

MINUTES

The Rogers City Council met in *regular session* in the Council Chambers of the Maurice H. Kolman City Hall Building on Tuesday, July 10, 2018 at 6:30 p.m. The meeting was called to order by Mayor Greg Hines. The Invocation was given by Rev. Eddie Davis of Rogers Freewill Baptist Church. Those in attendance were led in the Pledge of Allegiance.

PUBLIC FORUM:

Rick Stocker, 3007 S. Arkansas, announced his intention to run for the City Council Ward 1, in the November election.

Jeff Hatley, 1203 S. 26th Street, of Ozark Regional Transit, reported the ridership for 2017 was down by 18% from 2016 due to the fire of January 2017. Insurance claims from the fire have been settled, and the ridership for 2018 is on pace to the 2016 ridership, however down from the 2017 number. The Veterans Ride Free program has been very popular and used. Eight buses were replaced with the insurance settlement, replacement buses have also been donated by other systems across the country, and new buses will be added to the fleet due to support from Arkansas' U.S. Senators and Representatives who helped obtain federal funding. Three new buses that were obtained through a federal grant will be dedicated to rural routes, one each in Benton County, Washington County and Carroll County. The new Digital Pass System was introduced this spring that allows riders a secure way to use their cellphone to purchase bus passes for a full month and can show the rider's pass information to the bus driver.

Councilmember Wolf expressed appreciation for the Veterans Ride Free program.

Karen Arriaza, 2120 S. 30th Street, spoke in regard to the RMF rezoning said "I am not particularly opposed to the convalescence home that is proposed and the video showing the flooding in that area was coming from the property requesting the rezone and does affect us. Since I lived at my location which shares a property line with the proposed rezone property, Bellview Road has been widened and improved

as well as New Hope Road and all without drainage surveys on how the flooding will affect our property. Also the 100-ft. buffer would be from the center of the road so there would be 20-ft. of the road would really look like an 80-ft. buffer. With this past weekend’s rain, there was no flood warning, but our area flooded.”

Attorney Ralph Williams, representing Kent Verge, 3045 W. Green Acres, spoke against the rezone to RMF, said his client is concerned with the well that provides their water and the flooding and runoff from the development that could possibly contaminate the well. In the future, the amenities agreement could be amended when the two parties agree and would not be enforceable unless it is in a covenant. If the rezoning is approved, the agreement should be included in a covenant and the adjacent property owners should be included for enforcement purposes.

The Public Forum was declared closed.

COUNCIL MEMBERS PRESENT:

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

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 Shared Services Manager Jene Huffman, Finance Director Casey Wilhelm, Police Chief Hayes Minor, Planning Administrator Lori Ericson, Deputy Fire Chief B J. Hyde, City Planner Ethan Hunter, Parks Superintendent Stan Weaver and Main Street Director Shay Bland.

ACTION ON MINUTES:

(June 26, 2018)

Motion by Wright, second by Hayes to approve the minutes of June 26, 2018 as submitted. Councilmember Kruger abstains.

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

Approves the suspending of rules for the meeting.

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

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

REPORTS OF BOARDS AND STANDING COMMITTEES:

(Agenda Item #1)

RES. #R18-39 Amending the 2018 Budget; Recognizing a Reimbursable Grant from the Arkansas Historic District Preservation Program in the Amount of \$2,100; Increasing Acct. #100-01-45600; Appropriating \$2,100 to Historic District Commission Acct. #100-01-70297

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 City Planner Ethan Hunter.

Hunter said this reimbursable grant will be used by the Historic District Commissioners to pay for travel and training material expenses.

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

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

OLD BUSINESS:

None.

NEW BUSINESS:

(Agenda Item #1)

ORD. #18-36 Rezone from A-1 to RMF, 2110 S. 30th Street and 3035 W. Green Acres Road (Mill Creek Manor, LLC and Pascal Trust)

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

Bill Watkins, representing the property owner, requested the rezoning from A-1 to RMF. Watkins said the intended use is for a convalescent home which required the RMF zoning. An amenities agreement was created to provide the city with certain limits and restrictions of his client on how the property would be developed and includes the south 100-

ft. buffer that will remain A-1 zone. This limits the developer from using that property to only the uses allowed in the A-1 zone. The access will not be Green Acres and S. 30th Streets and the amenities agreement includes that there will be no access to West Green Acres Road, other than by City of Rogers Police and Fire through a locked gate provided and restricted to that purpose. Because of the required RMF zone, the amenities agreement includes a provision that limits the construction and operation of an assisted living, rehabilitation, and skilled nursing facility. Additional items included in the amenity agreement is the following: screening will be included for the adjacent properties on the south and east of the facility; a photometric study will be done to prevent bleed over to surrounding properties from the development; if approved the two lots will be combined into one. The amenity agreement is incorporated into the rezoning ordinance and will be in the force of law. His client is willing to file in the real estate records a copy of the amenity agreement showing the restrictions for the property. “I disagree with Mr. Williams about the covenants. The ordinance and amenity agreement will be the law and will be enforceable by the city. If the residents see a violation, then they can report it.” Once the amenity agreement was provided planning staff recommended approval and Planning Commission agreed and unanimously approved the rezoning request. This rezone conforms to the comprehensive growth map. The road is a public road has become a public way by virtue of public use and became a city street by way of an annexation. By law, the street right-of-way is defined as back of the ditch to back of the ditch. The property lines do extend into the center of the street, but the street right-of-way would be included in that 100-ft. buffer. When the large scale development plan is presented the street right-of-way, drainage and storm water management will be addressed per city code. Mr. Williams said his client was concerned about his well water being

contaminated from stormwater runoff, but all of those residents are also on septic systems and contamination would be more of a concern from the septic systems than the stormwater runoff. This property is going to have its stormwater runoff properly managed based on city code and may provide some relief to the residents. Those residents have genuine legitimate infrastructure concerns but his client's development will provide zero additional stress on what little infrastructure is out there. I've asked before if not this, then what? Even if it is developed into single family, that would allow up to thirty houses on the property which would access Green Acres Road. The amenity agreement provides the residents some peace of mind and protection."

Watkins said at a previous meeting there were statements complaining of promises of a fence made when Jamestown was developed. "My client did not develop Jamestown and bought it a few years ago. Lori, in the Planning office, researched the requirements when Jamestown was being developed and found no mention of a requirement for a fence."

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. #18-37 Rezone from A-1 to NR, 17.47 Acres North of the Intersection of E. New Hope Road and S. "O" Street (Christ for the World Int.)

Frieda Bell, representing the property owner, requested the rezoning from A-1 to NR to develop into a 78-lot subdivision.

Director of Community Development John McCurdy reported originally the request was to rezone to R-AH (Residential-Affordable Housing) but the Planning Commission decided to change the zoning from R-AH to NR, which

is be more restrictive and does not allow any manufactured homes. Planning Commission unanimously approved the rezoning to NR.

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:

There being no further business, motion by Kruger, second by Wolf to adjourn the meeting. Meeting adjourned at 7:01 p.m.

ATTEST:

APPROVED:

Peggy David, City Clerk-Treasurer

C. Greg Hines, Mayor