

MINUTES

The Rogers City Council met in *regular session* in the Council Chambers of the Maurice H. Kolman City Hall Building on Tuesday, April 10, 2007 at 7:30 p.m. The meeting was called to order by Mayor Steve Womack. The Invocation was given by Marvin Stephens, Pastor of Sunnyside Baptist Church. Those in attendance were led in Pledge of Allegiance.

PUBLIC HEARING:

Vacating a Portion of Persimmon, Cedar, Maple and Adjoining Alleys Lying on the East Side of North Arkansas and Lying on the North Side of Chestnut Street

Mayor Womack opened the Public Hearing with no one speaking in favor of the street vacation.

Marvin Stephens, 14057 Pyramid Drive, pastor of Sunnyside Baptist Church for the last 28 years, expressed concern for the closing of Persimmon Street.

Stephens explained that several years ago the church paved an area around the church's gymnasium that exits out on the alley and then onto Persimmon Street. This has created a detour route at rush hour when a passing train causes traffic to back up on Locust Street. We did not anticipate traffic coming across our property because of the railroad crossing, even though signs were erected.

Stephens said he received an email from Pel-Freez about vacating the alley and that they would grant an easement further to the north from Persimmon Street. "I don't have a problem with that, if, Pel-Freez will give us an easement and pave the access. The other concern is that the AHTD is planning on widening Hwy. 12, installing turn lanes and traffic signals, which will create some type of interruption on Arkansas Street. If the access is provided further north this may interfere with AHTD's plan for the intersection. Other than that, we want to be good neighbors; they (Pel-Freez) have written a letter saying an easement will be given, as long as they will build the street out to Arkansas."

Councilman Kruger announced that this information was not available during the committee meeting, when the committee recommended a "Do pass".

Scott Clifton, 1808 Blue Hill Road, expressed concern that Persimmon would be closed, and hopes that Pel-Freez gives the easement and pays for the paving so that the church doesn't get stuck with the cost of the paving.

Rob Caster, representing Pel-Freez, stated the plan is to close a portion of Persimmon Street and alley that goes north and runs into the highway. There would be no need for an easement and would not affect Sunnyside Baptist Church.

There were no other comments. The Public Hearing was declared closed.

PUBLIC FORUM:

Ryan Bennett, 5201 S. 42nd Street, spoke in opposition to the Hasty rezoning.

Bennett said, "I understand that many have heard this before. This area is residential and should not be commercial. I understand it was grandfathered in, but if a gas station was approved it would create a safety issue. There are a lot of young children in this area with a school. The relocation of Pleasant Grove Road will change the whole dynamics of the area. I appreciate that for the last 13 years the council has upheld the neighborhood environment."

Greg Uecker, 5209 S. 42nd Street, spoke against the rezoning.

Uecker said "When we bought our house four years ago, Mr. Hasty's store was a consideration, but he had been turned down for seven previous years so we felt there was a precedent set. The next question is "What has changed this year versus the past 12 years?" It is not getting more commercial, it is getting more residential all of the time. I agree the area needs to be improved to some extent. We need a barrier. We need the bright lights fixed so they don't shine in our back windows all of the time. I hate to continue to call for code violations, but this rezoning does not address what the real

issue is. This rezoning is just going address the area of land south of Mr. Hasty's property. The real issue is the commercial operation in an A-1 zone. If we are going to do something about it let's make the whole thing the right way. Let's get the business that is there to comply with C-3 zone. I'm not against making some changes or improvements, but we need to get something as landowners. The last thing of concern is that there is still A-1 property in the area. If this property is zoned to C-3, then there is the potential for more C-3 zoning?"

Rebecca Chanyi, 5211 S. 42nd Street said she lives behind Mr. Hasty's property and understands that the C-3 zone is more restrictive with specific hours of operation, but the hours of a car wash is not a 9-to-5 type operation. If he was going to put in something that fit in with the area, we could understand. He is dead set on a car wash and that is not something that you can put up screening that will block this operation from my backyard. My daughter's window faces this property. We love our backyard, and our neighborhood, we want something that can operate from 9-to-5. We are not against Mr. Hasty being able to use the land, but it has to be something reasonable that will not have an impact.

Gavin Duffy, 5208 S. 42nd Street, said the commercial development on that corner does not fit with the school across the street and an upscale neighborhood. We have kids waiting to get on buses in the morning and afternoons and this will create more traffic and is a safety issue.

Greg Lively, 4201 Pleasant Drive, stated that whatever is allowed in the C-3 zone would be a negative impact to the neighborhood, and reminded everyone that a councilman stated at the meeting last year, "This property will no longer be on the corner when Pleasant Grove is rerouted."

Annette Garling, 5305 Bellview Road, which is across the road from Mr. Hasty said, “We did not get notified again. We need to keep in mind that once the property is zoned, then no matter whether it’s Mr. Hasty or not, the owner can put whatever they want at this location. I would prefer an R-O zone.”

The Public Forum was declared closed.

COUNCIL MEMBERS PRESENT:

Bob Goodwin, Mark Kruger, Barney Hayes, Greg Hines, Larry Daniel, Buddy Wright, Jim Clark and Betsy Reithemeyer were present.

OTHER OFFICIALS PRESENT:

City Clerk Peggy David, Police Chief Steve Helms, Fire Chief Wesley Lewis, Street Superintendent Frankie Guyll, Director of Planning and Transportation Steve Glass, Senior Planner Derrel Smith, Treasurer Jerry Hudlow, Director of Code Management and Inspections James Willett, Administrative Assistant Wendy Shumate, Adult Wellness Center Director Keri Wilkinson, Parks & Recreation Director Rick Stocker, Deputy City Attorney Chris Griffin, Human Resources Director Gina Kincy, Main Street Director Marge Wolf, and CDBG Administrator Donna Johnston,

ACTION ON MINUTES:

March 27, 2007

Motion by Hines, second by Daniel to approve the minutes of March 27, 2007 as submitted. Councilman Kruger – Abstained. Voice vote: Unanimous. **Motion carried.**

Motion by Hines, second by Reithemeyer to consider Item #1 under New Business as the first item and suspend the rules to consider all items on a single reading and by title only. Roll call: Unanimous. **Motion carried.**

ORD. #07- Rezone from A-1 to C-3, Approximately 2 Acres on the Corner of Pleasant Grove Road and Bellview Road

The ordinance was introduced by Councilman Hines and read by title only by Deputy City Attorney Chris Griffin.

Orville Hasty, owner of the property, asked, “What can I do with this property? Everything I try to do, they close me down. I’m zoned for A-1 and trying to use the property. I’m here to ask you, what can I do?”

Councilman Clark asked, “Mr. Hasty, what is your opinion on R-O zoning?”

Hasty replied, “My lawyer and accountant tell me there is too much office properties in Rogers and that I can’t make any money off of it. The Planning Commission talked me into the C-3 zone. If it is passed, I’d probably go for a car wash, but I’ve never got that far. Everyone tells me what I can’t do, but no one tells me what I can do.”

Mayor Womack asked Senior Planner Derrel Smith, what is permitted uses in C-3 zone?

Smith listed banks, offices, small delis, bookstores, bakeries, travel agencies, dry cleaners, doctor’s offices are permitted uses; gas station and car wash are conditional, which requires a public hearing and approval by the Planning Commission.

Councilman Clark noted, “I have observed this from the very beginning and I support the rezoning. I feel for Mr. Hasty because he was out in the county with approval to open a gas station but was annexed into the city kicking and screaming and has been denied ever since. I feel like the City of Rogers has treated him unfairly.”

Councilman Daniel said “I feel that the R-O zone would be appropriate.”

Clark added, “I can’t believe that those residents didn’t see that convenience store out there and chose to buy those houses in that area anyway. It was apparent that it was possible for future development.”

Daniel responded, “They knew the rezoning had been denied for seven times before.”

The Mayor asked, “Shall the ordinance pass?”
Roll call: Kruger, Hayes, Hines, Daniel, Wright, Reithemeyer – No; Clark – Yes. *The ordinance is defeated.*

REPORTS OF BOARDS AND STANDING COMMITTEES:

(Agenda Item #1)

Request to Extend Waterline into Benton County for Ro-Lynn Hills 2 Subdivision

Councilman Clark, chairman of the Public Works Committee, reported the committee had met and recommended a “Do pass”.

Motion by Clark, second by Hines to approve the waterline extension as requested.

Voice vote: Unanimous. *Motion carried.*

(Agenda Item #2)

ORD. #07-46 Authorizing a Contract with Crafton, Tull, Sparks & Associates, Inc. for Engineering Services for the Green Space at the Adult Wellness Center

Councilman Hayes introduced the ordinance.

The ordinance was read by Griffin by title only.

Hayes, chairman of the Finance Committee reported a combined meeting with the Community Service Committee to discuss this item and the following three items and recommended a “Do pass”.

Hayes recognized Keri Wilkinson, Director of the Adult Wellness Center.

Wilkinson reported this contract would allow the development of a master plan for the Adult Wellness Center green space.

Wilkinson said the green area would include an exercise area, meditation garden, water feature, and walking trails and is funded with CDBG money in the amount of \$250,000 for this year.

The Mayor asked, “Shall the ordinance pass?”

Roll call: Unanimous. ***The ordinance is adopted.***

The Mayor asked, “Shall the emergency clause pass?”

Roll call: Unanimous. ***The emergency clause is adopted.***

(Agenda Item #3)

ORD. #07-47 Amending 2007 Budget of the Parks & Recreation Department (Adult Wellness Center), Appropriating \$25,049 from General Fund Reserve

Councilman Hayes introduced the ordinance.

The ordinance was read by Griffin by title only.

Hayes, chairman of the Finance Committee reported a combined meeting with the Community Service Committee to discuss this item and recommended a unanimous “Do pass”.

Hayes recognized Keri Wilkinson, Director of the Adult Wellness Center.

Wilkinson reported this would fund one full-time position and one part-time position which will allow for the Adult Wellness Center to extend the hours to be open on Saturdays. These positions will help with the existing 5000 members and an estimated 8000 members by the end of the year and no other positions will be requested for 2008.

The Mayor asked, “Shall the ordinance pass?”

Roll call: Unanimous. ***The ordinance is adopted.***

The Mayor asked, “Shall the emergency clause pass?”

Roll call: Unanimous. ***The emergency clause is adopted.***

(Agenda Item #4)

ORD. #07-48 Appropriating \$165,691 from General Fund Reserves to Acct. #100-08-80100, Parks Capital

Councilman Hayes introduced the ordinance.

The ordinance was read by Griffin by title only.

Hayes, chairman of the Finance Committee reported a combined meeting with the Community Service Committee to discuss this item and recommended a unanimous “Do pass”.

Hayes recognized Rick Stocker, Director of the Parks and Recreation.

Stocker reported this appropriation will finish out the construction for the Adult Wellness Center.

The Mayor asked, “Shall the ordinance pass?”
Roll call: Unanimous. ***The ordinance is adopted.***

The Mayor asked, “Shall the emergency clause pass?”
Roll call: Unanimous. ***The emergency clause is adopted.***

(Agenda Item #5)

ORD. #07-49 Appropriating \$404,247 from General Fund Reserves to Acct. #100-08-80100, Parks Capital

Councilman Hayes introduced the ordinance.

The ordinance was read by Griffin by title only.

Hayes, chairman of the Finance Committee reported a combined meeting with the Community Service Committee to discuss this item and recommended a unanimous “Do pass”.

Hayes recognized Rick Stocker, Director of the Parks and Recreation.

Stocker reported this appropriation will transfer monies received from the Walton Family Foundation for greenways and trails construction that has been completed so far from the General Fund to the Parks Capital account.

The Mayor asked, “Shall the ordinance pass?”
Roll call: Unanimous. ***The ordinance is adopted.***

The Mayor asked, “Shall the emergency clause pass?”

Roll call: Unanimous. ***The emergency clause is adopted.***

(Agenda Item #6)

ORD. #07-50 Appropriating \$12,358 from General Fund Reserves to Acct. #100-01-70305, Administration Legal and Contingencies

Councilman Hayes introduced the ordinance.

The ordinance was read by Griffin by title only.

Hayes, chairman of the Finance Committee reported the committee had met and recommended a “Do pass”.

Hayes recognized Treasurer Jerry Hudlow.

Hudlow reported this appropriation is for the amount due to Benton County for the city’s share of the 2006 election costs.

The Mayor asked, “Shall the ordinance pass?”

Roll call: Unanimous. ***The ordinance is adopted.***

The Mayor asked, “Shall the emergency clause pass?”

Roll call: Unanimous. ***The emergency clause is adopted.***

(Agenda Item #7)

ORD. #07- Vacating a Portion of Persimmon, Cedar, Maple and Adjoining Alleys Lying on the East Side of North Arkansas and Lying on the North Side of Chestnut Street

Councilman Kruger introduced the ordinance.

Griffin read the ordinance by title only.

Kruger reported the Transportation Committee had met and recommended approval, but due to comments made during the Public Hearing would cause some delay in action.

Councilmember Clark recognized Scott Clifton.

Clifton presented a map which was obtained from Pel-Freez, but it does not appear to be the same as what was presented.

Rob Castor, representing Pel-Freez, requested the item be tabled.

Tabled.

Motion by Clark, second by Reithemeyer to table this item.

Voice vote: Unanimous. ***Motion carried.***

(Agenda Item #8)

ORD. #07-51 Authorizing a Contract with Lindsey Contracting for Improvements to Wallis Road

The ordinance was introduced by Councilman Kruger and read by Griffin by title only.

Councilman Kruger reported the Transportation Committee had met and recommended a “Do Pass” and recognized Steve Glass, Director of Planning and Transportation.

Glass explained this is a partnered-project with the City of Cave Springs. The contractor is already on site and doing the paving for Cave Springs, which will save on mobilization of equipment.

The Mayor asked, “Shall the ordinance pass?”
Roll call: Unanimous. ***The ordinance is adopted.***

The Mayor asked, “Shall the emergency clause pass?”
Roll call: Unanimous. ***The emergency clause is adopted.***

(Added to the agenda)

ORD. #07-52 Amending Rogers City Code Section 102-68 (Inland Service Corporation)

Mayor Womack announced that the item had been added to the agenda, and had been signed off by him and three council members.

Councilman Clark introduced the ordinance, which was read by Griffin by title only.

Clark, chairman of the Public Works Committee reported this ordinance came about after the Committee of the Whole meeting held last night.

Clark said this revision in the Inland contract which would require residents who are not served by Rogers Water and on wells to be exempt from using Inland Services if the resident applies for the exemption based on proof that trash is being collected by a licensed contractor.

Clark said this came about because some residents, who are on wells, have the available trash services at their businesses where their household trash could also be collected.

Clark explained that the resident would apply to Inland for the exemption. If the application is denied by Inland, the resident could petition the Public Works Committee who will make the final decision.

The Mayor asked, “Shall the ordinance pass?”
Roll call: Unanimous. ***The ordinance is adopted.***

The Mayor asked, “Shall the emergency clause pass?”
Roll call: Unanimous. ***The emergency clause is adopted.***

Mayor Womack introduced Bob Wright of Crews and Associates.

Wright provided financial information on the upcoming general obligation bond issue that was approved for projects by voters in November.

Wright said an ordinance will be presented at the next council meeting finalizing the bond issue and requested approval to proceed with the pre-market of the bonds.

Approves the pricing of bonds for general obligation bond issue

Motion by Hines, second by Kruger for Wright to proceed with the pricing on the bonds as requested.
Voice vote: Unanimous. ***Motion carried.***

OLD BUSINESS:

None.

NEW BUSINESS:

Item moved to beginning of meeting.

APPOINTMENTS:

Womack announced his recommendations for the reappointment of Joe Mathias to the Civil Service Commission, term to expire 4/10/2012; the appointment of Lisa Das to the Library Board of Trustees, to fill the unexpired term of Larry Yarborough, term to expire 12/31/2009; and the appointment of Mike Whitmore to the Museum Commission, to fill the unexpired term of James Hammon, term to expire 12/31/2008.

Approves the reappointment of *Joe Mathias* to the **Civil Service Commission**, term to expire 4/10/2012; the appointment of *Lisa Das* to the **Library Board of Trustees**, term to expire 12/31/2009; and the appointment of *Mike Whitmore* to the **Museum Commission**, term to expire 12/31/2008.

Motion by Hines, second by Wright to approve the reappointment of Joe Mathias to the Civil Service Commission; and appointments of Lisa Das to the Library Board of Trustees, and Mike Whitmore to the Museum Commission.
Voice vote: Unanimous. **Motion carried.**

There being no further business, motion by Kruger, second by Hines to adjourn the meeting. Meeting adjourned at 8:32 p.m.

ATTEST:

APPROVED:

Peggy David, City Clerk

Steve Womack, Mayor