

MINUTES

The Rogers City Council met in *regular session* in the Council Chambers of the Maurice H. Kolman City Hall Building on Tuesday, November 14, 2006 at 7:30 p.m. The meeting was called to order by Mayor Steve Womack. The Invocation was given by Mayor Womack. Those in attendance were led in Pledge of Allegiance.

PUBLIC FORUM:

Mayor Womack read a statement regarding immigration (text included with the minutes).

Martin Montez read a statement regarding immigration (text included with the minutes).

Dan Bland, Board Chair of Just Communities of Northwest Arkansas, read a statement regarding immigration (text included with the minutes).

Leo Cruz, 2004 S. Old Wire Road, expressed thanks for the opportunity to speak at this time.

Cruz said for many years he has kept quiet but as an American citizen who has served 22 years in the Marine Corp, and has been a victim of racial profiling in Texas, Tennessee and Missouri, "I felt shameful."

Cruz said "No one in the community wants drugs, gangs and graffiti. We want a good quality of life, but we need to have an approach that we are going to go ahead and settle these matters also here. There are a lot of citizens and residents of this state who that do not speak English, or have an eloquent way of speaking in English, and sometimes they are afraid. All I am asking, if the city is prepared to go forward, please let's think things out. Form a committee, let's talk things over. I love this country and this city. I have been the emcee at the International Festival, and Mayor, I appreciate what you have done. Let's sit down and think things over."

Jim Miranda, 20 Windsor Lane, Bella Vista, AR spoke regarding immigration.

Miranda said “A few weeks ago we had a very unfortunate incident happened in which one of our brave officers was hurt in the line of duty. A most unfortunate action occurred in the heated moment of arresting some criminals. Criminals that we are all happy are somewhere where they can no longer violate the laws of our state and fine city. I’m glad that the criminals were arrested. Two have been arrested and the third has been deported. This shooting has prompted a chain of events that has threatened not only those involved, but those that have nothing to do with the crimes. As you know, the mayor has justifiably reacted to the news; however his reaction was one that I question. Did it really reflect the facts of the case? The mayor went public with his intent to have the city attorney create a local ordinance that would declare illegal immigrants a public nuisance and impose fines for those employing or renting for those who lack proper documentation . This is in and of itself a bad idea, but has unintended consequences. This action by the mayor threw many good law abiding citizens into a panic. Some of those citizens were members of my own family. The mayor has been pressed on providing facts and crime statistics on illegal immigrants in this community and responded as quoted in the Arkansas Democrat-Gazette, “The mayor said Friday that he could not prove earlier claims that the clear majority of the city’s drug and gang problem are caused by illegal aliens. But that won’t keep him from seeking loss, penalizing those who employ or rent to illegal aliens in Rogers. I’m not going to be painted into a corner by justifying my actions by establishing percentages. I know we have a problem”. A sergeant in the same story who is the head of the Rogers gang suppression unit said, “He guessed that 40% of the unit’s cases involving illegal immigrants, but that that unit

does not in fact track how many cases handles illegal aliens. We don't keep up with that statistic. Maybe we should. There wasn't enough space on the form." That information is exactly the information that we need to determine whether it is in fact in this community we have an immigration problem. Benton County Daily Record reports the following from Rogers City Attorney Ben Lipscomb who the mayor charged to look into writing these laws. "Lipscomb would not say if Rogers has evidence or statistics to back up the city's claims. We are still in the process of determining that. I believe that there is at least antidotal evidence that a great percentage of crimes that are committed by illegal immigrants, that is just antidotal." The judge presiding over the Hazelton, PA case wasn't willing to rely on "just antidotal" evidence. If the mayor and city attorney are looking for antidotal evidence, let me offer this antidotal evidence. Poverty is color blind. It is poverty in the sense of helplessness that breeds. It leads some, not all, just some, to engage in criminal activity. I've seen this first hand in my involvement with various community groups. We worked hard so that prisoners would not be sent back to prison. We wanted them to get a glimpse of something else. We decided to get involved. We all have philosophies that we espouse; however at no time should these philosophies get in the way of sound judgment or real facts. Good leadership demands that we look at the facts and govern by the facts and govern by the facts alone. Citing antidotal evidence as a justification for pursuing local laws that may be in fact be in conflict with federal or state laws or may in fact encourage a spirit of suspicion and disunity of our community which will actually lead to the disenfranchisement of a large segment of our populace is simply irresponsible. The leaders of this community have a responsibility to its citizens. To provide the best leadership possible and good leaders do not rely on antidotal evidence for making critical decisions".

Miranda provided crime statistics as provided by the Rogers Police Dept. but noted that there is no records kept on the legal status.

Miranda said, “The facts show that 78% of arrest in the City of Rogers did not even involve Hispanics. I would like to provide a statistic on how many illegal aliens were involved, but that statistic is not kept.”

Miranda provided statistics from the 2006 special census and asked, “Why has the mayor deflected valuable attention for more important matters in order to solve a problem that we have no evidence may even be a problem in the first place? What do these statistics tell us? It tells us that crime knows no race. Crimes are not necessarily committed by whites, Asians, Indians, or Hispanics. Crimes are committed by criminals. It is criminals and not illegals that we should be concerned with. What studies have been done? What study has been done to show the economic impact of an ordinance similar to the one drafted in Hazelton, PA that would declare illegal immigrants a public nuisance and impose fines to those renting or providing employment without proper documentation or the adoption of section of 287(g) of the Immigration & Custom Enforcement issues? I want to know what study has been done on Rogers itself. What impact would it have on the city, on the businesses of this community, or the Hispanic businesses, or a report on the civil rights of minority populations? We haven’t seen any figures and these questions beg an answer in order to understand the impact of our community. Consider what happened to the law abiding and legal Hispanic and non-Hispanic community in Hazelton, there was a mass exodus of law abiding citizens, and many were in threat of losing their life savings or about to go bankrupt. We can thank a wise judge who stopped the insanity until more information could be gathered. What is the information? My heart goes out to that officer.

The criminals that were involved in the shooting, were apprehended, but what do the facts show. 287(g) which would allow state and local enforcement to contract with Immigration & Custom Enforcement should be carefully studied for its effects, intended or otherwise; affects that could potentially discriminate against legal citizens, brown, black or white. Any solution that could potentially cause a climate of suspicion among the citizens of this community and cast our brave officers into suspicion having to explain their motives in a court of law should not be considered. Let's ask ourselves, do we really want to assume this responsibility? There are solutions, real solutions that do not pit neighbor against neighbor, real solutions that do not misallocate valuable city resources. We hear clichés such as “we should do something about our borders”; my answer is “darn right we should!” It is time for those that have been elected to our nations congress to do something about protecting our borders and regulating the flow at these same borders. It has to be done in a responsible manner, a manner that does not reflect pandering to xenophobic attitudes, but rather reflects itself to rights granted by the constitutions of the United States and state of Arkansas or other laws. The truth of the matter is the debate over immigration is exactly that, a debate. We have witnessed the results of knee-jerk solutions, solutions which compound other problems. I stand here and pledge to work with the Mayor and council members to reason together. Let's sit down and talk about it. There is enough brain power in this room to come up with solutions. Solutions that do not pit neighbor against neighbor, which is not the climate that we want to create in this community.”

Manny Gomez, 24 Chatburn Drive, Bella Vista, spoke as the Vice President of the local LULAC (League of United Latin American Citizens) chapter.

Gomez said LULAC is the largest advocate of civil rights. “I came to ask the mayor and city council to please consider a different approach rather than the 287(g). Let’s take a different proactive approach to this issue. Let’s meet together with the NCCJ and Mr. Montes to become a part of the initiative to help the community to become a safer and productive community.”

Shawn McGrew, 835 E. Audrey Lane, Rogers, said as a proud resident of the city for the last six years was questioned by his daughter who is a student in the Rogers School System who asked him, “Dad, what are you?”

McGrew said, “That was one of the hardest things, to look at her and try to explain. She asked well, your last name, is it white? I explained to her, as I have before, my background, her mother’s background, but she was questioning who she was. I’m half Hispanic, her mother is Hispanic, and I am proud to be a citizen of this country and city. I moved here to give my daughter a good quality of life. I am concerned with statements and actions from people within the community. The one great thing about this country is that we have the right to say what we want. My mother was killed while serving own country trying to preserve that right. I am Latino and proud to be Latino in Rogers and proud to have helped this city through different situations. Throughout the years, things have happened, and reactions create situations, but I have helped to calm the waters. We have many leaders in Rogers, many in this room, and there are many things that still need to be ironed out. Is there a problem with this country? Absolutely! Do we need to deal with immigration? You bet, and I’m willing to do my part. I’m proactive, I write to my legislators. I would ask each of you to use your elected positions to ask those on a higher level to express your concerns with this issue. I feel that putting an ordinance in place to take care of this issue, won’t solve the problems. It

may give you a fuzzy feeling at first, but it won't solve the problem. I urge you and everyone in this room to participate in this conversation.”

Judy Humphrey, 3305 N. 2nd, said as a Rogers resident for 30 years, has seen a lot of changes, some good, some not so good. “I agree with the mayor that something needs to be done. The Hispanic people have, to me, misrepresented the whole thing. The whole thing is illegal. If they are legal, they are fine to be here, but if they're illegal, they are breaking the law by just being here. We have no right to give them free education and free healthcare; that is their country's responsibility, not ours. I am here to support your effort, mayor, as are some of these other people attending this meeting and we want you to do something about it. I think the citizens of Rogers would like to have something done and I think that the legals would be better off. We support you in whatever you want to do.”

Bob Dufor, 3906 Arnold Avenue, Rogers, which is at the corner of Arnold and S. 40th street said he is attending this meeting to address a zoning issue.

Dufor said at the Planning Commission meeting the rezoning was approved for the forty acres north of Oak Street, however he had requested a wall on the south side (his side) of the five-lane street like the one on the other side of the street. “It won't look right. I think it will hurt my property value if the walls don't match.”

Dufor also said, “I feel compelled to speak after hearing the comments tonight. As a resident of Rogers for eleven year, I moved here from Houston, TX where a lot of Hispanics live. In Houston, we had a term for them, “we called them neighbors, and we called them friends”. Living here for eleven years, I have seen a lot of Hispanics. My kids have gone to school with them; they have been to my house, I work with

them and attend church with them. My experience has been very positive. They are good folks. In looking back at the City of Dallas a few years ago when they had racial problems, a problem that we do not want. We do not want any racial tensions, which is a bigger problem than we have today. I agree with Mayor Womack, if we want to stop crime, we need to be tough on criminals. It is important that our police officers have sensitivity and understand racial profiling. I have not experienced it, but I have heard stories from people at work who have experienced it. I agree we should be tough on crime, but we should not get carried away. We should look at the good people who are here and what they are doing. When you use the term such as Hispanics, it takes all of the good people and throws it in with a few criminals.”

Ann Baker, 1005 Turtle Creek Drive, said as a fourth generation resident of Benton County has seen a lot of changes. “I supported you Mayor, when you ran and I support your efforts. I agree that illegals are the problem because they have no commitment to the community, state or country. We will be praying for you and hope that your leadership will help us.”

The Public Forum was declared closed.

PUBLIC HEARING:

Annexation of Surrounded Lands to the City of Rogers

City Attorney Ben Lipscomb explained that the public hearing was scheduled for an island annexation for piece of property that was thought to be outside the city limits. There was mistake in the legal description in the Planning office. The property is within the city limits already and there is no need for the public hearing.

The Public Hearing was withdrawn

COUNCIL MEMBERS PRESENT:

Councilmen Jack McHaney, Bob Goodwin, Mark Kruger, Barney Hayes, Greg Hines, Larry Daniel, Buddy Wright and Jim Clark were present.

OTHER OFFICIALS PRESENT:

City Clerk Peggy David, City Attorney Ben Lipscomb, Police Chief Steve Helms, Fire Chief Wesley Lewis, Water Utilities Superintendent Tom McAlister, Senior Planner Derrel Smith, Director of Planning and Transportation Steve Glass, Treasurer Jerry Hudlow, Director of Code Management and Inspections James Willett, Director of Parks and Recreation Rick Stocker, Water Utilities Engineer Mark Johnson, Assistant to the Mayor Wendy Shumate, Human Resource Director Gina Kincy.

ACTION ON MINUTES:

October 24, 2006

Motion by Hines, second by Kruger to approve the minutes of October 24, 2006 as submitted. Voice vote: Unanimous. ***Motion carried.***

REPORTS OF BOARDS AND STANDING COMMITTEES:

(Agenda Item #1)

RES. #R06- Condemning a Structure Located at 118 S. Eighth Street and Declaring the same to be a Nuisance

Mayor Womack announced since the structure at 118 S. Eighth has been removed; there is no need for this item.

Motion by Hines, second by Wright to suspend the rules and consider all agenda items except Item 3 under Reports of Boards and Standing Committees on a single reading and by title only.

Roll call: Unanimous. ***Motion carried.***

(Agenda Item #2)

ORD. #06-183 Amending the 2006 Fiscal Year Budget of the City of Rogers Administration; Appropriating \$4,232 from General Fund Reserves

The ordinance was introduced by Councilman Jack McHaney and read by City Attorney Ben Lipscomb by title only.

McHaney, chairman of the Finance Committee, reported the committee had met and recommended a “Do pass” and recognized Treasurer Jerry Hudlow.

Hudlow reported this appropriation would fund a full-time custodian for the remainder of the year. The amount includes salary, FICA and APERS.

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. #06-_____ Amending Section 118-184 of Rogers City Code and Establishing a new Sewer Rate Schedule

The ordinance was introduced by Councilman Clark and read by Lipscomb by title only.

Clark, chairman of the Public Works, explained that before this ordinance can be adopted a Public Hearing has to be scheduled.

Clark recognized Water Utilities Superintendent Tom McAlister.

McAlister reported that a Public Hearing has been advertised for December 12.

Public Hearing scheduled for December 12, 2006 at 7:30 p.m. regarding the proposed sewer rate schedule.

Motion by Hayes, second by Kruger to set the public hearing for the sewer rate schedule for December 12, 2006.

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

The ordinance will appear on the November 28th agenda under Old Business for the *second reading*.

(Agenda Item #4)

ORD. #06-184 Authorizing a Contract with Landers Ford of Little Rock, AR for the Purchase of a Pickup Truck for the Rogers Fire Dept.

The ordinance was introduced by Councilman Goodwin and read by Lipscomb by title only.

Goodwin, chairman of the Public Safety Committee reported the committee had met and

recommended a “Do pass” and recognized Fire Chief Wesley Lewis.

Lewis reported this contract with Landers Ford is through the state purchasing program and the truck will be used by the Fire Inspector.

Lewis said the funds will be taken out of the 2003 bond issue and estimated the delivery date would be between 30 and 90 days.

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. #06-185 Authorizing a Contract with North Point Ford of Little Rock, AR for the Purchase of a Pickup Truck for the Rogers Fire Dept

Councilman Goodwin introduced the ordinance.

Lipscomb read the ordinance by title only.

Goodwin, chairman of the Public Safety Committee reported the committee had met and recommended a “Do pass” and again recognized Fire Chief Lewis.

Lewis reported this contract with North Point Ford is also through the state purchasing program and also paid for out the 2003 bond funds.

Lewis explained this is for a different type of vehicle which is the reason that it is being bought from a different dealer. The vehicle will be used for emergency response.

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. #06-186 Authorizing Two Change Orders in the Contract with Mobley Construction of Springdale, AR for the Horsebarn Road Project Previously Entered Into

Councilman Kruger introduced the ordinance, read by Lipscomb by title only.

Kruger chairman of the Transportation Committee had met and recommended a ‘Do pass’ and recognized Director of Planning & Transportation Steve Glass,

Glass reported the first change order is for \$12,000 is for the actual asphalt that will be used for the “level-up” of the existing road. The second change order in the amount of \$30,000 will allow for Class 7-Base to be installed to insure that two lanes of traffic are open at all times during this construction project.

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)

RES. #R06-44 Authorizing a Contract with L.E.G. of Cabot, AR for Purchase and Installation of Traffic Signal Lights at the Intersection of Pleasant Grove Road and Hwy. 71B

The resolution was introduced by Councilman Kruger and read by Lipscomb.

Kruger, chairman of the Transportation Committee, reported the committee had met and recommended approval after changing the amount of the contract from \$95,000 to \$25,000.

Kruger explained that Arkansas-Missouri Railroad had required an insurance bond for

L.E.G. in the amount of \$70,000 for the project and felt that that amount was excessive.

Kruger recognized Steve Glass.

Glass reported that L.E.G.'s bid would have only been for \$25,000 had it not been for the railroad requirement.

Glass said the city would try to work with the railroad on behalf of L.E.G. to see if some agreement could be reached for the insurance requirement and at least this would allow L.E.G. to go ahead and order the equipment.

Motion by Hines, second by Kruger to adopt the resolution.

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

Mayor Womack introduced Don Glore and Bob Lawrence of Rogers Meals on Wheels.

Womack explained that several years ago the Area Agency on Aging had requested assistance of obtaining property for senior housing. At that time, property owned by the city on S. 13th Street was available and developed into what is now known as "Miller Place". There is approximately 2 acres that was not used in that project.

Womack said that Meals on Wheels have requested assistance in locating a piece of property to build a kitchen in which Meals on Wheel would operate.

Glore reported that Rogers Meals on Wheels was established twenty plus years ago by Dr. Larry Wright and Rev. Bob Haggard of Central United Methodist Church. The operation is staffed with one paid position and volunteers that provides meals for shut-ins and convalescent patients who are recommended by their doctors. There are no age restrictions, so meals are provided for anyone who requests them for the patient and their caretaker.

Glore said Meals on Wheels has been housed in three different locations and is currently operating out of Samaritan Community Center, however the goal is to have their own location.

Glore said the agency is strictly non-profit and currently charge \$3.65 per meal and serves Rogers. Other areas such as Avoca, Lowell, and Pea Ridge have made requests but drivers were not available. Glore said the group would like to change the name of the organization to Meals on Wheels of Northwest Arkansas to better represent that it serves more than just Rogers and feels that more churches would be involved.

Glore said 20% of the funding comes from local churches in Rogers, 10% to 15% comes from donation, 10% to 15% is received from United Way and Walmart helps. We get no state or federal funding. We operate on a “wing and a prayer”.

Glore said the goal is to operate similar to what is offered in Tulsa.

City Attorney to prepare paperwork for 25-year lease of city property to Rogers Meals on Wheels at \$1 per year.

Motion by Kruger, second by Daniel to have the City Attorney draw up the proper paperwork for a 25-year lease at \$1 a year.

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

OLD BUSINESS:

(Agenda Item #1)

ORD #06- Rezone A-1 to R-O 3.52 Acres on the Eastside of 40th St., South of Oakley Chapel Cemetery (Oakley Chapel UMC) (Final Vote)

Mayor Womack announced this item has been requested to be withdrawn.

Motion by Hayes, second by Kruger to withdrawn the rezone as requested.

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

(Agenda Item #2)

ORD. #06-187 Accepting the Final Plat of Hearthstone Subdivision Phase III, Lots 1 through 95 (Final Vote)

Mayor Womack stated this would be the final vote.

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.***

NEW BUSINESS:

(Agenda Item #1)

ORD. #06-___ Accepting the Final Plat of Brentwood Subdivision

This item has been pulled from the agenda.

(Agenda Item #2)

ORD. #06-188 Rezone from A-1 to PUD (C-3, C-2 & R-O) 53.439 Acres Land Lying South of West Oak Street, North of Osage Creek and from South 45th Street to ¼ mile East better known as part of the Oliver and Chastain Farms (Oliver/Haynes/Chastain Farms)

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

Collin Haynes presented the rezoning request.

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. #06-189 Accepting the Final Plat of Wildflower Subdivision, Phase II

The ordinance was introduced by Kruger and read by Lipscomb by title only.

Jerry Holloway presented the final plat.

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. #06-_____ Annexing Certain Real Property to the City of Rogers, Zoning said Property; Assigning said Property to a City Ward, 16.94 Acres Lying Generally East of Horsebarn Road and West of I-540 (Harris & Harris Properties/Metaphase LLC,/NARTI)

This is has been withdrawn from the agenda.

(Agenda Item #5)

ORD. #06-190 Rezone from C-2, C-3 & and R-O to PUD, Approximately 40 Acres Situated North of Oak Street, West of South 40th Street, of South 45th Street, Approximately 1300’ S. of Walnut St. (R & R Properties)

The ordinance was introduced by Kruger and read by Lipscomb by title only.

Sammy Mae, of Morrison Shipley, presented the rezoning request.

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.***

APPOINTMENTS:

Mayor Womack recommended for appointment Bill Skinner to Parks & Recreation Commission to fill the unexpired term of Mike Shassere, who recently passed away.

Approves the appointment of ***Bill Skinner*** to **Parks & Recreation Commission**, term to expire 09/11/2009 to replace Mike Shassere who is deceased.

Motion by Hayes, second by Kruger to approve the appointment of Bill Skinner to Parks & Recreation Commission, term to expire September 11, 2009.
Voice vote: Unanimous. ***Motion carried.***

Womack also recommended the reappointment of David Lang to serve an additional four years to the Advertising and Promotion Commission.

Approved reappointment of *David Lang* to the **Advertising and Promotion Commission**, term to expire 11/1/2010.

Motion by Kruger, second by Wright to approve the reappointment of David Lang, term to expire November 1, 2010.
Voice vote: Unanimous. ***Motion carried.***

There being no further business, motion by Kruger, second by Wright to adjourn the meeting. Meeting adjourned at 9:05 p.m.

ATTEST:

APPROVED:

Peggy David, City Clerk

Steve Womack, Mayor