

MINUTES

The Rogers City Council met in *regular session* in the Council Chambers of the Maurice H. Kolman City Hall Building on Tuesday, June 26, 2018 at 6:30 p.m. The meeting was called to order by Mayor Greg Hines. The Invocation was given by Mayor Hines. Those in attendance were led in the Pledge of Allegiance.

PUBLIC FORUM:

Karen Arriaza, 2120 S. 30th Street, said she and her husband have lived at this location for the past 16 years across the street from the property that will be considered later in the meeting to be rezoned to RMF. “I am not particularly opposed to that particular development, but we have some serious concerns regarding the property lines, buffering and flooding in that area. The property lines extend into the road and the roads are not city roads. The city has not been granted an easement to those roads, nor do they have an easement along that road to control flooding. My question is what does that 100-ft. buffer look like? The buffer, as stated in the rezoning that will be coming before you, states it’s from the 100-ft. from the property line. Is that 100-ft. from the center of the road or from the edge of the road? I’ve gotten two different answers from planning staff.”

A video showing flooding that has occurred along the road was shown. Arriaza said, “In the interest of public safety, there has never been a drainage study done for this area and recommends that one is done before the large scale development ensues. A road easement should be granted for the portion of the road for the project’s property to the city for drainage improvements. Also perhaps as the area develops, these drainage improvements will connect to provide drainage for the residents. During heavy rains, residents cannot get out of the homes or even trucks could not get in or out during flooding. Existing drainage in that area consists of berms and ditches that have been dug by the residents, not by the city, and are being maintained by the residents. The city does not maintain that road and the ditches are not adequate to protect residents. This drainage

system, while created with the best of intentions, is not adequate to direct water away from the neighboring homes in heavy rains. Unintended additional runoff as created by impervious areas brought on by a large scale development would further stress this drainage system and cause additional property damage to neighboring properties. Retention ponds would only slow down water and if there were a breach, there is no telling where that water would go. There is a danger of a resident getting swept away in the flooding. The ditches are 3-ft. deep and there is an exposed gas line that has been there for years in that ditch that could be a potential problem. Benton County does not have to be under a flood warning for that road to flood, because we know it will flood. Property owners should not be held liable for any accidents that occur from this flooding because of the increase exposure and development of the area. Additionally, with the proposed use, a convalescence facility, there may be people walking around out there and there could be problems. I am not opposed to this development, but I am against it until the infrastructure is in place and issues with easements have been settled. A rezone previously denied for townhomes will be watching to see how to proceed after this project. Realtors are visiting the area looking for possible sellers for future developments. This is a very high visibility area and it will set a precedent for what Rogers truly is.”

Anthony Cardarelli, 2930 W. Green Acres Road, spoke in regard to the Rezone to RMF. “I spoke with Mr. Watkins and he confirmed that the amenity agreement is still enforceable. As a resident we are opposed to a huge apartment complex, but a convalescent home would be a more sensible use of the land if not for a few residences. Like Ms. Arriaza, these developments are going to do due diligence, but we would ask that no more runoff be created. I have no illusions that this area will not be developed, it is right next to the mall, but would like for the council to mandate a drainage study

for the area so that the developers can tie-in to their piece similar to the sidewalks across the city.”

Kent Verge, 3045 W. Green Acres, spoke against the rezone to RMF, said some concerns were brought up at the Planning Commission meeting. “In relation to the comment made by Mr. Watkin that the aquifer is very large and can handle whatever water comes out of there. My well is about 100-ft. away from this property. I don’t know whether there has been a study or not, but found a study from the University of Minnesota. The study was conducted to determine if stormwater run-off affects groundwater quality and found documentation of groundwater contamination which contained bacterial, fecal and virus contamination. The proposed use will be a medical facility, will have an open dumpster that will collect rainwater which will be dumped and eventually drain into the aquifer and my water supply. Contamination of groundwater by pathogens has been documented and should not be ignored. Protection of groundwater should be considered. Please consider what the experts have determined.”

The Public Forum was declared closed.

COUNCIL MEMBERS PRESENT:

Buddy Wright, Betsy Reithemeyer, Gary Townzen, Marge Wolf, Clay Kendall, Jerry Carmichael and Barney Hayes were present. Mark Kruger was absent.

OTHER OFFICIALS PRESENT:

City Clerk-Treasurer Peggy David, City Attorney Andrew Hatfield, Senior Staff Attorney Jennifer Waymack, Community Development Director John McCurdy, Public Relations Specialist Ben Cline, Water Utilities Operations Manager Brent Dobler, Water Utilities Shared Services Manager Jene Huffman, Finance Director Casey Wilhelm, Police Chief Hayes Minor, and Planning Administrator Lori Ericson.

ACTION ON MINUTES:

(June 12, 2018)

Motion by Wright, second by Townzen to approve the minutes of June 12, 2018 as submitted.

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

Approves the suspending of rules for the meeting.

Motion by Reithemeyer, second by Wolf to suspend the rules to consider all items on the agenda by title only and on a single reading and to table New Business Agenda Item #2.

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

REPORTS OF BOARDS AND STANDING COMMITTEES:

(Agenda Item #1)

RES. #R18-38 Authorizing the Purchase of a Vehicle for the Police Department Drug Unit; Amending the 2018 Budget to Appropriate from Federal Sharing Forfeiture Fund in the Amount of \$21,000 to Acct. #340-40-80100

The resolution was introduced by Councilmember Reithemeyer and read by title only by City Attorney Andrew Hatfield.

Reithemeyer, chair of the Finance Committee, reported the Finance Committee had met, recommended a “Do pass” and recognized Police Chief Hayes Minor.

Minor said this purchase will replace a 10-year old vehicle for the Drug Unit. The funds will be from a restricted forfeiture fund and will not impact the annual budget.

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

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

(Agenda Item #2)

ORD. #18-31 Waiving Competitive Bidding for the Purchase of an Undercover Police Vehicle from Superior of Siloam Springs for Use by the Rogers Police Department Drug Unit

The ordinance was introduced by Councilmember Wolf and read by title only by Hatfield.

Wolf reported the Public Safety Committee had met, recommended a “Do pass” and recognized Police Chief Minor.

Minor reported the funding for this vehicle was just approved, and the waiving of competitive

bidding is necessary because Superior of Siloam Springs will sell the vehicle at the state contract price.

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

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

(Agenda Item #3)

ORD. #18-32 To Amend Certain Provisions of Chapter 38 of the Code of Ordinances, City of Rogers, AR Concerning the City of Rogers No-Knock List and Peddler’s Licenses

The ordinance was introduced by Councilmember Hayes and read by title only by Hatfield.

Hayes reported the Resources & Policy Committee had met, recommended a “Do pass” and recognized Senior Staff Attorney Jennifer Waymack

Waymack announced that due to recent changes in laws and Superior Court decisions the language in Chapter 38 - Peddlers needed to be updated based on those changes in laws.

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

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

OLD BUSINESS:

None.

NEW BUSINESS:

(Agenda Item #1)

ORD. #18-33 Rezone from PUD (R-O) to C-2/C-U, 5 Acres East of the Corner of S. Bellview Road & West Ajax Ave. (Ajax Bellview, LLC)

The ordinance was introduced by Reithemeyer and read by title only by Hatfield.

Bill Watkin representing the property owner requested the rezoning for the property with the C-U designation which will allow individual ownership of the units. The Planning Commission unanimously approved the rezoning request and the conditional use permit to allow storage.

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

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

(Agenda Item #2)

ORD. #18-__ Rezone from A-1 to RMF, 2110 S. 30th Street and 3035 W. Green Acres Road (Mill Creek Manor, LLC and Pascal Trust)

Tabled

Watkins said he left the room and came back in to find out that the next rezoning has been tabled.

Watkins said the contract to purchase the property was set for June 27th based on the approval of the rezoning and requested that the tabled item be reconsidered.

There was no further action taken by the council. The ordinance will be placed on the next agenda.

(Agenda Item #3)

ORD. #18-34 Rezone from C-2 to IA, 203 W. Wood Street and 710 N. 2nd Street (Reinboth Lynch, LLC)

The ordinance was introduced by Reithemeyer and read by title only by Hatfield.

Hannah Cicioni, representing the property owner, requested the rezoning from C-2 to the new IA (Industrial Arts) zoning which is part of the DRDC zone. The Planning Commission unanimously approved the rezoning.

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

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

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

(Agenda Item #4)

ORD. #18-35 Rezone from C-2 to IA, 718-728 N. 2nd Street (Reinboth Lynch, LLC)

The ordinance was introduced by Reithemeyer and read by title only by Hatfield.

Cicioni, also representing the property owner, requested the rezoning from C-2 to the new IA (Industrial Arts) zoning which is part of the DRDC zone and said the Planning Commission unanimously approved the rezoning.

The Mayor asked, “Shall the ordinance pass?”

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

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

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

APPOINTMENTS:

None.

ANNOUNCEMENTS:

Mayor Hines announced the death of Don Zimmerman, Executive Director of the Arkansas Municipal League, who had a long history of serving cities and town in Arkansas in this work with the Municipal League.

There being no further business, motion by Wolf, second by Reithemeyer to adjourn the meeting. Meeting adjourned at 6:56 p.m.

ATTEST:

APPROVED:

Peggy David, City Clerk-Treasurer

C. Greg Hines, Mayor