon and is located in the lower City Hall parking lot. The other farmers market is located at Al West Nissan on Highway 63 North and is open every Saturday from 8 a.m. to 1 p.m.

**(B) Rolla National Airport Project Update:** Councilman Bahr asked City Administrator John Butz about the status of the Rolla National Airport project.

Mr. Butz responded work is moving along very well. The City is struggling keeping the Economic Development Association (ED) satisfied with the requirements of the grant.

**(C) Park Sales Tax Ward Meetings:** Councilman Leonard recalled that during its last workshop the Council discussed conducting ward meetings to start talking about the park sales tax. He asked if a date for these could be set fairly soon.

City Administrator John Butz said staff would schedule the meetings. He asked the Council to let him know where the meetings might be held in their respective wards.

**(D) Budget Workshops:** City Administrator John Butz reported the FY 2013/2014 budget workshops are scheduled for Monday, August 26 and Tuesday, August 27, if needed. The agenda packets will be ready about a week before the workshop.

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

**(E) Welcome to Councilman Walt Bowe:** Councilman Long welcomed Councilman Bowe to the City Council.

Mr. Bowe expressed his appreciation to the Council for giving him the opportunity to serve the city of Rolla in this regard.

**XII. EXECUTIVE SESSION**

None.

**XIII. ADJOURNMENT**

Having no further business, the meeting adjourned at 8:53 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

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CITY CLERK

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MAYOR

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