

MINUTES

The Rogers City Council met in *regular session* in the Council Chambers of the Maurice H. Kolman City Hall Building on Tuesday, December 12, 2006 at 7:30 p.m. The meeting was called to order by Mayor Steve Womack. The Invocation was given by Councilman Barney Hayes. Those in attendance were led in Pledge of Allegiance.

PRESENTATIONS:

Mayor Womack presented certificates of appreciation to Jerry Tyler for fifteen years of service with the Rogers Police Department; Sam Fleming for ten years of service with the Rogers Street Department; and Richard Wynn for ten years of service with the Rogers Fire Department.

PUBLIC HEARING:

Establishing a New Sewer Rate Schedule

There were no comments from anyone in the audience either for or against the new sewer rate schedule.

The Public Hearing was declared closed.

PUBLIC FORUM:

Ben Lipscomb, spoke not as the elected City Attorney, but as a rank and file employee of the City of Rogers, in regard to Agenda Item #2 under Reports of Boards and Standing Committees.

Lipscomb said, "Item #2 would extend benefits to elected officials of at least ten years of service and allow them to continue or maintain their coverage in the city's insurance plan after they retire. This indeed would be a benefit for me. I would benefit greatly from this proposal, since I have sixteen years of service and could retire tomorrow and take my insurance paying for both the employee share and the employer share. However, passage of this ordinance would be wrong. It treats elected officials differently than the rank and file employees. A councilman could serve five terms or ten years, come to two meeting a month and retire taking his insurance whereas an employee who has worked nineteen years would not be eligible for the insurance. This is an issue that smacks of

elitism and is wrong. Is it legal? Yes, it is legal, but it is wrong.”

Wendy Shumate spoke on behalf of herself and several employees of the City of Rogers.

Shumate said that as an employee, the concern that has been expressed by other employees is that after ten years of service would allow elected officials would have the option to take the insurance with them. Employees have to work twenty years, be vested in the retirement system and be 55 years of age before they could take the insurance at full cost at retirement.”

Shumate said as a wife of 19 years, and because her husband who is a contractor, she carries her family on the city’s insurance. This has always been a consideration when she changed jobs. “Eight years ago when I started with the city the monthly amount paid by the employee and deductible have not changed, which makes many of my friends envious of the city’s insurance plan.”

Shumate added, “Employees have expressed concern of the fairness in this proposal in that employees who have worked for twenty years have “earned” the opportunity to carry the insurance at full cost.”

Steve Palmer, 1511 Feast Place, requested that the council consider revisiting the annexation and zoning of an item that was approved at the last meeting.

Palmer said he and other neighbors thought they would be able to speak when the item was being considered during the last meeting, and did not take the opportunity during the public forum.

Palmer said he and other neighbors each own from three to ten acres along Feast Place and would much rather prefer the R-E (residential – estate) zone rather than the RSF which was approved.

Palmer said the R-E zone would allow for one home per acre whereas the RSF zone would allow three homes per acres, which for these six acres could be as many as eighteen homes.

City Attorney Ben Lipscomb advised the council that the issue could be revisited if a motion was made by a councilman who had voted in the affirmative at the previous meeting.

Lipscomb said the only consideration of the previous vote would be what was proposed, the annexation and zone to RSF. The council cannot require the owner to change the zone because the RSF zone is considered the highest and best use. If the R-E zone is being considered that rezone would have to go before the Planning Commission and that would be the property owners decision whether to make that request or not.

Councilman Clark expressed concern with overturning what was zoned as the highest and best use. He said, "I have a problem with the changing the zone to R-E, which the developer usually establishes with covenants."

Mayor Womack explained the reason this issue has come up is because during the Public Forum at the last meeting, Pat Moran, representing the property owner made comments during the Public Forum and was told that he would be able to discuss the specifics when the item came up during the meeting. The adjacent residents did not speak during the Public Forum because they thought they would have the same opportunity as Mr. Moran.

Womack said after the last meeting, those residents, expressed concern that they didn't have an opportunity to speak.

Lipscomb advised the council that if they want to reconsider this issue, it will have to be done during the legislative session, not during the Public Forum.

Pat Moran, of Howard Slinkard's law office, representing the property owner Joyce Anderson who requested the annexation and zone previously approved, said, "I am here to ask the council to not reconsider the issue. The common thread that I have heard regarding this annexation is the same that has been heard before from anyone who lives outside the city limits. Mrs. Anderson's property is adjacent to the City of Rogers and has every right to ask to be annexed and will not develop this property in any way that will be detrimental because she lives there as well. She has jumped through all of the hoops, her annexation has been accepted, the zoning that the Planning Commission has recommended is single family residential and the City Council has zoned the property with the highest and best use. Leave the matter as it stands."

Councilmen discussed the possibility of Mrs. Anderson filing covenants which could limit the number of homes.

Moran responded the idea of filing covenants is something that Mrs. Anderson would have to consider since the subject has just been suggested.

Councilman Clark asked Derrel Smith, Senior Planner, "How many people spoke at the Planning Commission and registered their objections?"

Smith responded, "There were two people who spoke in opposition at the Planning Commission."

Councilman Wright said he voted at the last meeting for the issue because no one spoke against it.

Lipscomb cautioned the council that this annexation and zoning was unanimously approved as the highest and best use. "It's unfortunate that those folks didn't have an opportunity to speak two weeks ago, but this

council determined legislatively that the highest and best use of the property was RSF. If the council is going to reconsidering that zone, it will open the council up for a claim of arbitrary and capricious.”

Councilman Wright said he would like to reconsider the issue, for those who were not able to speak, with no promise on the outcome.

Councilman Clark noted he did not think that it would do any good to reconsider. “I really have a problem in that I don’t think we can legally require someone to rezone property above our highest and best zoning classification. Residential Single Family is our highest classification. I just don’t think we can do it.”

Mayor Womack announced that if the council wants to reconsider this issue, it will come up with a motion under Reports of Boards and Standing Committees during the legislative session.

Debbie Hobbs, 3901 Arnold Avenue, spoke in light of comments made about no one speaking against something therefore it must be okay. “Unless it has changed, the Planning Commission meetings are held at 4:30 in the afternoon. It is hard for some people to attend, so just because no one speaks mean they don’t have an objection. Please take that into consideration.”

Hobbs said, “I’d hoped that there would be more people here to speak, but since there aren’t, I will. Extending health benefits for elected official is very self serving and I think it is wrong and I would hope that you vote against it.”

The Public Forum was declared closed.

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, Director of Parks & Recreation Rick Stocker, Senior Planner Derrel Smith, Director of Planning and Transportation Steve Glass, Treasurer Jerry Hudlow, Director of Code Management and Inspections James Willett, Water Utilities Engineer Mark Johnson, Assistant to the Mayor Wendy Shumate, Human Resource Director Gina Kincy, Street Superintendent Frankie Gyll, Main Street Director Marge Wolf, Airport Manager David Krutsch, Deputy City Clerk Dena Beauchamp, Deputy City Attorney Chris Griffen, Project Engineer Johnie Long.

ACTION ON MINUTES:

November 28, 2006

Motion by Hines, second by Kruger to approve the minutes of November 28, 2006 as submitted.

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

REPORTS OF BOARDS AND STANDING COMMITTEES:

(Agenda Item #1)

Appeal of Waiver Denied by Planning Commission of Paving Requirement for Ridout Lumber

Councilman Hines, chairman of the Community Environment & Welfare Committee, reported the committee had met and unanimously recommended to uphold the Planning Commission’s denial.

Amy Patrick, of Benham Company, explained that the area is currently graveled and the expanded building will be used for cabinet storage, with no customer traffic.

Patrick also noted that the building industry has slowed down, and Ridout was not anticipating the paving requirement which would be in the range of \$30,000.

Councilman Clark reported that at the Committee meeting, Derrel Smith said the Planning Commission’s decision was based on the fact that the area was visible from the road.

Patrick said the area is not visible from the road and the only traffic is for delivery by employees.

Patrick introduced the Ridout's General Manager Kenneth Bradley.

Bradley said the addition is on the rear of the property and estimated the distance from Hwy. 102 is 500-ft.

Motion by Daniel, second by Hines to overturn the Planning Commission's denial.

Roll call: Goodwin, Kruger, Hayes, Hines, Wright, Clark, McHaney – No. Daniel – Yes.

Motion is defeated.

Motion by Hayes, second by Kruger to suspend the rules and consider all items on a single reading and by title only.

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

(Agenda Item #2)

ORD. _____ Extending Health Care Benefits for Retiring Elected Officials with at Least Ten Years (10) of Service to the City of Rogers

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

Motion by Clark, second by Daniel to amend the ordinance to change the threshold number from ten years to twenty years.

Discussion: Councilman Goodwin asked, "Who sets the twenty year requirement for employees and is it possible to amend that?"

Lipscomb responded, "State statute sets the mandatory minimum of age 55 and after 20 years of service the city may extend the opportunity for the insurance to the employee at full cost.

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

ORD. #06-199 Extending Health Care Benefits for Retiring Elected Officials with at Least Twenty Years (20) of Service to the City of Rogers

Motion by Hayes, second by Kruger to introduce the amended ordinance (20 years).

Lipscomb read the amended ordinance by title only.

The Mayor asked, “Shall the ordinance pass?”
Roll call: Goodwin, Kruger, Hayes, Hines, Daniel, Wright, Clark – Yes; McHaney - abstains. ***The ordinance is adopted.***

The Mayor asked, “Shall the emergency clause pass?”
Roll call: Goodwin, Kruger, Hayes, Hines, Daniel, Wright, Clark – Yes; McHaney - abstains. ***The emergency clause is adopted.***

(Agenda Item #3)

RES. #R06-47 Amending **RES. #R06-43** in Order to Reallocate to Bonded Debt a Portion of the Property Tax Levied by the City of Rogers For General Purposes for the Year 2006 to be Collected in 2007

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

Mayor Womack explained that the citizens of Rogers approved in a special election two projects which will be paid for by pledging 1.5 mils of General Fund levy of 2.9 mils to go for bond indebtedness. This resolution allocates the 1.5 mills for those two projects.

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

Voice vote: Unanimous. ***The resolution is adopted.***

(Agenda Item #4)

ORD. #06-200 Adopting the 2007 Budget for the City of Rogers

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

McHaney, chairman of the Finance Committee, reported the Finance Committee had met and recommended approval.

McHaney recognized Treasurer Jerry Hudlow and commended the Treasurers' staff for all their work.

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. #06-201 Authorizing Change Orders in the Contract with M. J. Lee Construction Company for the Perry Road Interchange

Councilman Kruger introduced the ordinance.

Lipscomb read the resolution by title only.

Kruger reported the Transportation Committee had met and recommended a "Do pass"

Kruger recognized Steve Glass, Director of Planning and Transportation.

Glass reported the change orders were due to rock that was encountered during excavation and additional links needed for the pilings.

Glass said the change orders were reviewed by AHTD and Design Engineer who agreed these change orders were in order.

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:

(Agenda Item #6)

RES. #R06-48 Authorizing a Contract with M. J. Lee Construction, of Tulsa, OK for the 45th Street Bridge Project, Accepting the Low Bid

Councilman Kruger introduced the ordinance, which has been signed off by the Mayor and three councilmen.

The ordinance was read by Lipscomb by title only.

Kruger chairman of the Transportation Committee had met and recommended a ‘Do pass’ and recognized Johnie Long.

Long, Project Engineer reported the bids were opened for the 45th Street bridge project with four bids received. M. J. Lee Construction was the low bidder with the bid coming in at \$3,431,000.

Long said this is \$1.5 million less than what was estimated.

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

Voice vote: Unanimous. ***The resolution is adopted.***

Councilman Wright noted in regard to Ms. Hobbs who spoke during the Public Forum, “As an alderman, the only way I know what the people wants is if they let me know. If I’m not contacted, either to affirm or be against it, then I assume that you are in favor of it. I would encourage you to contact your alderman.”

Motion by Wright to reconsider the annexation and zone for the Anderson property at Pleasant Grove Road and Feast Place.

The motion dies for a lack of a second.

OLD BUSINESS:

(Agenda Item #1)

ORD #06-202 Amending Section 118-184 of Rogers City Code and Establishing a new Sewer Rate Schedule (Third and Final Reading)

Lipscomb read the ordinance by title only.

Councilman Clark, chairman of the Public Works Committee announced the Public Hearing for the Sewer Rate Schedule was held and no comments were heard and the committee recommended a “Do Pass”.

Clark recognized Water Utilities
Superintendent Tom McAlister.

McAlister said this new rate schedule will
assure the revenues for the expansion of the
wastewater treatment facility.

McAlister said this rate schedule also sets out
the out-of-city sewer rates.

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

The ordinance will go into effect in thirty days.

NEW BUSINESS:

(Agenda Item #1)

ORD. #06-203 Rezone from I-1 to C-2,
Approximately 3.93 Acres Located at 2301 S.
8th Street (Vision Publishing, LLC)

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

Jason Ingalls, of Northstar Engineering,
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 #2)

ORD. #06-204 Rezone from I-2 to C-2, 13.01
Acres Located on U.S. Hwy. 102/62 across
from 14th Street (Rick Buck)

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

Kashi Kumar, of Blue, Bates and Associates,
Inc., presented the rezone 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. #06-205 Rezone from A-1 to RSF, 2104 S. 26th Street (Gary & Lillian Loesch)

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

Glen Kelley, representing the owner, 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 #4)

ORD. #06-206 Accepting the Final Plat of Liberty Bell South, Lots 107 through 249

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

Brian Jackson, of Freeland, Kaufman and Fredeen, 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 #5)

ORD. #06-207 Rezone from RMF-9A to C-2, 0.61 Acres along the Southern Boundary of Lot 14 the Peaks Subdivision (Noonan, LLC)

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

Hunter 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 #6)

ORD. #06-208 Rezone from A-1 to I-2, 4.15 Acres along the West side of Dixieland Road, North of Olive (Ronald McGregor)

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

Andres Ferero, 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***

Second Council Meeting in December Cancelled.

Motion by Kruger, second by Daniel to cancel the second meeting of December.

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

Mayor Womack announced his recommendations for reappointments of the following:

Kathleen Dickerson and John Sampier to the Museum Commission, terms to expire 12/31/09.

APPOINTMENT:

Approves the reappointment of ***Kathleen Dickerson*** and ***John Sampier*** to the **Museum Commission**, terms to expire 12/31/09.

Motion by Wright, second by Goodwin to approve the reappointments of Kathleen Dickerson and John Sampier to the Museum Commission.

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

Womack also recommended the reappointment of Caroline Smith to the Library Board of Trustees, term to expire 12/31/09.

Approves the reappointment of *Caroline Smith* to **the Library Board of Trustees**, term to expire 12/31/09.

Motion by Kruger, second by Wright to approve the reappointment of Caroline Smith to the Library Board of Trustees.

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

ANNOUNCEMENTS:

Mayor Womack commended Councilman Jack McHaney for his 26 years of service on the Rogers City Council.

Womack said, “Jack, thank you for your service to the City of Rogers. Your service will be missed; your legacy will live on. We appreciate what you have done.”

There being no further business, motion by Kruger, second by Wright to adjourn the meeting. Meeting adjourned at 8:45 p.m.

ATTEST:

Peggy David, City Clerk

APPROVED:

Steve Womack, Mayor