

CITY COUNCIL MINUTES
JULY 24, 2018

The Council of the City of Fulton, Missouri, met in Regular Session on Tuesday, July 24, 2018 in the Council Chambers of City Hall located at 18 E. 4th Street. Present and presiding were: LeRoy D. Benton, Mayor; William R. Johnson, Director of Administration; Courtney L. Crowson, City Clerk; and Steve Myers, Chief of Police. The meeting was called to order by Mayor Benton at 6:30 p.m. Roll call was taken by the City Clerk, and members of the council present were: Braun, Chailland, Moore, Rehklau, Shiverdecker, Simmons, Stone, and Vaughn. Also present were: Kathy Holschlag, Chief Financial Officer; Darrell Dunlap, Superintendent of Utilities; Dennis Houchins, Planning & Protective Services Director; Kevin Coffelt, Fire Chief; Clay Caswell, Parks & Recreation Director; Robert Boone, Assistant Director of Administration; Michelle Maupin, Human Resources Director; Pastor Bruce Williamson; Jenny Gray of THE FULTON SUN; Mike Haldeman and Darin Wernig, Audio/Video; and visitors: Danielle Elsenrath, Dara Shirley, Amanda Young, Frances Vaughn, Tommy & Vicky Salmons, Ronnie Miller, Stephanie Smith, Dan Smith, Beverly Gray, Mike Bell, Michael Osburn, Steven Lucas, and Ben Mitchell.

INVOCATION:

Invocation was given by Pastor Williamson.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Pastor Williamson.

COMMENTS FROM VISITORS:

Mayor Benton asked any attendees not listed on tonight's agenda, but whom wished to address the Council, to please come to the podium, state their name, address and area of concern, and to keep comments under five (5) minutes. A digital timer was administered and monitored by the City Clerk.

There were none.

PUBLIC HEARING:

- a. To consider the proposed rezoning of A Tract of Land located at Rice Road and US 54 Business in Fulton, Missouri, from its current zoning of C-3 Commercial to C-2 Commercial.

Mayor Benton declared this hearing open at 6:35 p.m. There were three calls for anyone wishing to speak in opposition of the matter being considered.

First Call: Is there anyone present who wishes to speak in opposition of this matter?

Beverly Gray, 112 W. Oliver, stated she is opposed to the proposed rezoning and has concerns with children crossing a high-traffic area, Ms. Gray also stated the current owner of the property was aware of the zoning when he chose to purchase the land and reminded the council they are elected to represent the people of Fulton.

Dan Smith, 1403 Parkridge, stated he is opposed to the proposed rezoning and had attended the Planning & Zoning Commission meeting on July 11, 2018. Mr. Smith believes the C-2 zoning creates a loophole to allow residential uses in a commercial zoning. Mr. Smith said he feels this will decrease the value of area homes and feels there are other infrastructure concerns the city should take care of. Mr. Smith urged the council to consider the opinions of the people affected by the proposed zoning change.

Stephanie Smith, 1403 Parkridge, stated she appreciates the neighbors and councilmembers who have spoken out in opposition to the proposed re-zoning. Ms. Smith stated she is very concerned and feels this proposed re-zoning would not be good for the city. Ms. Smith stated the workers for a proposed housing complex would come from Springfield, Missouri, and stated she believes there should be negotiations to ensure a majority of the work and supplies would come from Fulton. Ms. Smith said this would cause an influx of students to enter Fulton Schools and many community members believe the council has already made up their minds about this issue, and feels this would reinforce outsiders' opinions about Fulton. Ms. Smith stated, "People outside of Fulton make fun of Fulton. I was told that I should black a couple teeth in and put my hillbilly hat on and come in here..." Ms. Smith continued to reiterate her previously-mentioned concerns. Ms. Smith stated she is proud of Fulton, but it "used to have more values than it currently does".

Second Call: Is there anyone present who wishes to speak in opposition of this matter?

There were none.

Third and Final Call: Is there anyone present who wishes to speak in opposition of this matter?

There were none.

There were three calls for anyone wishing to speak in favor of the matter being considered.

First Call: Is there anyone present who wishes to speak in favor of this matter?

Mike Bell, owner of the property proposed for rezoning, stated he has had the property for sale for some time and couldn't sell it with its current zoning. Mr. Bell stated he doesn't understand the uproar over the re-zoning and feels there are many misconceptions about a proposed project consisting of 48 apartments for people who have jobs. Mr. Bell asked if everyone would've rather seen a truck stop at this exit rather than housing for people whose income ranges from \$30,000.00 to \$40,000.00.

Michael Osburn, a representative of Zimmerman Properties stated, "The question before you tonight is not, 'should we put these apartments here?'. You are here to consider the rezoning of Mr. Bell's property for an appropriate use. This piece of ground fits a C-2 zoning. Traffic, water, sewer, and stormwater uses would be less with a multi-family structure."

Second Call: Is there anyone present who wishes to speak in favor of this matter?

Steven Lucas, a land use attorney, here on behalf of Zimmerman properties, explained the city's zoning regulations and stated he believes C-2 is a more reasonable use, as C-3 uses are too large for this piece of land.

Third and Final Call: Is there anyone present who wishes to speak in favor of this matter?

Ben Mitchell, on behalf of Zimmerman Properties, stated he and crews would be responsible for building the apartments, and that previously, the group has built two other projects in Fulton (48 units built in 1999; 48 additional units built in 2009).

Some discussion followed regarding housing tax credits issued by the State of Missouri and whether or not these credits were still in effect or would cause a loss of funding to Fulton Public Schools. Representatives from Zimmerman properties stated the credits were no longer in effect and would not cause a loss of funding for the school district. Councilman Braun and Councilman Vaughn stated their research shows otherwise. Attorneys for Zimmerman will provide additional documentation via email to the City Clerk.

Following much discussion, Mr. Bell stated, "I've tried to sell this property for ten years, and whether or not they're (Zimmerman) here or not, I need my property zoned as C-2. We can't market a C-3."

Mayor Benton declared the public hearing closed at 7:28 P.M.

APPROVAL OF THE CONSENT AGENDA:

The following items were distributed to each member of the City Council for review and study as a part of their council packet. Mayor Benton presented each item and stated the council may choose to remove any item from the Consent Agenda for discussion at this time.

- a. Approval of the City Council meeting minutes of June 26, 2018.
- b. Approval of the City Council meeting minutes of July 10, 2018.
- c. Approval of the Director of Administration Report of June.
- d. Acceptance of the following Board and Commission Reports:
 - i. Planning & Zoning Commission – May 31, 2018
 - ii. Historic Preservation Commission – June 12, 2018
 - iii. Public Utility Board – June 25, 2018
- e. Approval of a request from David Beaver and the Brick District for the 2nd Annual Brick District All Make and Model Car Show on Saturday, August 4, 2018, in downtown Fulton.
 - i. This request has been reviewed and approved by Chief Myers, Chief Coffelt, and the Brick District. The group plans to close the right side of Court Street from 7th St. to 6th St. and both sides of Court St. from 6th St. to 5th St. The group will be responsible for placing and removing barricades, and an exit lane for CVS Pharmacy will be provided.

Councilman Vaughn requested to remove Item E. from the Consent Agenda for further discussion.

Motion was offered by Councilman Moore and seconded by Councilman Vaughn to approve the remaining items on the Consent Agenda as presented. Motion carried with eight members of the council voting in favor.

CONSENT AGENDA ITEMS FOR DISCUSSION (IF APPLICABLE):

City Clerk, Courtney Crowson, stated this request is the second of its type from David Beaver and the Brick District for a car show in downtown Fulton. The group is requesting the previously-noted street closures from 8:00 a.m. to 2:30 p.m. Crowson reiterated the request has been reviewed and approved by Chief Myers, Chief Coffelt, and Brick District President, Tom Riley, and that the collaborative event will be benefiting SERVE.

Motion was offered by Councilman Chailland and seconded by Councilman Simmons to approve the event request, as presented. Motion carried with eight members of the council voting in favor.

PRESENTATION AND ACCEPTANCE OF THE FINANCIAL REPORT FOR THE MONTH OF JUNE:

The Financial Report for the month of June 2018 was presented for acceptance, and Chief Financial Officer,

Kathy Holschlag was present to answer any questions from the council.

Holschlag stated the city has recognized five months of sales tax collections, and numbers are in-line with numbers from this period in 2017. Holschlag stated June was "business as usual".

Following some review, motion was offered by Councilman Shiverdecker and seconded by Councilman Braun to accept the Financial Report for the month of June 2018 as presented. Motion carried with eight members of the council voting in favor.

UNFINISHED BUSINESS:

- a. Parks & Recreation facility and baseball/softball complex update.

Clay Caswell, Parks & Recreation Director, provided a design from SFS Architects, stating the design was very preliminary and had been altered many times over the past few weeks. Caswell said he anticipates many changes before the final project is placed before the council. In the design, the primary area could include basketball, volleyball courts, walking track, turf area, batting cages, restrooms, meeting rooms, fitness center, spectator mezzanine, and an office area. The Park Board has not had the opportunity to look at this version of the project, but Caswell will be providing this information to them for review.

Caswell stated the current design has approximately 42,000 square feet, not including a banquet room that could be bid as an alternate. Caswell estimates this design could cost between \$4-5 million, and the baseball/softball field complex estimate from the city's previous engineers came in around \$3 million.

Bill Johnson, Director of Administration, stated the city does not have enough money to do both projects, and he would prefer for the council to decide on a project to move ahead with. Caswell stated the city is at least two months out from taking the projects to the bid stage.

NEW BUSINESS:

- a. Danielle Elsenrath was present to request permission for a Neighborhood Block Party on Saturday, August 25, 2018, from 11:00 a.m. to 11:00 p.m. on Ann Street.
 - i. This request would require the closure of Ann Street between Washington and Allen, and Open Container privileges.

Danielle Elsenrath stated she is wanting to get her neighborhood together for a block party, and would like to have open container privileges for the adults. Chief Myers stated he is opposed to the length of the party and to shutting down large portions of the street. Chief Myers also expressed concerns with allowing open container privileges in a residential neighborhood for a long period of time.

Some discussion followed. The council asked Ms. Elsenrath to gather signatures from her neighbors and solidify a shorter time period. Motion was offered by Councilman Stone and seconded by Councilwoman Rehklau to authorize the Mayor to approve the event after the aforementioned requirements were met, and Chief Myers was satisfied with the event details. Motion carried with eight members of the council voting in favor.

- b. Morningside Cell Tower discussion.

Johnson stated he placed this on the agenda purely to keep the city council in the loop. Johnson and Darrell Dunlap have had ongoing conversations with a cell company to place a cell tower in Fulton. Johnson informed the council the tower will likely be placed near the salt shed at Morningside to allow for the 190' structure. The city will receive \$1,000.00 in monthly rent for the property.

Mayor Benton recessed the council for a break at 8:13 p.m. The council reconvened at 8:20 p.m.

COUNCIL CONCERNS:

Councilman Chailland noted ongoing issues with the stoplight at the intersection of St. Louis Avenue and Business 54.

Councilman Stone thanked Clay Caswell for beginning to light the various city park signs.

Councilman Braun expressed concerns with some cars parking in the no passing zone at the entrance of Herring Subdivision.

Councilman Moore stated he voted against allowing open container permission for a private event during the last council meeting, but believes the request should have come from the venue in charge of the event.

RESOLUTIONS:

Resolution No. 3314 was presented by Councilman Braun.

- a. Resolution No. 3314: A Resolution authorizing the Mayor, on behalf of the City of Fulton, Missouri, to execute a contract with Rhad Baker Construction of Fulton, Missouri, for the West Fourth Street Improvements Project, and to sign all necessary documents in relation to said contract.

Motion was offered by Councilman Braun and seconded by Councilman Vaughn to adopt Resolution No. 3314 at tonight's council meeting.

Johnson noted the city received four bids for this project, and the low bidder came in under the city's estimate. Johnson also stated the city was very pleased to get to utilize a local contractor for this project.

Motion carried with eight members of the council voting in favor.

ORDINANCES:

FIRST READING

Bill No. 1510 was presented for First Reading by Councilman Simmons.

- a. Bill No. 1510: An Ordinance re-classifying, under the Zoning Ordinance, certain land in the City of Fulton, Missouri, located at Rice Road and US 54 Business, and establishing an effective date.

Motion was offered by Councilman Simmons and seconded by Councilwoman Rehkla to place Bill No. 1510 for Second Reading at the next regularly-scheduled council meeting. Dennis Houchins, Planning &

Protective Services Director, read the following excerpt from the July 11, 2018 Planning & Zoning Commission meeting minutes:

“Motion was offered by Ron Oldani and seconded by Les Hudson to approve the zoning change request made for the tract of land known as Rice Road and US 54 Business, and to recommend its passage by the City Council.

Roll call vote of members of the commission were as follows: Mike Eibel, YES; Les Hudson, YES; Pat Kelley, NO; Ken McSwain, YES; Joan Berry Morris, YES; Ron Oldani, YES; Jeremy Washington, NO; Lewis Beaty, YES. Motion carried with six members of the commission voting in favor of recommending the zoning change to the City Council and two members (Kelley and Washington) opposed.”

Councilman Vaughn stated he is concerned with this rezoning, the proposed land usage, and feels the city will be giving up control by down-zoning to C-2.

Councilman Braun referenced a recent newspaper article where representatives of the Fulton Public School District expressed concerns with the rising number of students and low funding. Councilman Braun, speaking of the schools, stated “Every time they turn around, they’re losing funding. So, if we take more funding from them or put more challenges out there...There’s probably no one out there who loves kids as much as I do... But the proper term is ‘undesirable’ children coming into the school system creates hardship.”

Councilwoman Rehkla stated, “There is no place for these kids to live. Are we throwing them away?”

Councilman Simmons noted another recent newspaper article where representatives of the school district stated they welcomed the proposed complex and a new subdivision. Councilman Simmons stated, “Have they changed their stance on this issue? Should we base a rezoning change on how it supposed to affect the school district?” Councilman Braun replied that he believed the school district should be taken into consideration.

Houchins stated it is important to remember this rezoning request came from Mike Bell, and we need to remove Zimmerman from the equation. Houchins said, “When we look at that piece of property, it fits within the zoning of the area. We need to focus on the appropriate zoning of the land.”

Following much discussion, Mayor Benton stated, “I understand everyone is passionate about this topic. We need to bring the issue to a vote.”

Councilman Moore stated, “I think we’ve lost direction. The Bells own it. Zimmerman doesn’t own it...But, I want to say I took offense to one of the comments made this evening. Because I think this council – we have some new people – has worked very hard.” Mr. Moore referenced a comment made earlier in the evening about “blackening teeth out...”, and stated that in his experience, Fulton is highly regarded around the state and by larger cities for the accomplishments made in Fulton. Councilman Moore stated, “People read before they come here. They (Zimmerman Properties) did. And hey, if you can find anywhere to put [the housing complex] in the fourth ward, I’d be happy to take it. ... You don’t just want to say ‘Not in my neighborhood’. That’s what the whole thing’s about. ...Listen to what you’re saying. The Bells asked for

a zoning change and if Zimmerman hadn ' t been in the picture, it ' d probably have been rezoned six months ago” .

Councilman Braun asked why the council would consider rezoning the property if Zimmerman Properties has not yet secured funding for the proposed housing complex project. Councilman Simmons stated, “C-3 is an incorrect zoning for this property...Whether Zimmerman can get the property and the loans and the tax credits is irrelevant. It ' s irrelevant. We need to zone this property correctly. Now, if Zimmerman gets the tax credits, hopefully they ' ll build some nice apartments. And we ' ll have some nice people moving in. If they don ' t get the tax credits, they probably won ' t build it. But it will be zoned correctly, and then Mr. Bell can sell it to someone else” .

Following much discussion, motion carried with six members of the council voting in favor, and two members (Braun, Vaughn) opposed.

Bill No. 1511 was presented for First Reading by Councilwoman Rehklau.

- b. Bill No. 1511: An Ordinance amending Chapter 118, Vehicles for Hire., Fulton City Code. by repealing Section 118-26, Definitions., enacting new sections in lieu thereof, and establishing an effective date.

Motion was offered by Councilwoman Rehklau and seconded by Councilman Shiverdecker to place Bill No. 1511 for Second Reading at the next regularly-scheduled council meeting. Motion carried with eight members of the council voting in favor.

SECOND READING

Bill No. 1509 was presented for Second Reading by Councilman Moore.

- a. Bill No. 1509: An Ordinance authorizing the Mayor, on behalf of the City of Fulton, Missouri, to execute an Agreement with the City of Holts Summit, Missouri, for animal shelter services, to sign all necessary documents in relation to said agreement, and establishing an effective date.

Motion was offered by Councilman Moore and seconded by Councilman Shiverdecker to place Bill No. 1509 for Third Reading at tonight ' s council meeting. Motion carried with eight members of the council voting in favor.

Bill No. 1509 was presented for Third Reading by Councilman Moore.

Motion was offered by Councilman Moore and seconded by Councilman Stone to place Bill No. 1509 for Final Passage at tonight ' s council meeting. Motion carried with eight members of the council voting in favor.

Roll call vote of the members of the council was as follows: Chailland, YES; Moore, YES; Rehklau, YES; Shiverdecker, YES; Simmons, YES; Stone, YES; Vaughn, YES; Braun, YES. Bill No. 1509, having received the affirmative vote of eight members of the council, was declared passed by the President of the Council.

THIRD READING

Bill No. 1508 was presented for Third Reading by Councilman Vaughn.

- a. Bill No. 1508: An Ordinance amending Section 18-33, Amendments. Fulton City Code, by incorporating an additional exception to the 2015 International Building Code and establishing an effective date.

Motion was offered by Councilman Vaughn and seconded by Councilman Moore to place Bill No. 1508 for Final Passage at tonight's council meeting. Motion carried with five members of the council voting in favor, and three members (Braun, Simmons, Vaughn) opposed.

Roll call vote of the members of the council was as follows: Moore, YES; Rehklau, YES; Shiverdecker, YES; Simmons, NO; Stone, YES; Vaughn, NO; Braun, NO; Chailland, YES. Bill No. 1508, having received the affirmative vote of five members of the council, was declared passed by the President of the Council.

ANNOUNCEMENTS:

- a. The next meeting of the City Council will be held Tuesday, August 14, 2018. A Work Session will commence at 6:30 p.m. with Regular Session to follow at 7:00 p.m.
- b. The MML Annual Conference will be held September 16-19, 2018, in Branson, Missouri.

EXECUTIVE SESSION:

Mayor Benton said there was a need to have an Executive Session to discuss matters dealing with legal actions, causes of action, or litigation, pursuant to 610.021 RSMO.

Motion was offered by Councilman Shiverdecker and seconded by Councilman Braun to adjourn this meeting and enter into Executive Session.

Roll call vote of the members of the council was as follows: Rehklau, YES; Shiverdecker, YES; Simmons, YES; Stone, YES; Vaughn, YES; Braun, YES; Chailland, YES; Moore, YES. Motion carried with eight members of the council voting in favor.

There being no further business during this Regular Session, the meeting adjourned at 8:56 p.m.

The Council exited to the Executive Conference Room and entered the Executive Session at 8:58 p.m.

The Council reentered the Council Chambers at 9:10 p.m. Motion was offered by Councilman Simmons and seconded by Councilwoman Rehklau to exit Executive Session.

Roll call vote of the members of the council was as follows: Shiverdecker, YES; Simmons, YES; Stone, YES; Vaughn, YES; Braun, YES; Chailland, YES; Moore, YES; Rehklau, YES. Motion carried with eight members of the council voting in favor.

The Council exited Executive Session at 9:11 p.m.

LeRoy D. Benton, Mayor

Courtney L. Crowson, MRCC
City Clerk