

**O'FALLON CITY COUNCIL
MEETING MINUTES
November 5, 2007**

The meeting was called to order at 7:03 p.m. by Mayor Gary Graham. Mayor Graham announced the recent passing of MSgt. Thomas Crowell, who was killed in Iraq. He described MSgt. Crowell as a hero and indicated the Belleville News Democrat has an online guestbook available for anyone wishing to send their condolences at www.bnd.com under the Obituary section.

Two Webelo dens assisted the Mayor in leading the "The Pledge of Allegiance to the Flag."

Philip Goodwin, City Clerk, called the roll: Nila Grogan, present; Mary Schmidt, present; Ed True, present; Dan Polites, present; Rick Reckamp, present; Jerry Mouser, present; John Drolet, present; Allen Medford, present; Michael Bennett, present; Dennis Renner, present; Steve Engler, present; Ned Drolet, present; John West, present; Jerry Albrecht, present. A quorum was declared present.

Motion was made by J. Mouser and seconded by J. Albrecht to approve the minutes of October 15, 2007. S. Engler asked that the word "supposedly" be removed from the "Residents" section on Page 1. He also noted that at the end of the two votes taken regarding Carlos Perez's business, a discussion was held and those comments should have been included in the minutes. They are as follows: "A. Medford made some comments about Mr. Perez, and S. Engler disapproved of the comments being made since Mr. Perez was not present to speak on his own behalf. Mayor Graham noted it was a public meeting and Mr. Perez could have attended if he so desired." S. Engler also stated he made some comments after the Public Works report was made, and those comments were not included in the minutes. "S. Engler asked the location of two reports (regarding 904 Edwards and the Cambridge Commons Development issues) prepared by Hoelscher Engineering, and A. Medford responded that those reports are available in the Engineering Department."

Motion was made by J. Mouser and seconded by J. Albrecht to approve the minutes as amended. All ayes except for S. Engler. Motion carried.

PUBLIC HEARING:

1. Annexation agreement with H & L Builders, LLC for 51.09 acres located south of Southview Gardens and LaVerna Evans Elementary School for the Rasp Farm/Southview Village project. Opened to the public at 7:10 p.m. Mayor Graham called for public input, but no one responded. The Mayor continued the public hearing until November 19, 2007.

RESIDENTS: Mayor Graham invited anyone wanting to speak to the Council to step to the microphone. Mr. Sal Macaluso addressed the Council and stated he came

before the Council in April regarding his objection to a seller being required to have his property inspected prior to its sale. He voiced his concerns regarding the occupancy inspection process. He asked if there is an ordinance requiring a property seller to have his property inspected prior to its sale.

T. Shekell noted the City's building code states the seller is responsible for obtaining an inspection and correcting any deficiencies. However, if the buyer agrees in writing to be responsible for making the corrections, the City will accept that transfer of responsibility. Mr. Macaluso indicated he did not see where this was stated in the building code and, therefore, does not see this repair as his responsibility. The Mayor noted the repair being requested by the buyer is approximately \$15 in cost, and he recommended Mr. Macaluso discuss this further with City Attorney Dale Funk, if he had further questions.

Mr. Jason Spengler of Spengler Plumbing addressed the Council expressing concern with Resolution Items 2 and 3 regarding Water and Sewer Lateral Repair Programs. In particular, he was concerned with how the selection and bidding process will work, since his company has worked with many of the O'Fallon residents for the past 37 years and has established a relationship with those customers. Mayor Graham indicated the details of the selection and bidding process have not been worked out, but it will most likely be patterned after the St. Louis County programs. However, the City will also be meeting with the various contractors to get their input on how these programs should be run.

Mr. Dave Pfeifer, a resident of the Deer Creek subdivision voiced his objections to Resolution Item 4 (stormwater utility) and Item 4 (design of Fairwood Lake Dam and Outlet Modification). He voiced his concerns about the problems he has had over the years. He said the City released a draft Stormwater Master Plan from Black & Veach that did not address the problems with the Engle Creek watershed and most recently did another study that resulted in a plan involving detention basins not even mentioned in the Stormwater Master Plan. He objected to staff's approval of the design proposal from Hoelscher Engineering that was not taken to the Public Works Committee for discussion.

Mayor Graham stated Mr. Pfeifer has had problems with his property on Engle Creek ever since he moved into that house; and when asked by the Mayor, Mr. Pfeifer stated he was *not* an engineer and he was *not* certified in storm water management in any way. Mayor Graham explained that some of the funds from Proposition S did, in fact, go towards paving streets in O'Fallon that had not been repaved for 35 years. He noted the City does not have the funds to fix Engle Creek, and it will not get fixed unless the community votes to create a stormwater utility.

REPORTS:

Clerk's Report: City Clerk Phil Goodwin presented two requests:

1. Request from the Chamber of Commerce to conduct a raffle from December 1 – December 20, 2007, with prizes to be awarded December 21.

Motion was made by R. Reckamp and seconded by E. True to approve the request. All ayes. Motion carried.

2. Request from O.U.S.A.R.T (O'Fallon Underwater Search and Recovery Team) to conduct a roadblock on the corner of State/Smiley and State/Lincoln on Friday, November 23, from 8 a.m. until 12 p.m. and Saturday, November 24, from 8 a.m. until 12 p.m.

P. Goodwin stated this is contingent upon them providing insurance.

Motion was made by J. Mouser and seconded by D. Renner to approve the request.

D. Renner noted the funds go to provide Christmas gifts for underprivileged children in the City of O'Fallon. N. Drolet suggested they find another means to aid needy children instead of having a roadblock.

ROLL CALL: M. Schmidt, aye; E. True, aye; D. Polites, aye; R. Reckamp, nay; J. Mouser, aye; J. Drolet, nay; A. Medford, nay; M. Bennett, aye; D. Renner, aye; S. Engler, nay; N. Drolet, nay; J. West, nay; J. Albrecht, aye; N. Grogan, aye. Ayes – 8; Nays - 6. Motion carried.

City Clerk Phil Goodwin announced the VFW will sponsor a Veteran's Day parade this Saturday at 2 p.m. from Katy Cavins to the VFW. Also, on Sunday there will be a memorial service held at 1:30 p.m. at the Veteran's Memorial Monument. R. Reckamp suggested those names of veterans who have been killed in action be so designated with an asterisk on the monument. Mayor Graham said the City maintains the monument, but the decision to designate those killed in action would have to be approved by the group who built the monument. The Mayor said they would present the suggestion to them.

Mayor's Report: The Mayor asked the audience to observe a moment of silence for Wayne Dressler, who recently passed away. Mr. Dressler was a member of the O'Fallon Volunteer Fire Department for 42 years and served as Chief during that time.

Mayor Graham recommended the reappointment of Dave Snyder, Larry Sewell, Ray Rohr, Joan Cavins, Kent Zimmerman, Jeff Baskett, and Gene McCoskey to the Planning Commission and the reappointment of Rendy Faulkner to the Arts Commission. Motion was made by J. Mouser and seconded by J. Albrecht to approve the reappointments. All ayes. Motion carried.

RESOLUTIONS:

Motion was made by J. Mouser and seconded by J. West to approve Resolution Item 1.

ITEM 1 - Resolution Authorizing the Mayor to Execute an Agreement with Rhutasel & Associates, Inc. for Professional Services for Design of Road Improvements in the 400 and 500 Blocks of East Washington for an amount not to exceed \$39,000

ROLL CALL: E. True, aye; D. Polites, aye; R. Reckamp, aye; J. Mouser, aye; J. Drolet, aye; A. Medford, aye; M. Bennett, aye; D. Renner, aye; S. Engler, aye; N. Drolet, aye; J. West, aye; J. Albrecht, aye; N. Grogan, aye; M. Schmidt, aye. All ayes. Motion carried.

Motion was made by J. West and seconded by J. Albrecht to approve Resolution Item 2.

ITEM 2 – Resolution Authorizing a Referendum Vote in Conjunction with the February 2008 Primary Ballot on the Question as to the Creation of a Water Lateral Repair Program

M. Bennett expressed concern with how the administrative costs would be handled and the amount of control the City would have in this matter. R. Reckamp stated this is a prominent service the City can provide its residents. He noted that about 75 percent of the residents in Southview Gardens have had their sewer laterals replaced, with a cost of \$1200 and more; and he considered this a welcome service to homeowners. Mayor Graham noted there would be a six-month moratorium on the program, and he described how the program would run. M. Bennett said having this referendum on the ballot along with the others already discussed could confuse the voters and lead them to believe these are all tax issues. J. Drolet said he did not believe the City should be in the business of providing “insurance” to residents for this type of issue. He also noted this vote would be held during the primary election, which will have a very low turnout; therefore, it will not require a significant vote for this to pass. S. Engler said if 60 repairs are required in the first year, he estimated it to cost about \$180,000, and he stated the City would barely collect that much.

ROLL CALL: D. Polites, aye; R. Reckamp, aye; J. Mouser, aye; J. Drolet, nay; A. Medford, nay; M. Bennett, nay; D. Renner, excused; S. Engler, nay; N. Drolet, nay; J. West, aye; J. Albrecht, aye; N. Grogan, aye; M. Schmidt, nay; E. True, aye. Ayes – 7; Nays – 6. Motion failed.*

Motion was made by J. Mouser and seconded by R. Reckamp to approve Resolution Item 3.

ITEM 3 – Resolution Authorizing a Referendum Vote in Conjunction with the February 2008 Primary Ballot on the Question as to the Creation of a Sewer Lateral Repair Program

ROLL CALL: R. Reckamp, aye; J. Mouser, aye; J. Drolet, nay; A. Medford, nay; M. Bennett, nay; D. Renner, excused; S. Engler, nay; N. Drolet, nay; J. West, aye; J. Albrecht, aye; N. Grogan, aye; M. Schmidt, nay; E. True, aye; D. Polites, aye. Ayes – 7; Nays – 6. Motion failed.*

Motion was made by J. West and seconded by A. Medford to approve Resolution Item 4.

ITEM 4 – Resolution Authorizing a Referendum Vote in Conjunction with the February 2008 Primary Ballot on the Question as to the Creation of a Stormwater Utility

N. Drolet stated it was his understanding this Resolution would include a “sunset clause” to allow termination of the program should the county incorporate their own program that would include O’Fallon. Mayor Graham said a “sunset clause” could be included. M. Bennett explained why he felt a “sunset clause” would hurt the City with regard to the bonding. He also said he is in favor of Item 4 since it is more global in nature than Items 2 and 3, and it is not something one homeowner can fix on his own. S. Engler expressed his opinion that residents in the Special Service Areas should be excluded from this tax. J. Drolet referenced a document that essentially showed \$500,000 in annual stormwater expenses, and he asked if they were current or new expenses. D. Sullivan said the Stormwater Action Committee prepared that report, and the estimate was based on existing and proposed expenses. He also noted that only 40 percent of the stormwater utility funds can go towards capital improvements. A lengthy discussion ensued.

***Mayor Graham clarified that Dennis Renner had asked to be excused before tonight’s meeting because he was feeling ill. City Attorney Dale Funk explained that Items 2 and 3 were originally announced as having *failed* because he thought D. Renner simply left the meeting and was not excused. If that were the case, a majority vote (8 votes) of the entire Council would have still been necessary for these items to pass. However, since D. Renner was *excused* because of illness, only a majority of the remaining 13 Council members was required (7 votes). Therefore, Mayor Graham announced that both Items 2 and 3 *carried*. The Mayor explained that if someone on the Council has a question about these proceedings and wants to bring Item 2 and/or Item 3 back for another vote, it would have to be done by someone who previously voted “nay.”**

ROLL CALL: J. Mouser, aye; J. Drolet, aye; A. Medford, aye; M. Bennett, aye; S. Engler, nay; N. Drolet, aye; J. West, aye; J. Albrecht, aye; N. Grogan, aye; M. Schmidt, nay; E. True, aye; D. Polites, aye; R. Reckamp, aye. Ayes – 11; Nays – 2. Motion carried.

Motion was made by J. West and seconded by N. Grogan to approve Resolution Item 5.

ITEM 5 - Resolution Authorizing an IDOT MFT Resolution Appropriating Additional MFT Funds in the amount of \$50,000 for Simmons Road Reconstruction

ROLL CALL: J. Drolet, aye; A. Medford, aye; M. Bennett, aye; S. Engler, aye; N. Drolet, aye; J. West, aye; J. Albrecht, aye; N. Grogan, aye; M. Schmidt, aye; E. True, aye; D. Polites, aye; R. Reckamp, aye; J. Mouser, aye. All ayes. Motion carried.

Motion was made by A. Medford and seconded by J. West to approve Resolution Item 6.

ITEM 6 - Resolution Authorizing the Mayor to Execute an Agreement with Hoelscher Engineering for the Design of Fairwood Lake Dam and Outlet Modification at a cost not to exceed \$38,100

S. Engler asked if the dam is the responsibility of the Homeowners' Association and whether the City is taking it over. Mayor Graham said that has not been determined. The Mayor said the Homeowners' Association has spent approximately \$400,000 rebuilding the dam over the past three years. He explained that those homeowners have not yet been asked to have the City take over responsibility of the dam, but this is something they will have to *agree to* in order for the City to take responsibility. He said much of the stormwater fix in the old part of town is contingent upon their approval to allow the City to assume responsibility of the dam because it will be needed to reroute water. If they agree to it, they will be saving the rest of the taxpayers a lot of money because this is a much less expensive solution to the stormwater problems.

S. Engler then related his recent experience in trying to locate engineering reports that were prepared by Hoelscher Engineering on property at 904 Edwards Street and at Cambridge Commons. He noted the various people he had contacted regarding the Cambridge Commons report, including A. Medford, D. Sullivan, Mr. Hoelscher, Attorney Schaberg, City Attorney Dale Funk, W. Denton, and Mayor Graham. He stated he was told by Mr. Hoelscher that the Cambridge Commons project was in litigation. He also noted that D. Sullivan said he was not aware of the Cambridge Commons report, and did not have it in the Engineering Department. S. Engler stated he did research at the county courthouse and found that in June of 2007 the City was excused from the lawsuit regarding Cambridge Commons. He indicated Mr. Schaberg did, in fact, have a copy of the report but needed D. Funk's permission to release it. S. Engler said his latest correspondence from Mr. Schaberg stated D. Funk said S. Engler had to contact the Mayor and City Administrator to obtain a copy of the report. Therefore, S. Engler said he sent an email to the Mayor and W. Denton, formally requesting a copy of the

report. He received an email from W. Denton stating the report was tied up in litigation. S. Engler then presented a copy of the Cambridge Commons report to Mayor Graham that he obtained. D. Funk and the Mayor asked S. Engler where he obtained the report, but he would not disclose that information. Both D. Funk and the Mayor refused the report from Mr. Engler.

D. Funk said the City is about to be brought back into litigation – there is a motion to add the City back to that lawsuit. He explained that aldermen cannot be involved in the City's litigation matters; however, they are kept advised as the matter goes forward. He stated the City never received this report, but it may have been given to the City's attorney through discovery. Mayor Graham read an email sent to S. Engler by D. Funk the previous week explaining why he shouldn't be getting involved in this matter. S. Engler said he never received that email. Mayor Graham indicated if the insurance company drops the City's coverage because of these recent events, the City will have to absorb all financial liability.

ROLL CALL: A. Medford, aye; M. Bennett, aye; S. Engler, nay; N. Drolet, aye; J. West, aye; J. Albrecht, aye; N. Grogan, aye; M. Schmidt, aye; E. True, aye; D. Polites, aye; R. Reckamp, aye; J. Mouser, aye; J. Drolet, aye. Ayes – 12; Nays – 1. Motion carried.

Motion was made by J. Mouser and seconded by J. Albrecht to approve Resolution Item 7.

ITEM 7 – Resolution Authorizing the Mayor to Sign the Agreement to Purchase the Property for the Watertower from MRK Land Trust

ROLL CALL: M. Bennett, aye; S. Engler, nay; N. Drolet, aye; J. West, aye; J. Albrecht, aye; N. Grogan, aye; M. Schmidt, aye; E. True, aye; D. Polites, aye; R. Reckamp, aye; J. Mouser, aye; J. Drolet, aye; A. Medford, aye. Ayes – 12; Nays – 1. Motion carried.

ORDINANCES:

1st Readings

Regarding Item 10, M. Bennett indicated the black-and-white building elevations make it difficult to see the aesthetic quality of this building. T. Shekell said he would provide each of the aldermen with a copy of the architect's rendering, and he also noted this is a twin of a building in this development for which a building permit has already been issued.

Motion was made by J. Mouser and seconded by R. Reckamp to consider the Omnibus Agreement for 1st Reading Ordinance Items 8-11. All ayes. Motion carried.

Motion was made by J. Mouser and seconded by J. West to place on 1st Reading Ordinance Items 8-11 under the previous Omnibus Agreement.

ITEM 8 - Ord. Amending Chapter 77, Schedule V, One-Way Streets, regarding Peoria Lane

ITEM 9 – Ord. Amending Chapter 77, Schedule III, Stop Signs, regarding Shawnee Court, Peoria Lane, and Sauk Trail

ITEM 10 – Ord. Amending Ord. 623, Zoning, Development known as Green Mount Corporate Center, Phase 2

ITEM 11 – Ord. Amending Ord. 623, Zoning, Development known as Outlaw Blues Restaurant

ROLL CALL: S. Engler, aye; N. Drolet, aye; J. West, aye; J. Albrecht, aye; N. Grogan, aye; M. Schmidt, aye; E. True, aye; D. Polites, aye; R. Reckamp, aye; J. Mouser, aye; J. Drolet, aye; A. Medford, aye; M. Bennett, aye. All ayes. Motion carried.

2nd Readings

Motion was made by J. Mouser and seconded by N. Grogan to consider the Omnibus Agreement for 2nd Reading Ordinance Items 12-15. All ayes. Motion carried.

Motion was made by J. Mouser and seconded by E. True to approve 2nd Reading Ordinance Items 12-15 under the previous Omnibus Agreement.

ITEM 12 - Ord. Amending Ord. 623, Zoning, Full Circle Services and Supply at 510 South Lincoln

ITEM 13 - Ord. Amending Chapter 77, Schedule II, Regarding Walnut and Elm

ITEM 14 - Ord. Amending Chapter 77, Schedule III, Regarding River Birch and Larkway

ITEM 15 - Ord. Annexing 1709 Bowler Road, containing 2.502 acres, John and Peggy Barton

ROLL CALL: N. Drolet, aye; J. West, aye; J. Albrecht, aye; N. Grogan, aye; M. Schmidt, aye; E. True, aye; D. Polites, aye; R. Reckamp, aye; J. Mouser, aye; J. Drolet, aye; A. Medford, aye; M. Bennett, aye; S. Engler, aye. All ayes. Motion carried.

STANDING COMMITTEES:

Community Development: J. Mouser stated they met on October 22 and the minutes are included in the packets. The next Community Development meeting will be November 12 at 6 p.m.

Public Works: Motion was made by A. Medford and seconded by E. True to approve the agreement for annual maintenance software support with Wonderware in the amount of \$11,353.

ROLL CALL: J. West, aye; J. Albrecht, aye; N. Grogan, aye; M. Schmidt, aye; E. True, aye; D. Polites, aye; R. Reckamp, aye; J. Mouser, aye; J. Drolet, aye; A. Medford, aye; M. Bennett, aye; S. Engler, aye; N. Drolet, aye. All ayes. Motion carried.

The next Public Works meeting will be November 26 at 7 p.m. There will also be a public meeting this Thursday from 6-8 p.m. regarding the Obernuefemann Road improvements.

Public Safety: E. True said the next Public Safety meeting will be November 12 at 7 p.m.

Finance/Administration: Motion was made by J. West and seconded by R. Reckamp to pay Warrant 147 in the amount of \$785,488.31. He stated this amount is different from the amount shown on the warrant because they are deferring one of the bills for two weeks to allow further discussion.

ROLL CALL: J. Albrecht, aye; N. Grogan, aye; M. Schmidt, aye; E. True, aye; D. Polites, aye; R. Reckamp, aye; J. Mouser, aye; J. Drolet, aye; A. Medford, aye; M. Bennett, aye; S. Engler, aye; N. Drolet, aye; J. West, aye. All ayes. Motion carried.

Their next meeting will be on November 26 at 5:30 p.m.

Parks/Environment: J. Albrecht stated their next meeting scheduled for November 12 has been cancelled.

EXECUTIVE SESSION: At 8:30 p.m. a motion was made by J. West and seconded by R. Reckamp to go into Executive Session to discuss the purchase of real estate.

ROLL CALL: N. Grogan, aye; M. Schmidt, aye; E. True, aye; D. Polites, aye; R. Reckamp, aye; J. Mouser, aye; J. Drolet, aye; A. Medford, aye; M. Bennett, aye; S. Engler, aye; N. Drolet, aye; J. West, aye; J. Albrecht, aye. All ayes. Motion carried.

At 9:15 p.m. Council members returned from Executive Session.

ADJOURNMENT:

Motion was made by M. Bennett and seconded by N. Drolet to adjourn. All ayes.
Motion carried.

The meeting was adjourned at 9:16 p.m.

Respectfully submitted by,

Philip A. Goodwin, City Clerk

Minutes taken by
Sharon L. Wisely, Transcriptionist