

**ROLLA CITY COUNCIL MEETING MINUTES  
MONDAY, NOVEMBER 5, 2018; 6:30 P.M.  
ROLLA CITY HALL COUNCIL CHAMBERS  
901 NORTH ELM STREET**

**Presiding:** Mayor Louis J. Magdits, IV

**Council Members in Attendance:** Jonathan Hines, Daniel Jones, Ann Murphey, Matthew Crowell, Jacob Rohter, David Schott, Jody Eberly, John Meusch, Jim Williams, Steven Jung, and Tiffany Henry

**Council Members Absent:** Brian Woolley

**Department Directors in Attendance:** Public Works Director Steve Hargis, Police Chief Sean Fagan, Environmental Services Director Brady Wilson, Interim Community Development Director Steve Flowers, Parks and Recreation Director Floyd Jernigan, and Fire Chief Ron Smith

**Other City Officials in Attendance:** City Administrator John Butz, City Counselor Lance Thurman, City Engineer Darin Pryor, and City Clerk Carol Daniels

A member of the Rolla Ministerial Alliance gave the invocation.

Following the invocation Mayor Magdits called the meeting to order at approximately 6:31 p.m. and asked Councilman John Meusch to lead in the Pledge of Allegiance.

**I. CONSENT AGENDA**

A motion was made by Williams and seconded by Jung to approve the consent agenda as submitted. A voice vote on the motion showed eleven 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) City Council Meeting – October 1, 2018
- 2) City Council Closed Session Meeting – October 1, 2018
- 3) City Council Meeting – October 15, 2018

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**II. PUBLIC HEARINGS**

**(A) Ordinance Approving the Final Plat of St. Maria's Tatandra:** City Planner James Shields explained the subject property is located approximately 250 feet north of the intersection of Liberty Drive and McCutchen Drive. The property was recently annexed and zoned R-3 (Multi-Family District) and a development agreement was approved in conjunction with this development. St. Maria LLC is the owner and Mike Woessner is the registered agent for the LLC. It is a 58-unit subdivision between one to four units per lot. Mr. Shields asked the Council to conduct a public hearing and consider the first reading of the ordinance that would approve the final plat of St. Maria's Tatandra.

Mayor Magdits opened the public hearing to anyone wishing to address the Council concerning the subject plat. No one present responded. Mayor Magdits closed the public hearing.

City Counselor Lance Thurman read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE TO APPROVE THE FINAL PLAT OF ST. MARIA'S TATANDRA, WHICH IS A MAJOR SUBDIVISION PLAT THAT DIVIDES AN APPROXIMATELY 42-ACRE TRACT OF LAND THAT IS IDENTIFIED BY THE PHELPS COUNTY ASSESSOR'S ACCOUNT NUMBER OF 12081, INTO 58 LOTS AND FIVE OUTLOTS. (ST. MARIA'S TATANDRA)

**III. ACKNOWLEDGEMENTS AND SPECIAL PRESENTATIONS**

**(A) Presentation of Rolla Police Department Civilian Service Award to Mr. Richard Aegan:** Police Chief Sean Fagan informed the Council that if Mr. Richard Aegan had not become involved, a Rolla police officer might have been killed. For his heroic efforts in assisting the police officer, Police Chief Fagan awarded Mr. Aegan with the Rolla Police Department's Civilian Service Award, which is the highest award that can be given a citizen.

Chief Fagan continued by describing the events that took place in October 2018. He told the Council the officer was literally fighting for his life and the officer used a Taser on the suspect, but it had no effect. He said that is when Mr. Aegan stepped in. Chief Fagan also noted there were four or five people standing around, with their cell phones out videoing the fight, but not trying to help the officer. Chief Fagan said his officer told him that had it not been for Mr. Aegan's actions, an officer and/or the suspect could have been killed.

**III. ACKNOWLEDGEMENTS AND SPECIAL PRESENTATIONS (continued)**

**(B) Review of Fiscal Year 2017 City of Rolla Independent Audit & a Motion Accepting the Audit:** Ms. Tammy Alsop, with Hochschild, Bloom & Co., LLC, CPAs, provided an overview of the City's FY 2017 audit report. She pointed out the City received an unmodified opinion, which is the highest form of assurance a city or entity can receive on its financial statements. Because the City expended over \$750,000 in Federal awards, a single audit report was also issued. Ms. Alsop added there were no material weaknesses noted.

A motion was made by Williams and seconded by Jones to accept the Fiscal Year 2017 independent audit. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(C) Camp David Presentation:** Mr. Benjamin Smith, Co-Founder and Director of Camp David of the Ozarks, told the Council that Camp David is a summer camp program for children and families who have been affected by incarceration in Missouri. He expanded on the program and also invited the Council to attend the inaugural "Let's Go Change the World" gala, which will be held on November 30, 2018, at the Havener Center in Rolla.

**(D) Rolla Regional Economic Commission Report (RREC):** Mayor Morgan announced this item has been postponed until the next Council meeting.

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

Mayor Magdits referred the Council to **(A)** the September 2018, Environmental Services Department Monthly Report; **(B)** the September 2018, Police Department Monthly Report; **(C)** the September 2018, Animal Control Division Monthly Report; **(D)** the September 2018 Centre Financial Analysis; **(E)** the September 2018, Park Financial Analysis; **(F)** the August 15, 2018, Centre Board Meeting Minutes; **(G)** the July 25, 2018, Park Advisory Commission Meeting Minutes; **(H)** the September 2018 Building Codes Division Monthly Report; **(I)** the September 2018 Municipal Court Report; **(J)** the October 9, 2018 Preliminary Planning & Zoning Commission Meeting Minutes; **(K)** the October 30, 2018, Development Review Committee Meeting Minutes; **(L)** the August and September 2018, Rolla Municipal Utilities Monthly Report; and **(M)** the August 28, September 25, and October 18, 2018, Rolla Board of Public Works Meeting Minutes.

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**V. OLD BUSINESS**

**(A) Ordinance Rezoning Lot 2, Poe's Subdivision (104 E. 4<sup>th</sup> St.) from General Retail District (C-2) to Highway Commercial District (C-3) (Bahr):** City Planner James Shields explained the subject property is located at the intersection of Fourth and Oak Streets and the property is owned by Anthony and Susan Bahr. The agent is Mr. Madison Daily, who is the owner of Talema Group. Mr. Shields said the subject property is currently zoned C-2 (General Retail District) and the proposal is to rezone the property to C-3 (Highway Commercial District) in order to operate a warehouse distribution facility for small electronic components. Mr. Shields pointed out there are a wide range of current uses, but is mostly used as residential. He said it is located within the central core district, which is in the comprehensive plan, and there is a mix of commercial, residential, and institutional uses. Mr. Shields reported that in a five to one vote, a majority of the Planning and Zoning Commission recommended approval of the proposal.

Mr. Tony Bahr, 906 W. 12<sup>th</sup> Street, owner of the subject property, informed the Council that this building has been used for storage. The warehouse was constructed for storage for overflow of the former Mom and Pop's Furniture. When the Salvation Army purchased the furniture building, Mr. Bahr said the warehouse was used for personal storage. Mr. Bahr said Talema Group ultimately contacted him and he said he thought he would construct a restroom facility in the warehouse and lease it. Mr. Bahr said there are no plans for the warehouse other than for storage.

After a lengthy discussion, City Counselor Lance Thurman read the following proposed ordinance for its final reading, by title. **ORDINANCE: AN ORDINANCE THAT REZONES LOT 2 OF POE'S SUBDIVISION, WHICH IS, AS CURRENTLY CONFIGURED, THE PARCEL IDENTIFIED WITH THE PHELPS COUNTY ASSESSOR ACCOUNT NUMBER OF 7642 AND THE ADDRESS OF 104 EAST 4TH STREET, FROM THE GENERAL RETAIL (ZONING) DISTRICT (C-2) TO THE HIGHWAY COMMERCIAL (ZONING) DISTRICT (C-3). (BAHR). A motion was made by Williams and seconded by Jung to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Murphey, Hines, Jung, Henry, Williams, and Meusch. Nays; Rohter, Crowell, Schott, Jones and Eberly. Absent; Woolley. Motion failed. The ordinance failed.**

Mayor Magdits asked staff if there is a way to accommodate the concerns of the Council and permit the request.

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**V. OLD BUSINESS (continued)**

**(A) Ordinance Rezoning Lot 2, Poe's Subdivision (104 E. 4<sup>th</sup> St.) from General Retail District (C-2) to Highway Commercial District (C-3) (Bahr) (continued):** City Planner James Shields indicated a conditional use permit could be approved in a C-2 (General Retail District). City Administrator John Butz noted this would require about a 60-day process.

Mayor Magdits asked staff to present this option to the property owners, with the understanding there is no guarantee the Council will follow through on it, but just so they have their options.

**VI. NEW BUSINESS**

**(A) Consideration to Provide Sales Tax Exemption on Major Subdivision:** City Administrator John Butz noted Mr. Mike Woessner is doing a major subdivision, which is located off McCutchen Drive. He said the City has not had many of these over the last few years because the cost of doing subdivision developments is expensive and the return or the risk to the developer has made it difficult to do them. Mr. Butz stated developers have always looked for ways where they can reduce their costs/risks in the project. He explained public improvements, which are done by a developer in support of their subdivision development, then become the City's assets to maintain in perpetuity. If the City were to have built those same improvements and used City crews, the City would not pay sales tax on the purchases of those items. Mr. Woessner has asked if the City's sales tax on the materials needed on the public improvement portion could be exempted. Mr. Butz indicated staff spoke with legal counsel about the ability of a city to be able to use their sales tax exemption on the public improvement portions of subdivisions. Their response was it can be done and should be done under a development agreement that stipulates the conditions. Mr. Butz said staff needs direction from City Council to determine whether this is something the City is willing to do, not just for this project, but also like projects. More recently, he noted the issue was raised whether doing this kind of public improvements raise the prevailing wage question. When posed to legal counsel, their reactions are that it does as a public improvement and as a participation of a tax advantage.

The Council appeared to be comfortable discussing future implementation of an exemption policy, but not approving an exemption before having a policy in place.

**VI. NEW BUSINESS (continued)**

**(A) Consideration to Provide Sales Tax Exemption on Major Subdivision (continued):** Mr. Butz referred the Council to the draft policy included in the Council packets, which is a mechanism that would allow Council to adopt a policy and then to apply it to an application. He said it would be helpful over the next two weeks to review the draft policy and staff will bring back to Council if the prevailing wage answer is received.

**(B) Resolution Granting License to Lehman Construction for Temporary Concrete Plant:** City Administrator John Butz recalled Lehman Construction, the contractor for the Highway 72 extension, received a conditional use permit with a duration through December 2018, to build a temporary concrete plant. In this case, the St. Maria's Tatandra project is interested in doing concrete. Mr. Butz said Lehman Construction possibly doing the concrete work required either an extension at its current location on Mercy Parkway or the possibility of relocating it to the City's public works yard, which happens to be zoned C-3 (Highway Commercial District) where a concrete plant would be a by right or permitted use requiring Council approval to place it on City property. Mr. Butz noted this location is a much closer proximity to the project on McCutchen Drive. He referred the Council to the proposed "Grant of License" by the City to Lehman through 2019. A \$500 per month rental on the facility was negotiated.

City Counselor Lance Thurman read the following proposed resolution for one reading, by title. RESOLUTION NO. 1937: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI, A GRANT OF LICENSE BY THE CITY OF ROLLA BETWEEN THE CITY OF ROLLA AND LEHMAN CONSTRUCTION, L.L.C. A motion was made by Williams and seconded by Jung to approve the proposed resolution. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried. The resolution passed.

**(C) Discussion Pertaining to Gas Stations – Leave Without Paying/Drive Offs:** Before speaking to the gas station issue, Police Chief Sean Fagan reminded citizens the Police Department parking lot and lobby are safe places to make internet transactions. He noted the Police Department parking lot is completely covered by surveillance. Chief Fagan relayed an armed robbery recently occurred in the Salvation Army parking lot during an internet transaction.

**VI. NEW BUSINESS (continued)**

**(C) Discussion Pertaining to Gas Stations – Leave Without Paying/Drive Offs (continued):** Chief Fagan explained the Police Department is having problems with some people pumping gas and driving off without paying. He noted some gas stations require pre-payment, either by paying the cashier before pumping gas or by credit/debit card. However, others do not require it and they experience a large number of drive offs and then contact the Police Department. Chief Fagan reported that last year the Police Department received 187 drive off reports, which includes taking a report, investigating, and officers trying to locate the offender. He emphasized this is a large drain on the resources of the Police Department for something that is 100% preventable. Chief Fagan said he wanted to make the Council aware that he would be sending a letter to the gas stations stating the Police Department will no longer be taking drive off reports unless the Police Department has enough information to actually apprehend the person. He said the gas station would need to contact the Police Department within a timely manner and have a vehicle description and license plate number of the offender.

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

**(A) Motion Awarding Bid for Police Vehicle Equipment:** Police Chief Sean Fagan recalled that earlier this year the Council authorized the purchase of four new 2019 Police SUV's. Staff is asking the Council to consider authorizing the purchase of equipment for these vehicles from the low bidder Public Safety Upfitters at a cost of \$6,490.20 per vehicle for a total of \$25,960.80. A motion was made by Williams and seconded by Jung to authorize the purchase of police vehicle equipment to Public Safety Upfitters for a total of \$25,960.80. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(B) Motion Awarding Bid for Sludge Truck:** Public Works Director Steve Hargis informed the Council that bids were obtained for replacement of a 2003 sludge truck. One bid was received from Linco-Precision, LLC, El Paso, Illinois, for \$462,250. They offered a trade in allowance for the current unit of \$28,750 for a total of \$433,500. A motion was made by Schott and seconded by Jones to authorize the purchase of a new sludge truck from Linco-Precision, LLC, El Paso, Illinois, for \$433,500, which includes trade-in. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**VIII. CITIZEN COMMUNICATION**

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

(1) Mr. Ray Schweikardt, 1342 South Rolla Street, Rolla, Missouri, stated he is against the “sales tax give-a-way” to the subdivision (McCutchen Drive). He said the developer has had a year to ask for it and at the last moment he is asking for it.

Mayor Magdits asked Mr. Schweikardt if his reasoning is the timing or in principle.

Mr. Schweikardt responded generally in principle, but especially the timing.

(2) Mr. Frank Furman representing the Friends of the Rolla Public Library reported they are having their semi-annual book sale beginning on Thursday, November 15 through Saturday, November 17, 2018. He noted the proceeds from the sale go to the Library.

No one else present addressed the Council.

**IX. MAYOR/CITY COUNCIL COMMENTS**

**(A) Motion Appointing Ms. Sara Marcus to the Library Board (May 2021) to Replace Ms. Melody Lloyd who Completed the Term Limit on the Board:** A motion was made by Williams and seconded by Hines to appoint Ms. Sara Marcus to the Library Board until May 2021 to replace Ms. Melody Lloyd’s term, which expired in May 2018. A voice vote on the motion showed eleven ayes, zero nays, and one absent. Motion carried.

**(B) No Shave November:** Councilman Jim Williams noted the Rolla Police Department and Phelps County Sheriff’s Department are participating in “No Shave November.” Members of these departments are accepting donations for the “Shop with a Cop” fundraiser program for 150 needy children.

**(C) November 6, 2018, Election:** Mayor Magdits reminded everyone to vote in tomorrow’s important election.

**(D) Boo Palooza:** Mayor Magdits reported the Boo Palooza on Halloween was very well attended and a great success. He thanked Councilwomen Eberly and Henry for their work.



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

None.

**XI. CLOSED SESSION**

A motion was made by Williams and seconded by Jones to adjourn into Closed Session pursuant to RSMo. 610.021, to discuss contract negotiations. A roll call vote on the motion showed the following: Ayes; Jones, Williams, Jung, Hines, Murphey, Henry, Crowell, Meusch, Rohter, Eberly, and Schott. Nays; None. Absent; Woolley. Motion carried.

The Council adjourned into Closed Session at approximately 8:31 p.m.

**XII. CLOSED SESSION ACTION**

The Council reconvened into open session at approximately 8:52 p.m.

City Counselor Lance Thurman reported that during Closed Session the Council discussed contract negotiations. No final action was taken.

**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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