

No Standing News

Since we have no standing, we stand with those left standing.

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COUNCIL CHRONICLES

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By Lois Ann Marler

Prosecuting Attorney

Mayor Morgan appointed attorney James Crump to serve as city prosecutor until April 2000. The council voted 11-1 in favor of his nomination, Councilman DeFriese casting the dissenting vote, claiming that information concerning this appointment was not in his council packet. I called city hall and they confirmed that no resumes were provided to the council from either Mr. Crump or any other applicants.

The appointment of Mr. Crump is subject to review by the Presiding Judge of the 25th Judicial Circuit, the Honorable Douglas E. Long, Jr.

During the January workshop when this item was first addressed, Morgan showed concern over the lack of candidates in recent years for the position of prosecutor as an "elected" position. City Counselor John Beger explained that attorneys who have active criminal practices don't want to serve as prosecutor because it precludes that lawyer/firm from taking criminal cases with the city. Beger went on to say that there is no problem with the city counselor and city prosecutor being one in the same, or from the same firm.

On a related note, the city heard the first and second reading on an ordinance to amend Section 2-61 of the code regarding vacancies in elective and appointive offices. The changes will reflect RSMo 77.450, which went into effect August 28,

1998. Previously, a special election was called to fill the vacancy of an elected office if more than six months remained before the next municipal election. Under new law, the mayor, with the council's approval, may appoint until the next municipal election.

Census 2000

John Groth, of the U.S. Census Bureau outlined in detail specifics for the 2000 census at the January workshop. He explained that wherever you lay your head down on April 1, 2000 is where you will be counted. He asked the city to be prepared for the upcoming census by providing information to the public. He went on to emphasize the importance of everyone being counted as it relates to city/state/federal relations, specifically grant money.

The "Workshop" (aka: "work session")

The first two readings to amend the code regarding council meetings were heard at the February 1st meeting. The city will continue to meet bi-monthly with each meeting scheduled for 6:30. Limits are being placed on the second meeting (called the "work session" in the ordinance), however, with final voting on ordinances only in cases of "emergencies." Ward four Councilman Lou Magdits asked for a definition of "emergency", and if it would apply to upcoming contracts relating to the rec center. There were no parameters set for defining a situation to be an "emergency" status; a majority vote, however, will be necessary to deem a situation as an "emergency."

In addition to the "regular" meeting and "work session," a "special" meeting can be called by the mayor, with only posted issues discussed unless 2/3

of all members of the council consent to conduct other business.

REC CENTER

At the January workshop, a presentation was given by Jeff King of Ballard and King, outlining preliminary results of the telephone survey, as well as giving a demographic analysis.

Mr. King identified a "service area" for the rec center, including Cuba, Vichy, Salem, and Waynesville. Copies of the telephone survey were distributed, with questions ranging from the number of times a person comes to Rolla, to desired services, to costs of membership/use.

Ward 5 Councilman Brian DeFriese voiced concern over the partnership with Phelps County Regional Medical Center, which the council unanimously approved at the January 4, 1999 meeting. He brought up the issue of liability with hospital patients using the pool, along with a schedule concern over the pool being unavailable to members. He went on to claim that the city cannot legally provide office space to the hospital.

Mr. King said that this information had not been shared with him, and that they had not gotten "into details" regarding the city/hospital partnership. He went on to say that Ballard and King would be talking with the hospital to determine the hospital's needs in order to include proper design components in the rec center.

Councilman DeFriese also asked about a possible skateboard park in the rec center. He added that skateboarders are all over town, and that a safety issue for these kids exist. Bill Moorkamp, a member of the Ad Hoc Health and Recreation Committee, responded by saying the issue is, "Being actively looked at."

Sverdrup, the A&E firm under contract with the city for the rec center design, was present also, and made a brief statement concerning their progress.

They presented a project schedule which outlined three design phases. The Sverdrup representative said they are still in the "pre-schematic design" phase, and would be sending out a team to do analysis on the location, infrastructure, streets, and utilities, hoping to have a "valid concept design" in time for the election. (According to their project schedule a final design for the rec center will not be available until after the election.) When Ward 2 Councilman Don Barklage voiced concern over the soil testing deadline of March 31, the Sverdrup rep responded by saying he "left a window" to consider viability of location. ("Viability of location" is a fancy way of saying the location is undecided.)

Mayor Morgan also expressed concern with Ballard and King being behind schedule. He said that their work must be done by March 1 in order for the voters to be informed prior to the election.

There will be a special presentation on the rec center at the next council work session, Wednesday, February 17, 1999, at 6:30 P.M. at the Eugene Northern Community Center.

EXEC SESSION

No executive session was held at the February 1st meeting, but the council discussed two items in exec session at the last work session, including the pending litigation with Sign Co. over the moratorium placed on new billboard construction. The council voted to draft a billboard ordinance that will be ready for the March meeting.

Fire Chief Keith Crowell was present for the last item of discussion in exec session, labeled "impending litigation" by John Beger, but no details were disclosed.

Beger has created two new categories of closed meetings, neither of which are recognized in state law. There is the "pending litigation" category, and the "impending litigation" category. Future litigants take note: Actions in illegal executive sessions can be reversed by the court!

CHAMBER OF COMMERCE QUARTERLY REPORT

Don Johnson, RACC President, submitted the chamber's quarterly report to the council. It was approved 11-1, with Councilman DeFriese voting against on the grounds that the chamber is not in compliance with the motel tax contract.

PARKING ON PINETREE

The council voted unanimously to table the question to prohibit parking on Pinetree Road near the Junior High School after hearing from two residents who voiced concern. The council had been prepared to vote on this final reading.

Neil Davis, 111 Pinetree Road, claimed he never received a letter from the city on this proposed change and said it would create a year-round hardship over a three-week problem during high school football practices.

Ideas were bouncing around the room as to a possible solution to the problem of children running across a terribly busy street. Councilwoman Sue Eudaly pointed out that the Rolla Youth Soccer league and youth football leagues also practice there. Jimmy Dale Williams offered the solution of a fence, emphasizing the need for the Rolla school system to become involved in the solution.

MORE ANGRY RESIDENTS

Ozark Terrace resident Richard Daily protested the "change order" imposed on him regarding the sewer project in his neighborhood. Residents originally received a letter from the city with a figure of \$757.50 for sewer improvements. Due to additional costs for having to dig up streets, a bill of \$1,057.70 is outstanding.

Daily went on to criticize the contractor for doing "shabby" work, noting a 5" manhole is sticking up in the road. The residents have not received a "completion notice," which Public Works Director

Steve Hargis said is not necessary. Ten percent is being held until the contractor completes the job.

Note: The "contractor" is none other than Maggi Construction. The bid for this job was awarded in September 1998 for \$27,000. At that time I warned of the impending "change order." (See issue #8, "NSN Special: Council Chronicles at: http://www.rollanet.org/~rwnash/NSN_1_08.html, under the heading, "ANOTHER CHANGE ORDER IN THE WORKS?") The city seemed fairly tolerant of the situation. Councilman Owsley commented that it was normal to have these things happen with contracts. It certainly is! Especially when you deal with Maggi Construction.

EYESORE CONTINUES

Residents in the Powell addition are "enraged" according to Ward 6 Councilwoman Julie Turley. She and Councilwoman Bettye Sheffield have once again pointed out the bad-neighbor practices of Mr. Russell, owner of two homes near 12th and Spring Streets. The homes were moved to two vacant lots last year, and while they are now on foundations instead of moving trailers, little has been done to make the houses look like homes.

Public Works Director Steve Hargis said that Mr. Russell is "dragging his feet" after being in communication with the city for nearly two years.

Butz commented that no easy remedy is possible, noting that a nuisance abatement is a "multi-month" process. The houses are not even connected to the city sewer system.

APPOINTMENTS

Besides a new prosecutor, Mayor Morgan appointed Ed Loughridge to another six-year term on the Industrial Development Authority. The council approved his nomination 11-1, with Councilman DeFriese voting no. The mayor asked Councilman DeFriese if he wanted to give a reason

for his "no" vote, but Mr. DeFriese declined. (Is it not a councilman's prerogative to vote his conscience without being interrogated?) Neither resumes nor information about any of the individuals were presented to the council, nor information about other possible appointees considered.

Morgan had intended to appoint William Jenks III to the IDA as well, but Mr. Jenks withdrew his nomination without explanation.

Chris Jepsen was re-appointed to the Planning and Zoning Commission. Jepsen is the husband of Ward Four Councilwoman Judy Jepsen, who abstained from voting.

Larry Thornhill was appointed to the Board of Adjustment. He was currently serving in an "alternate" position on the same board.

OFF THE RECORD

I spoke to City Administrator John Butz after the meeting, and he told me that three individuals have applied for the position of Community Development Director, none being local or regional individuals.

On a related note, Butz confirmed that Dain Ward would NOT be occupying an office at city hall. He said Mr. Ward will continue to "volunteer" (in an economic development capacity), but will do so from his home. Providing a city hall office for Ward was first publicly mentioned at the December 21, 1998 workshop. The mayor had proposed a \$20,000 support staff for Ward. Mr. Ward had written his own job description, saying that Rolla needed a presence in Jefferson City with the "movers and shakers." The council agreed to the appointment even though the position had not yet been advertised.

COMMUNITY HALL RENOVATIONS

Improvements for the old fire station building were approved unanimously by the council. CSE Enterprises won the contract with a bid of \$168,195. This estimate excludes a brass fire pole, platform, and generator. These add-ons were over budget and will be reconsidered later in the project, possibly under next year's budget. Councilwoman Sue Eudaly was concerned about not having a generator at the fire station for y2K. City Administrator John Butz assured her that there was plenty of time to have a backup prior to that date.

INDEPENDENT AUDIT REPORT

Larry Brown of Davis, Lynn, and Moots presented the council with the FY 1997-98 audit findings. He noted that sales tax collection is up \$300,000, which is a "positive indicator for a community." Mr. Brown added that the city had met nearly all of the recommendations in last year's management letter, and that the finance office was doing a good job.

Councilman Magdits said that the finance office should be praised for receiving high marks on the audit.

Note: The audit conducted by Davis, Lynn, and Moots is a financial audit. The state audit completed last year by Margaret Kelly was a compliance audit.

A financial audit only checks to see if your totals balance. A compliance audit, as was done by Margaret Kelly, checks to see if you are following the law.

COMMENTARY

The council did well to admit that some structure was needed in their meeting arrangements. I still doubt if many on the council realize that it doesn't matter what you label a meeting; it's still a "council meeting." Mr. Butz, in the January "workshop," claimed a difference between a council work "shop" and a council work "session". Well, in the public's ear and in the law, there is no difference and such

a statement is a semantic insult. Both imply "discussion only" with no official business done. The city has a long way to go, but they are at least taking baby steps in the right direction regarding meetings.

Some members of the council, along with Mayor Morgan, testified to "brain mush" during long meetings. A monthly workshop, as they planned, would alleviate this cranial abuse. One thing still concerns me: in an attempt to reduce the length of meetings, have we become a Nascar pit stop for public policy?

I spoke to Mayor Morgan after the January workshop and he explained the reasons necessitating the mid-month workshop. In addition, he emphasized the need to expedite annexation and rezoning, voicing concern over individuals having to wait an extra month for council approval. Morgan is a real estate developer, and explained how "big money" is a factor in rezoning.

Carolyn Trundle expounded on her views of the "workshop" by saying, "They give us an opportunity to perceive things before the actual city council meets. It's like going to school." Sadly enough, Mrs. Trundle's words accurately reflect what I have perceived from this council. They do come to learn, which isn't bad in itself. The council does, however, need to do more "homework."

I think Councilwoman Trundle identified the major reason necessitating two council meetings per month, or at least why the now obsolete monthly meeting would usually go until 10:30: Many people on the council would hear discussion on some issues for the first time, and that leads to lots of questions on details that could have been ironed out prior to introduction to the council.

According to RSMo 77.260, a COUNCILPERSON (the member of the legislative body) is to sponsor bills. Homework needs to be done prior to introducing a bill. The council

would, in essence, take a more active role in policy making, instead of the current situation in which they allow department head to formulate policy. Our council has rendered itself as a nicely boxed, diverse-looking rubber stamp set.

Jimmy Dale Williams was the only council member to oppose a bi-monthly meeting. "I don't see where they (workshops) are a benefit at all. We haven't had a workshop. It's been a second council meeting!" Mr. Williams is right. It is a second council ("regular") meeting. I haven't heard any complaints from the public that the city was producing sluggish policies, so what's all the rush?

Henry Robert had it right when he said, "Where there is no law, but every man does what is right in his own eyes, there is the least of real liberty." In all the rush, more mistakes will be made, and by now you should be fully aware of the city's acute case of "litigation anemia." The council needs to have a banner over the door as they enter their chambers that says: "1) Is it legal?, 2) Is it good public policy?"

FREE MAYBERRY NOW!!!

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