

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, AUGUST 19, 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, Susan J. Eudaly, Don Morris, Lou Magdits, Jim Williams, Tony Bahr, and Walt Bowe

Council Members Absent: Brian Woolley

Department Directors in Attendance: Parks and Recreation Director Scott Caron, Community Development Director John Petersen, Fire Chief Robert Williams, Environmental Services Director Brady Wilson, Public Works Director Steve Hargis, and Finance Director Steffanie Rogers

Other City Officials in Attendance: City Administrator John Butz, City Counselor Carolyn Buschjost, Police Captain Jason Smith, 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 Monty Jordan then led in the Pledge of Allegiance.

I. PUBLIC HEARINGS

(A) Public Hearing and Ordinance Setting the 2013 Tax Rate: Finance Director Steffanie Rogers told the Council that based on the State's calculations, the proposed 2013 tax rate has increased one cent per \$100 assessed valuation.

Mayor Jenks opened the public hearing to anyone wishing to address the Council regarding the proposed 2013 tax rate. 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 NO. 4108: AN ORDINANCE FIXING THE TAX LEVY FOR GENERAL REVENUE, LIBRARY AND PARK BY THE CITY OF ROLLA, MISSOURI, FOR THE YEAR 2013.** A motion was made by Williams and seconded by Eudaly to suspend the rules and that the ordinance be read for its final

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I. PUBLIC HEARINGS (continued)

(A) Public Hearing and Ordinance Setting the 2013 Tax Rate (continued): reading, by title. A voice vote on the motion showed eleven ayes, zero nays, and one 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: Eudaly, Magdits, Jordan, Williams, Myers, Bahr, Long, Bowe, Sawyer, Morris, and Leonard. Nays; None. Absent; Woolley. Motion carried. The ordinance passed.

(B) Public Hearing to Rezone Lot B, McCutchen Acres, Plat No. 1, from R-1 to R-2 & C-O Zoning (Davis): Community Development Director John Petersen informed the Council that the subject property is currently zoned R-1 (Single Family District) and is vacant. The applicant proposes to develop fourteen, two-family (duplex) structures and office development on Lots 16, 17, and 18 to the west. Mr. Petersen reported the Planning and Zoning Commission met last week and it was their opinion that the proposed zoning would not have a negative impact on the surrounding neighborhood, but would permit a gradual transition. Mr. Petersen noted that to date he has received seven petitions from property owners within 185 feet of the subject property opposing the subject rezoning request, but it does not constitute a legal petition.

Mr. Petersen told the Council the Planning and Zoning Commission recommends the rezoning request be approved with the following two conditions: (1) The rezoning from R-1 (Single Family District) zoning to R-2 (Two-Family District) zoning for Lots 2 through 15 would be limited to one story building height. (2) The developer agrees to limit construction on Lots 16 through 18 to office use (as described in the C-O (Office District) zoning or to R-1 (Single-Family District) or R-2 (Two-Family District) zoning, but excluding multi-family use.

Following Council discussion, Mr. Gary Hicks, 506 Cheswick, and representing petitioner Mr. Robert L. Davis, addressed the Council. He said he could assure the Council that Mr. Davis would absolutely follow all the necessary rules and regulations. Mr. Hicks said Mr. Davis is not trying to put in any substandard streets or storm water development and he would do everything above board. Mr. Hicks pointed out high density, multi-family, and commercial land uses should be located at the intersection of a collector or larger traffic volume roads. This location provides direct access to primary streets, accommodating larger volume and traffic from a more concentrated area. Mr. Hicks said he could assure the Council that Mr. Davis will do everything he can to accommodate the neighbors on every side and he would not do anything that would detract from the community.

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I. PUBLIC HEARINGS (continued)

(B) Public Hearing to Rezone Lot B, McCutchen Acres, Plat No. 1, from R-1 to R-2 & C-O Zoning (Davis) (continued): Mayor Jenks opened the public hearing to anyone owning property within 185 feet of the subject property wishing to address the Council in favor of the proposed rezoning. No one present responded.

Mayor Jenks then opened the public hearing to anyone owning property outside 185 feet of the subject property wishing to address the Council in favor of the proposed rezoning. No one present responded.

Mayor Jenks then opened the public hearing to anyone owning property within 185 feet of the subject property wishing to address the Council in opposition to the proposed rezoning.

Ms. Jessica Prock, 1307 Eastwood Drive, said she believes it would be an adverse impact on your life if you have a duplex or a commercial building in your backyard. She asked the Council how they would feel if they had a four-year-old child playing outside and having a commercial office building in your backyard. Ms. Prock pointed out there are a number of vacant strip malls and office buildings already in Rolla. She additionally expressed concern with three or four college students renting the duplexes with three or four vehicles per unit times two units, times ten duplexes. Ms. Prock asked why a buffer yard could not be constructed and R-1 (Single Family District) structures. Additionally, if a buffer is erected, she asked who would be responsible for maintaining it in ten to twenty years.

Ms. Linda Vogt, 1803 McCutchen, called the Council's attention to the fact that with the new roundabout on Forum Drive, there is additional traffic on McCutchen Drive. She said if you sit on her front porch on any day, you would see Coca-Cola, UPS, Fed-Ex, and Budweiser trucks all rushing up and down McCutchen Drive. If 14 duplexes are constructed with cars pulling out on the hill with trucks going the speed limit at 30 M.P.H., they are not going to be able to stop. Ms. Vogt asked the Council to take into consideration that there will be a lot more vehicles on McCutchen Drive and it will have an adverse effect on the property values.

Mr. Darel Luechtefeld, 1311 Eastwood, said he does not have anything to add and agrees with everything that was previously said, but he wanted it noted that he opposes the rezoning request.

No one else owning property within 185 feet and opposed to the subject-rezoning request addressed the Council.

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I. PUBLIC HEARINGS (continued)

(B) Public Hearing to Rezone Lot B, McCutchen Acres, Plat No. 1, from R-1 to R-2 & C-O Zoning (Davis) (continued): Mayor Jenks opened the public hearing to anyone owning property outside 185 feet of the subject rezoning request wishing to address the Council in opposition to the proposed rezoning.

Mr. Kent Davis, 1700 McCutchen, and representing many of the people in the audience who are opposed to the rezoning of McCutchen Acres from R-1 (Single Family District) to C-O (Office District) and R-2 (Two Family District) zonings, addressed the Council. He stated that on either side of the proposed rezoning area you would find well-established single-family homes. Most everyone who owns homes in Heritage Heights, Brownwood Estates, and in the Forum Subdivision purchased homes and property with the idea that this area would always be single-family housing. Mr. Davis said most of us are middle-class citizens trying to make ends meet and keep our properties and homes maintained. When the original owners of the McCutchen Acres were gone, we as property owners assumed that future owners of this property would develop the property as single-family dwellings. If that were true, Mr. Davis indicated the City would have their full support. He said the residents never considered the fact that developers would want to turn it into office space, commercial space, multi-family district, or two-family district. As residents and homeowners in the area adjacent to Forum Drive, Mr. Davis indicated they have seen what rental property can turn out to be. With the University in Rolla, we often find that students can live off campus much cheaper than they can live on campus. Thus, they look for rental property and there is no guarantee that the property that is rezoned would be purchased property, or if it would be rental property. Mr. Davis explained that you could drive all over Rolla and find apartments and duplexes with as many as three to six students living in one rental with cars parked on the streets and in the yards because there is not adequate parking for the residents. By calling this proposed area University Hills, he pointed out it appears the developer has the University and the college students in mind. Thus, we have many students, maybe parties, maybe additional noise in what is currently a quiet neighborhood with older adults. Mr. Davis noted the residents on Eastwood Drive never dreamed that someday they would have office buildings and duplexes backed up to their property on the south side of the proposed Eighteenth Street extension. With the extension of Eighteenth Street and with the approval of this request for rezoning, the residents on California Drive know that it is only a matter of time before the developers will ask for the rezoning on the north side of the Eighteenth Street expansion. Most people know it is getting your foot in the door that counts. If this rezoning request is approved, Mr. Davis asked who would benefit from this rezoning other than the developer and the City - certainly not the people who live adjacent to this property who pay property taxes and are concerned about their home and

I. PUBLIC HEARINGS (continued)

(B) Public Hearing to Rezone Lot B, McCutchen Acres, Plat No. 1, from R-1 to R-2 & C-O Zoning (Davis) (continued): property value. Mr. Davis pointed out the housing market is just now starting to turn around after the devastating recession and now we are faced with yet a situation that could impact our home values. Who is to say what type of offices will be built on the lower portion of Lot B if the rezoning is approved and who will monitor the proposed duplexes that will be built. Will they be limited to a certain number of people per unit? Will there be adequate parking? Will the property be maintained, grass mowed, trash picked up, area free of junk? Mr. Davis said there would be parking lots for the proposed offices and additional streets to add to the drainage issues that already exist. The plat plans show two streets connecting to McCutchen, which is already a racetrack and is over utilized since the roundabout was installed on Forum Drive. Mr. Davis said he finds it impossible to back out of his driveway on McCutchen Drive due to the high volume of traffic. People looking for homes in the future in the subdivisions that surround the proposed rezoning area may be reluctant to purchase knowing that offices and duplexes are going to be built. Mr. Davis indicated he is confident that none of the Council would knowingly buy a piece of property if they knew that an office or a complex of two-family duplexes would be built next door to them. He asked the Council to simply put themselves in their shoes. Mr. Davis said the residents are simply trying to protect their property and interest. He concluded by asking the City Council to not approve this request for the rezoning of Lot B of McCutchen Acres property.

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

Following discussion, a motion was made by Morris and seconded by Eudaly to amend the C-O (Office District) zoning portion of the ordinance to stipulate that some type of buffer be placed between the C-O (Office District) zoning and the R-1 (Single Family District) zoning. A voice vote on the motion showed ten ayes, one nay, and one absent. Motion carried.

City Counselor Carolyn Buschjost read the following proposed ordinance for its first reading by title, as amended. ORDINANCE: AN ORDINANCE TO REZONE PROPERTY CONSISTING OF ALL OF LOT B, MCCUTCHEN ACRES, PLAT NO. 1, FROM R-1 (SINGLE FAMILY DISTRICT) ZONING TO R-2 (TWO FAMILY DISTRICT) ZONING AND TO C-O (OFFICE DISTRICT) ZONING. (DAVIS).

II. SPECIAL PRESENTATIONS

(A) Rolla Municipal Utilities FY 2013 Third Quarter Report and FY 2014 Budget

Overview: Rolla Municipal Utilities General Manager Rodney Bourne provided an overview of Rolla Municipal Utilities' (RMU) Fiscal Year 2013 Third Quarter Report and Fiscal Year 2014 annual budget. Additionally, he outlined some rate restructuring and rate adjustments scheduled to take place in October 2013. Mr. Bourne noted the subject report and proposed budget are both available for review on the Rolla Municipal Utilities website (www.rollamunicipalutilities.org).

III. OLD BUSINESS

(A) Ordinance Amending Chapter 19 of the Rolla City Code by Adding Article III Pertaining to the Installation & Operation of Outdoor Wood Burning Furnaces:

City Administrator John Butz recalled the Council discussed this issue at its last meeting and set aside consideration of the first reading of the subject ordinance. He noted on Page III.A.2. of the agenda materials, there are some suggestions for amendments proposed by Kenneth and Margaret Hawley, 1190 S. Rolla Street. Mr. Butz said the Council can virtually ban types of things based on very restrictive requirements or the City can make them very easy applications and they could become commonplace in our community.

After discussion, City Counselor Carolyn Buschjost read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE AMENDING CHAPTER 19 OF THE ROLLA CITY CODE ENTITLED "HEALTH AND SANITATION," BY ADDING ARTICLE III, ENTITLED "OUTDOOR WOOD BURNING FURNACES," PERTAINING TO THE INSTALLATION AND OPERATION OF OUTDOOR WOOD BURNING FURNACES IN ROLLA, MISSOURI.

(B) 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 is a follow-up to the Police Department looking for a remedy for these rare situations where a vehicle is parked on public right-of-way and it has no purpose from a transportation standpoint and it simply becomes a billboard.

III. OLD BUSINESS (continued)

(B) 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 (continued): Following some discussion, a motion was made by Leonard and seconded by Myers to amend the proposed ordinance by adding the word “unattended” in subsection (a) as follows: “It shall be unlawful for any person to erect or have placed upon any public right of way in the City of Rolla any sign, marker, other structure or edifice or unattended vehicle...” A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

City Counselor Carolyn Buschjost read the following proposed ordinance for its final reading, by title, as amended. ORDINANCE NO. 4109: 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. 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; Bahr, Leonard, Myers, Williams, Bowe, Sawyer, Magdits, Long, Eudaly, and Morris. Nays: Jordan. Absent; Woolley. Motion carried. The ordinance passed.

IV. NEW BUSINESS

(A) Ordinance Amending Section 2-154 of the Rolla City Code by Adding Section 2-154(f) Pertaining to Court Costs: City Administrator John Butz reported the City was notified of a second Attorney General’s Opinion on some old legislation that states municipal cases are to charge a \$3 surcharge, the proceeds which go to the Sheriffs’ Retirement Fund, effective August 28, 2013. He noted that many cities and municipal courts are objecting to this surcharge and are considering legal action. Mr. Butz said staff is recommending passage of the ordinance, placing the money in escrow, and asking the Mayor to delay signing the ordinance as long as possible.

Following some discussion, City Counselor Carolyn Buschjost read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 4110: AN ORDINANCE AMENDING SECTION 2-154 OF THE GENERAL ORDINANCES OF THE CITY OF ROLLA, MISSOURI KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, BY ADDING SECTION 2-154(f) PERTAINING TO COURT

IV. NEW BUSINESS (continued)

(A) Ordinance Amending Section 2-154 of the Rolla City Code by Adding Section 2-154(f) Pertaining to Court Costs (continued): COSTS. A motion was made by Long and seconded by Williams 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. 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; Leonard, Bowe, Williams, Myers, Bahr, Magdits, Jordan, Morris, Long, Eudaly, and Sawyer. Nays; None. Absent; Woolley. Motion carried. The ordinance passed.

A motion was made by Long and seconded by Eudaly to authorize the Mayor to not sign the proposed ordinance until compelled and the proceeds from the \$3 surcharge be deposited under protest. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

(B) Ordinance Approving a Minor Subdivision and Replat of a Portion of Lots 2 & 3 Ozark Terrace 2nd Addition (Taylor): Community Development Director John Petersen explained the subject properties consist of Lots 2 and 3 of Ozark Terrace Addition. He said the applicant is requesting that two new lots (Lots 2A and 3A) be created increasing the number from two to four lots. Mr. Petersen reported the Planning and Zoning Commission recommend approval.

City Counselor Carolyn Buschjost read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 4111: AN ORDINANCE APPROVING A MINOR SUBDIVISION AND RE-PLAT OF A PORTION OF LOTS 2 AND 3 OF OZARK TERRACE SECOND ADDITION IN ROLLA, MISSOURI, THEREBY ESTABLISHING TWO NEW LOTS (LOTS 2A AND 3A) AS SHOWN ON THE ATTACHED SUBDIVISION PLAT (TAYLOR). A motion was made by Eudaly 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 motion showed eleven ayes, zero nays, and one 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 Jordan to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Williams, Jordan, Bahr, Eudaly, Leonard, Bowe, Sawyer, Magdits, Long, Morris, and Myers. Nays; None. Absent; Woolley. Motion carried. The ordinance passed.

IV. NEW BUSINESS (continued)

(C) Ordinance Approving the Replat of Lots 24 & 25 Wedgewood Manor Subdivision (Bowen): Community Development Director John Petersen explained the property owner is requesting the consolidation of Lots 24 and 25 of the Wedgewood Manor Subdivision. The applicant wishes to construct a garage on the property. Although not required by City Code, some of the Council members preferred to see a rendering of the garage to be constructed. Following discussion, City Counselor Carolyn Buschjost read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE APPROVING THE RE-PLAT OF LOTS 24 AND 25 OF THE WEDGEWOOD MANOR SUBDIVISION, AN ADDITION TO ROLLA, MISSOURI, BY CONSOLIDATING EXISTING LOTS 24 AND 25, ESTABLISHING A SINGLE LOT 24A. (BOWEN). A motion was made by Williams and seconded by Long to suspend the rules and that the ordinance be read for its final reading, by title. Following additional discussion, a hand count on the motion showed five ayes, six nays, and one absent. Motion failed.

(D) Ordinance Approving the Resubdivision/Consolidation of Lots 11 & 12 Wild Rose Hill Subdivision (Bachman): Community Development Director John Petersen explained the applicant wishes to consolidate Lots 11 and 12 in Wild Rose Hill Subdivision in order to construct a garage.

Although not required by City Code, some of the Council members preferred to see a rendering of the garage to be constructed. City Counselor Carolyn Buschjost then read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE APPROVING THE RE-PLAT OF LOTS 11 AND 12 OF THE WILD ROSE HILL SUBDIVISION, AN ADDITION TO ROLLA, MISSOURI BY CONSOLIDATING LOTS 11 AND 12, THEREBY ESTABLISHING A SINGLE LOT 12A, SHOWN ON THE ATTACHED SUBDIVISION PLAT (BACHMAN). A motion was made by Morris and seconded by Jordan to suspend the rules and that the ordinance be read for its final reading, by title. A hand count on the motion showed four ayes, seven nays and one absent. Motion failed.

(E) Resolution Authorizing the Mayor to Execute a Sewer Use Agreement with Ms. Elizabeth S. Retherford: Public Works Director Steve Hargis referred the Council to the petition for annexation and proposed sewer use agreement for property located along Cedar Grove Road, just outside the city limits. He noted two homes across the street from the subject property have already connected to this system via a pump station in the houses. Mr. Hargis said all of these houses have been in violation of county regulations pertaining to septic systems. Rather than trying to repair the septic systems on these

IV. NEW BUSINESS (continued)

(E) Resolution Authorizing the Mayor to Execute a Sewer Use Agreement with Ms. Elizabeth S. Retherford (continued): small lots, the homeowners are electing to connect to the City sewer. According to City Code, the only way they can do that is to request annexation and since the property is not contiguous to the city limits, it cannot be annexed. Mr. Hargis informed the Council that all costs to connect to the City sewer would be borne by the property owner and they would be charged a monthly rate by the City. He reported the Planning and Zoning Commission and staff recommend approval of this request.

After a brief discussion, City Counselor Carolyn Buschjost read the following proposed resolution for one reading, by title. RESOLUTION NO. 1808: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI A SEWER USE AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI, AND ELIZABETH S. RETHERFORD. A motion was made by Eudaly and seconded by Sawyer to approve the proposed resolution. A voice vote on the motion showed ten ayes, one nay, and one absent. Motion carried. The resolution passed.

V. CLAIMS and/or FISCAL TRANSACTIONS

(A) Motion to Accept Surplus Items Sold on GovDeals.com: City Administrator John Butz recalled the Council approved an amendment to the City's procurement policy that includes disposal of surplus assets. When the surplus assets are sold through GovDeals.com, the Council does not approve the transaction since it is done online. He said about every six months staff provides the Council with a list of the assets sold. A motion was made by Williams and seconded by Eudaly to accept the list of surplus items sold through GovDeals.com from January 1, 2013 through June 30, 2013. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

VI. MAYOR/CITY COUNCIL COMMENTS

(A) Appointment of Ms. Judy Williams to the Library Board to Replace Mrs. Gery Armaly (May 2016): A motion was made by Eudaly and seconded by Morris to appoint Ms. Judy Williams to the Library Board with her term expiring May 2016. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

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VI. MAYOR/CITY COUNCIL COMMENTS (continued)

(B) City Council Budget Workshop, August 26 & 27, Light Dinner 5 p.m., Meeting 5:30 p.m., City Council Chambers: Mayor Jenks reminded the Council of the Budget Workshops scheduled for Monday, August 26, and Tuesday, August 27 (if needed), beginning at 5:30 p.m. in the City Council Chambers.

VII. CITIZEN COMMUNICATION

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

(1) Mr. Kenneth Hawley, 1190 S. Rolla Street, addressed the Council regarding the outdoor wood-burning furnace ordinance. He noted the proposed ordinance contains the definition for “odor”. However, he noted the word “odor” is not contained within the ordinance. Mr. Hawley said he believes that possibly the ordinance was amended and the definition was left in the ordinance. Mr. Hawley suggested the Council reinvestigate the possibility of having a definition for “public nuisance” and “public health risk.” Mr. Hawley said the way the ordinance is currently written regarding the “grandfathered” furnaces, he and his wife would have to live with the odor forever, unless there is a sunset clause for the “grandfathered” furnaces to come into compliance. Otherwise, their only relief would be under a nuisance or public health risk. Without a definition, it is practically unenforceable.

(2) Mr. Jeff Dvorak, 1220 S. Rolla Street, and owner of the nuisance stove, indicated he has not had any communication with the Hawleys about the stove for over a year. He said the stove has been shut off since June 26, 2013. The Hawleys sent him a letter outlining some things he could do with the stove to prevent the smoke. Mr. Dvorak said he researched some things such as the air scrubber and the cost would be about \$3,500. He told the Council he has lifted the stack six feet. Since the stove has not been in operation, Mr. Dvorak said he does not yet know if it will work. He said he told Mr. Hawley if this does not work, he could raise the stack further and that he can add on as much as fifteen feet. However, the higher the stack, more problems can occur inside the unit with the buildup of soot. Mr. Dvorak indicated he is trying and willing to do what he can to rectify the situation. He said his fear is if he has to shut down the stove, what they will do to heat their house. He pointed out the stove was a very substantial purchase.

VII. CITIZEN COMMUNICATION (continued)

(A) Open Citizen Communication (continued): (3) Ms. Margaret Hawley, 1190 S. Rolla Street, pointed out that Mr. Dvorak said the Hawleys had not talked with them in a year. She said just prior to the June 17, 2013, Council meeting they were talking over the back fence with Mr. Dvorak about the situation and he told them there is not going to be anymore talk, and it would take a court order to shut off the furnace. Ms. Hawley indicated he effectively cut off communication just prior to the June 17 Council meeting. Ms. Hawley clarified that she and her husband have not accused Mr. Dvorak of burning “creosote logs,” rather that it “smelled like it.” She told Mr. Dvorak they do not think he is burning anything but seasoned proper wood.

No one else present addressed the Council.

VIII. COMMENTS FOR THE GOOD OF THE ORDER

(A) Rolla City Cemetery: Councilman Jim Williams reported he received a telephone message from Ms. Juanita Bailey indicating the vase has been knocked off on her husband’s cemetery stone. Ms. Bailey informed Mr. Williams that she registered a complaint with the City a couple of months ago, but nothing has been done. He asked if someone from the Cemetery Department could look into this matter.

City Administrator John Butz indicated staff would look into the matter. If the stone/vase has been vandalized, it is the responsibility of the cemetery lot owner.

(B) High Grass: Councilman Jim Williams indicated he was approached by a citizen who said if the City is going to change the height limits on grass, then the City needs to take care of the grass growing in the sidewalks, particularly in the Vichy Road area.

City Administrator John Butz responded the adjacent property owner is responsible for the high grass to the curb. He said there is no way the City can maintain the grass in sidewalks and curbs throughout the city. Mr. Butz asked for the citizens’ help with this problem.

(C) Business Route 63 North: Councilman Tony Bahr asked City Administrator John Butz if the Missouri Department of Transportation (MoDOT) plans to do anything with the undulations in the asphalt.

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

(C) Business Route 63 North (continued): City Administrator John Butz said MoDOT is aware of the problem and they plan to patch these areas. Until MoDOT can find some local maintenance dollars, they are going to have to just patch the areas. Mr. Butz indicated he would report the problem to MoDOT.

(D) Run the Hill 5K in Rolla: Councilman Kelly Long announced the second annual Run the Hill 5K in Rolla, which brings awareness to Lewy Body Dementia, is scheduled for September 14, 2013. He noted that longtime coach and Rolla citizen Dan Haskell suffers from Lewy Body Dementia. He said last year's Run the Hill 5K was the largest running event held in Rolla and it brought many people into the community. Mr. Long stated it is a great event for a great cause and he encouraged everyone to participate.

IX. EXECUTIVE SESSION

A motion was made by Williams and seconded by Eudaly to adjourn into Executive Session pursuant to RSMo. 610.021 to discuss real estate and potential litigation. A roll call vote on the motion showed the following: Ayes; Bowe, Leonard, Williams, Myers, Long, Magdits, Jordan, Morris, Sawyer, Eudaly, and Bahr. Nays; None. Absent; Woolley. Motion carried.

The Council adjourned into Executive Session at approximately 9:45 p.m.

X. EXECUTIVE SESSION ACTION

The Council reconvened into open session at approximately 10:24 p.m.

City Counselor Carolyn Buschjost reported that during Executive Session the Council first considered a real estate matter. The Council approved a resolution authorizing the Mayor to execute a contract for the purchase of real estate. Ms. Buschjost said the second matter pertained to possible litigation, but no final action was taken.

XI. ADJOURNMENT

Having no further business, the meeting adjourned at 10:25 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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