

**ROLLA CITY COUNCIL MEETING MINUTES
MONDAY, MAY 5, 2014; 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, Monty Jordan, Greg Sawyer, Matthew Miller, Kelly Long (arrived at 6:49 p.m.), Susan J. Eudaly, Don Morris, Jim Williams, Brian Woolley, Walt Bowe and Tony Bahr

Council Members Absent: None.

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

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

Mayor Magdits 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 Greg Sawyer then led in the Pledge of Allegiance.

I. CONSENT AGENDA

A motion was made by Williams and seconded by Woolley 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 – April 7, 2014
- 2) Closed Session City Council Meeting – April 7, 2014
- 3) Rolla City Council Meeting – April 21, 2014
- 4) City Council Workshop – April 22, 2014

II. PUBLIC HEARINGS

None.

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III. ACKNOWLEDGMENTS AND SPECIAL PRESENTATIONS

None.

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

Mayor Magdits referred the Council to (A) the March 2014, Centre Financial Analysis; (B) the March 26, 2014, Parks and Recreation Commission Meeting Minutes; (C) the March 2014, Environmental Services Department Monthly Report; (D) the March 2014 Rolla Municipal Utilities Monthly Report; (E) the March 25, 2014, Rolla Board of Public Works Meeting Minutes; (F) the April 3, 2014, Board of Adjustment Meeting Minutes; (G) the April 8, 2014, Planning & Zoning Commission Preliminary Meeting Minutes; (H) the March 25, 2014, Development Review Committee Meeting Minutes; (I) the April 2014 Fire and Rescue Department Monthly Report; (J) the March 31, 2014, City's Cash Position and Expenditure Report; (K) the March 2014 Police Department Monthly Report; (L) the March 2014, Animal Control Monthly Report, and; (M) the April 2014, Rolla Municipal Court Monthly Report.

V. OLD BUSINESS

(A) Ordinance to Annex a .91-Acre Tract Adjacent to 10241 State Route V and Zone the Property from NZ (No Zone) to R-3 (Multi-Family District) Zoning (Lincoln): Community Development Director John Petersen recalled the Council conducted the first reading of the subject ordinance during its last meeting. He said the property owners have requested annexation and zoning because of the failure of an on-site well and it would be more cost effective to connect to the City's water system. Mr. Petersen said the property currently has a single family home on it and the property owner is requesting the property be zoned R-3 (Multi-Family District). Mr. Petersen reported the Planning and Zoning Commission recommend approval of the requested annexation and zoning.

City Counselor Lance Thurman read the following proposed ordinance for its final reading, by title. ORDINANCE NO. 4139: AN ORDINANCE TO ANNEX A .91 ACRE TRACT ADJOINING STATE ROUTE V AT 10241 AND ANNEX SAID PROPERTY INTO THE CITY PURSUANT TO THE PROVISIONS OF SECTION 71.012 RSMO AND ZONE THE PROPERTY TO R-3 (MULTI-FAMILY DISTRICT)

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V. OLD BUSINESS (continued)

(A) Ordinance to Annex a .91-Acre Tract Adjacent to 10241 State Route V and Zone the Property from NZ (No Zone) to R-3 (Multi-Family District) Zoning (Lincoln) (continued): ZONING. 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; Sawyer, Eudaly, Bahr, Hines, Jordan, Miller, Bowe, Williams, Morris, and Woolley. Nays; None. Absent; Long. Motion carried. The ordinance passed.

(B) Resolution Authorizing the Mayor to Execute an Agreement with American Healthways Services, LLC; Parks and Recreation Director Scott Caron noted that during the March 17, 2014, meeting, the Council reviewed the agreement from Healthways Services, LLC, and approved it pending review by the City's counsel. He reported that counsel advised that sovereign immunity could not be waived as a municipality. Mr. Caron noted the proposed agreement with American Healthways could be amended by adding "subject to sovereign immunity" on pages eight and twelve. He added the City's insurer MIRMA (Missouri Intergovernmental Risk Management Association) has indicated they would provide coverage for claims. Mr. Caron said staff recommends approval of the agreement with the addition of the "subject to sovereign immunity" language.

City Counselor Lance Thurman read the following proposed resolution for one reading, by title. RESOLUTION NO. 1818: A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI A CERTAIN AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND AMERICAN HEALTHWAYS SERVICES, LLC. A motion was made by Williams and seconded by Eudaly to approve the proposed resolution. A voice vote on the motion showed ten ayes, zero nays, and one absent. Motion carried. The resolution passed.

VI. NEW BUSINESS

(A) Resolution Designating UTW Rolla Development as Preferred Developer: City Administrator John Butz recalled the Council discussed the UTW Rolla Development "Westside Marketplace" proposal and the Forum Plaza project along with the available financing tools during its last meeting and special workshop two weeks ago. He noted UTW's proposal for a 154-acre development in Rolla West was the sole submittal to the City's RFP (request for proposals). Mr. Butz explained the subject resolution would

VI. NEW BUSINESS (continued)

(A) Resolution Designating UTW Rolla Development as Preferred Developer (continued): declare UTW as the “preferred developer” and would authorize the execution of a preliminary funding agreement which would advance funds for the due diligence portion of the work the City Council would be engaged in over the next several months. Mr. Butz explained a deposit of \$75,000 would be required from UTW and would be spent down by the City with approvals, accountabilities, and record keeping. Any remaining balance would be refunded to the developers. Mr. Butz mentioned staff discussed the advancement of funds for City costs such as staff’s time that is not under contract. Mr. Butz then read the following proposed amendment to the Preliminary Funding Agreement: “The parties acknowledge that any redevelopment agreement implemented contemplating the use of Tax Increment Financing, or any other economic development incentives, shall include provisions allowing for the City to recoup costs associated with documentable City Staff time incurred in connection with the consideration and approval of the Tax Increment Financing, or other economic development incentives from the proceeds of said incentives.” Mr. Butz said this means if the project is feasible and successful in the back end, the City can be reimbursed for costs it incurred in-kind and in-house from the proceeds of the development.

After discussion, City Counselor Lance Thurman read the following proposed resolution for one reading, by title. RESOLUTION NO. 1819: A RESOLUTION DESIGNATING UTW ROLLA DEVELOPMENT, LLC AS THE PREFERRED DEVELOPER IN CONNECTION WITH A PROPOSED TAX INCREMENT FINANCING PROJECT, AUTHORIZING A PRELIMINARY FUNDING AGREEMENT WITH UTW ROLLA DEVELOPMENT, LLC AND ESTABLISHING AN ESCROW FOR FUNDING COSTS IN CONNECTION WITH THE PROPOSED PROJECT. A motion was made by Morris and seconded by Eudaly to amend the proposed resolution to include the verbiage regarding the reimbursement of soft costs as outlined by City Administrator John Butz. A voice vote on the motion showed ten ayes, zero nays, and one absent. Motion carried. A motion was made by Williams and seconded by Sawyer to approve the proposed resolution, as amended. A voice vote on the motion showed ten ayes, zero nays, and one absent. Motion carried. The resolution passed.

(B) Resolution Entering Into a Preliminary Funding Agreement for Forum Plaza Redevelopment: City Administrator John Butz explained the subject resolution would authorize the Mayor to enter into a preliminary funding agreement with Super Market Developers, Inc. for the proposed Forum Plaza redevelopment. In this proposal, the developers would advance \$25,000 to the City and staff is recommending the same

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VI. NEW BUSINESS (continued)

(B) Resolution Entering Into a Preliminary Funding Agreement for Forum Plaza Redevelopment (continued): language be added to the agreement, which was just included in the UTW Rolla Development agreement (Item VI. A), that would allow the City to recover any in-kind costs that are documentable if the project is deemed feasible. Mr. Butz noted this project contemplates the use of a CID (Community Improvement District) with a Chapter 353 Redevelopment Corporation, which allows for property tax abatement.

A motion was made by Morris and seconded by Eudaly to amend the proposed resolution to include the verbiage in the preliminary funding agreement regarding the reimbursement of soft costs as outlined by City Administrator John Butz. A voice vote on the motion showed ten ayes, zero nays, and one absent. Motion carried.

City Counselor Lance Thurman read the following proposed resolution for one reading, by title, as amended. RESOLUTION NO. 1820: A RESOLUTION AUTHORIZING A PRELIMINARY FUNDING AGREEMENT WITH SUPER MARKET DEVELOPERS, INC., AND ESTABLISHING AN ESCROW FOR FUNDING COSTS IN CONNECTION WITH A PROPOSED PROJECT. A motion was made by Williams and seconded by Eudaly to approve the proposed resolution, as amended. A voice vote on the motion showed ten ayes, zero nays, and one absent. Motion carried. The resolution passed.

Councilman Long entered the meeting at approximately 6:49 p.m.

Mr. Butz clarified a Community Improvement District (CID) does not require a blight determination. However, if a Chapter 353 Redevelopment Corporation is used, there is a blighting designation.

VII. CLAIMS and/or FISCAL TRANSACTIONS

None.

VIII. CITIZEN COMMUNICATION

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

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VIII. CITIZEN COMMUNICATION (continued)

(A) Open Citizen Communication (continued): (1) Mr. Tom Sager, 8 Laird Avenue, Rolla, Missouri, noted he addressed the Council during its last meeting on the subject of the possibility of putting an animal shelter in Buehler Park and he recommended very strongly the Council make a motion and pass it that Buehler Park will not be considered as a location for an animal shelter. Mr. Sager said Councilwoman Eudaly tried to introduce this three times and it was not allowed to come to the floor.

Mayor Magdits indicated the list of proposed sites that was given to the consultants did not include Buehler Park.

Following a brief discussion, a motion was made by Eudaly to take Buehler Park off consideration for anything and that it remain a park. The motion did not receive a second.

(2) Mr. Josh Noe, 65 Rose Court, Rolla, Missouri, indicated he watched some of the video from the last Council meeting regarding the discussion about Fat Cats Entertainment Complex. Regarding the citation discussion, Mr. Noe said it is has been handed down to RPD (Rolla Police Department) that anytime a phone call comes in about a noise complaint at Fat Cats, whether or not there is noise, it is a citation. He told the Council it is then up to the prosecuting attorney to determine whether he is actually convicted. Mr. Noe informed the Council he has built another wall and has obtained fourteen signatures from the surrounding neighbors who say they do not have noise issues with Fat Cats. He pointed out these neighbors are closer to his establishment than the ones making the complaints. Mr. Noe told the Council that the last two citations issued showed a decibel reading of 42 or less, which he indicated is the sound in a library. He said some of the citations are being used as data, to gather data to find out what the decibel meter level needs to be. Mr. Noe indicated the reason the Council is hearing about all these citations is that the police officers need to issue a citation before they can gather their evidence. Since the Council approved the FERC, he said he has not been convicted of anything. Mr. Noe said he just wants to meet with the Council to figure out a way to make this work.

After much dialogue between Mr. Noe and the Council, Mayor Magdits suggested to Mr. Noe that City staff meet with the attorneys, staff, and the Police Department and assess the entire issue and come back with a recommendation.

VIII. CITIZEN COMMUNICATION (continued)

(A) Open Citizen Communication (continued):

(3) Mr. Bob Stewart, 1308 Hillview Drive, Rolla, Missouri, asked the Council if they had received the e-mails he sent about the city of Dallas, Texas removing the fluoride from its water.

After receiving Mr. Stewart's e-mail, Councilman Long said he conducted some research and learned that the fluoride had not been removed from the water in Dallas, Texas.

Mr. Stewart continued by stating RMU (Rolla Municipal Utilities) is violating the ordinance passed by the City Council, which indicates fluoride would be added to the water. He emphasized RMU is adding hydrofluorosilic acid to the water supply, which is not fluoride. Mr. Stewart said he would like the Council to make a determination, yea, or nay. He concluded by saying that if the Council does not consider this, he might have to get a lawyer.

City Counselor Lance Thurman added he received a letter today from attorney Ms. Carrie Gerischer saying she is no longer representing Mr. Stewart.

(4) Ms. Bridget Forester, 410 Sheron Avenue, Rolla, Missouri, said she believes she is the closest resident to Fat Cats Entertainment Complex. She told the Council she has children in her home and a small child who spends the night on a regular basis. Ms. Forester said they are not disturbed by Fat Cats, but are more disturbed by the child molester that keeps making all the complaints and lives in the same neighborhood. Ms. Forester indicated that Mr. Noe has contacted her on numerous occasions to determine if the music is disturbing them. Ms. Forester said she has been in Fat Cats and Mr. Noe has built walls and he has asked if she can think of things that might help. She noted there are so few things in the community for children and the fact that somebody is trying to provide activities and, instead of being given support, he is being hit with opposition and disrespect. Ms. Forester indicated she would much rather have these things available in her community for her children, than to drive to St. Louis, Columbia, or Springfield.

Ms. Lynn Noe-Walker, 811 Fairground Road, addressed the Council and thanked them for their open-mindedness in working with Mr. Noe. She said Mr. Noe has jumped through hoops, but realizes there are still problems. She asked the Council to continue with their open-mindedness and professionalism that all, except Mr. Bahr, have used.

VIII. CITIZEN COMMUNICATION (continued)

(A) Open Citizen Communication (continued):

(4) (continued): Mr. Bahr has personally attacked Mr. Noe and talks about being professional and then curses. She pointed out Mr. Bahr would not even go into Mr. Noe's establishment and said it was a dive and he did not have to go in. She pointed out this is not being open-minded. She concluded by thanking the Council for working with Mr. Noe, no matter the outcome.

IX. MAYOR/CITY COUNCIL COMMENTS

None.

X. COMMENTS FOR THE GOOD OF THE ORDER

None.

XI. CLOSED SESSION

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

The Council adjourned into Closed Session at approximately 7:57 p.m.

XII. CLOSED SESSION ACTION

The Council reconvened into open session at approximately 8:24 p.m.

City Counselor Lance Thurman reported that during closed session, the Council discussed a matter of real estate and no final action was taken.

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XIII. ADJOURNMENT

Having no further business, the meeting adjourned at 8:24 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

CITY CLERK

MAYOR

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