

MINUTES

The Rogers City Council met in *regular session* in the Council Chambers of the Maurice H. Kolman City Hall Building on Tuesday, September 25, 2018 at 6:30 p.m. The meeting was called to order by Mayor Greg Hines. The Invocation was given by Rev. Mary Haynes of Joppa House of Prayer. Those in attendance were led in the Pledge of Allegiance.

PUBLIC FORUM:

Ron Maines, 2100 W. New Hope Road, spoke in opposition to the rezoning from RSF to R-DP that was recommended by the Planning Commission.

Maines said the residents of The Arbors wants the property to remain RSF and questioned the phrase “highest and best use” that was used during the Planning Commission meeting.

Susan Jasan, 2100 W. New Hope Road, also spoke in opposition to the rezoning from RSF to R-DP saying that a single family home would be more appropriate.

There were no other comments from anyone in the audience.

The Public Forum was declared closed.

COUNCIL MEMBERS PRESENT:

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

OTHER OFFICIALS PRESENT:

City Clerk-Treasurer Peggy David, City Attorney Andrew Hatfield, Staff Attorney Bonnie Bridges, Police Chief Hayes Minor, Deputy Fire Chief B.J. Hyde, Director of Finance Casey Wilhelm, Water Utilities Superintendent Brent Dobler, Parks and Recreation Director Jim White, Planning Administrator Lori Ericson, and Assistant to the Mayor Carey Hollis,

ACTION ON MINUTES:

(September 11, 2018)

Motion by Wright, second by Hayes to approve the minutes of September 11, 2018 as submitted. 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 on a single reading and by title only.
Roll call: Unanimous – Yes. ***Motion carried.***

REPORTS OF BOARDS AND STANDING COMMITTEES:

(Agenda Item #1)

ORD. #18- Providing for the Acquisition of Real Property and Any Interest in Any Real Property to Facilitate Street Improvements and Other Projects Pursuant to the 2018 City of Rogers Bond Issue; Authorizing Certain Contracts and Lease Contracts to Facilitate Projects Pursuant to the 2018 City of Rogers Bond Issue

This item was withdrawn from the agenda.

(Agenda Item #2)

RES. #R18-51 Authorizing a Contract Amendment with Garver, LLC of North Little Rock, AR in the Amount of \$45,000

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

Kruger, chair of the Transportation Committee, the committee had met, recommended a “Do pass” and recognized Airport Manager David Krutsch.

Krutsch explained the ongoing taxiway project is underway and the professional services part of the contract will soon reach its capped amount. This resolution will allow for the extension of the contract to allow for the mandatory professional services such as inspections to be completed as required by FAA.

Motion by Kruger, second by Hayes to adopt the resolution. Kruger abstains.
Voice vote: Unanimous – Yes. ***The resolution is adopted.***

ORD. #18-58 Providing for the Authorization of Additional Legal Services for Compensation to be Provided by the Office of the City Attorney

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

Reithemeyer reported the Finance Committee recommended a “Do pass” and recognized Staff Attorney Bonnie Bridges.

Bridges explained that this ordinance is required in the event that additional legal services by the City Attorney are needed. The current city code allows for the specific duties for the City Attorney with a salary provision, but there may be the need in the future for the City Attorney to provide legal services which would require additional compensation. This ordinance would set the compensation for those services.

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

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

(Agenda Item #4)

RES. #R18-52 Amending the 2018 Budget; Recognizing a Donation from the NWA American Association of Physicians of Indian Origin to the City of Rogers Police Department in the Amount of \$2,500; Increasing Acct. #100-03-45600 in the Amount of \$2,500; Appropriating \$2,500 to Acct. #100-03-70260

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

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

Minor reported this is an unsolicited donation from this organization with no strings attached. The donation will be used to create a Youth Police Advisory Council with students from all six high schools in Rogers participating to get feedback that affects juveniles in Rogers.

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

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

(Agenda Item #5)

RES. #R18-53 Authorizing the Destruction of Certain Records of the Legal Department

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

Wolf, a member of the Internal Affairs Committee, reported the committee had met, recommended a “Do Pass” and recognized Staff Attorney Bonnie Bridges.

Bridges said the storage area for the Legal Dept. is full and certain records needs to be destroyed that are over eight years old. A majority of the records are old hot check files with collection letters. The hot check account has been closed for over three year. No records involving criminal cases will be destroyed. A shredding company will provide bins to destroy the records.

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

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

OLD BUSINESS:

None.

NEW BUSINESS:

(Agenda Item #1)

RES. #R18-54 Fixing a Hearing Date for a Petition to Vacate a Portion of a Street

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

Bill Watkins reported this is the site that will be the new Elks Lodge and requested the date of November 13th be set for the Public Hearing.

Motion by Kruger, second by Wolf to amend the resolution to include the November 13, 2018 date for the Public Hearing.

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

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

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

(Agenda Item #2)

ORD. #18- Rezone RSF to RDP, 0.392 Acres on the East Side of S. 21st Street (Oscar & Bibiana Mancia)

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

Oscar Mancia-Carpio, owner of the property, requested the rezoning as recommended by the Planning Commission to build a duplex.

Councilmember Reithemeyer asked why the For Sale sign is on the property if he is going to build a duplex.

Manica-Carpio said he had removed the sign and wasn't sure what he was going to do.

Reithemeyer responded, "My curiosity is that if you intend to sell it, why are you going for a lot split and rezone?"

Manica-Carpio responded, "When I applied, it was already for sale. This is one of those things that I just didn't know which direction to go."

Reithemeyer said, "I would just offer that you are disturbing a whole lot of people in the neighborhood for you not to know which direction you want to go."

Mancia-Carpio said he respects the neighbor's concern and understands where they are coming from. "I grew up here in Rogers, graduated from Rogers and just want to rezone the property".

Councilmember Carmichael noted that he attended the Planning Commission meeting and commended Mancia-Carpio for cleaning up the property which was also appreciated by the neighbors who attended the Planning Commission meeting.

Carmichael said his concern is that the rezoning is squeezing in a duplex into a single family residential area. “Like Ms. Reithemeyer, I thought when you asked for the rezoning, that you would be living there and I questioned the For Sale sign also. I think that is what the Planning Commission felt that night.”

Mancia-Carpio said, “This is an investment for my family. I plan in on keeping it, but I can’t say I will keep it forever. I was inspired by the four duplexes being built on S. 17th Street. It will be a nice brick duplex.”

Councilmember Kruger said, “With the surrounding properties the term “highest and best use” comes into play. We have to determine what we think is the highest and best use of the property? I can see justifying it either way and am not trying to convince anyone how they should vote, but after looking at as far as legally or consistent, we could go either way.

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

(Agenda Item #3)

ORD. #18-59 Rezone from C-2 to U-COM, 4893 W. Pauline Whitaker Pkwy (Chick-fil-A, Inc.)

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

Stephen Giles, representing the property owner, requested the rezoning which was approved unanimously by the Planning Commission.

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. #18-60 Rezone from A-1 and RSF to C-3, 6.31 Acres on the NW corner of W. Pleasant Grove and S. Bellview (The Marler Revocable Trust)

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

Scott Fretheim, representing the property owner, requested the rezoning as recommended by the Planning Staff and approved by the Planning Commission.

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 #5)

ORD. #18-61 Rezone from A-1 to C-2, 7.5 Acres on S. 28th Street (Myron Thomas Morter)

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

James Geurtz, representing the property owner, requested the rezoning as recommended by the Planning Commission.

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 made the following statement in regard to the recent federal court decision to the city’s panhandler ordinance: “The City of Rogers respects the decision of the court. The city will strive to enact protection for its citizens while balancing the evolving law in this area. No decision has been made regarding appeal at this time. The city has stayed its enforcement of the ordinance at issue during the duration of

this complex litigation and will continue to do so. We are not going to repeal the ordinance until we make a decision on appeal. Pending the decision making process, we will continue to stay the enforcement of the ordinance to comply with the court's order.”

There being no further business, motion by Kruger, second by Wolf to adjourn the meeting. Meeting adjourned at 7:02 p.m.

ATTEST:

APPROVED:

Peggy David, City Clerk-Treasurer

C. Greg Hines, Mayor