

The City Council of the City of Mattoon held a regular meeting in the Council Chambers at City Hall on January 6, 2004 at 7:01 p.m. after a 6:30 p.m. caucus session.

Mayor Pro-tem Schilling presiding.

Mayor Pro-tem Schilling led the Pledge of Allegiance to the United States of America.

The following members of the Council answered roll call: YEA Commissioner Mark Donnell, YEA Commissioner Harold Gambill, Absent Commissioner Jerrold Hesse, YEA Mayor Pro-tem David Schilling, Absent Mayor David E. Carter.

Mayor Pro-tem Schilling continued the non-adversarial proceeding of the public hearing on the I-57 East TIF District from 12/16/03 with City Attorney Preston Owen presiding as Hearing Officer at 7:02 p.m. City Attorney Owen explained the procedures of the public hearing, and introduced City Administrator Richard Underkofler in support of the I-57 East TIF District. Administrator Underkofler presented the Exhibits #1-14, and read a prepared statement as personal testimony. Public examination of exhibits was permitted with any questions for Administrator Underkofler. Mr. John "Jack" W. Roberts of Barack, Ferrazzano, Kirschbaum, Perlman & Nagelberg, LLC, representing Mr. John McHugh, questioned Administrator Underkofler on the exhibits, eligibility report, other contemplated plans for site, and engineering studies. Ms. Johna Shackles questioned Administrator Underkofler on alternative plans for water retention. Administrator Underkofler explained the retention plan with no alternative plan proposed. City Attorney Owen requested others to speak in support of the TIF with no other comments or questions from the public.

City Attorney Owen turned the floor over to Mr. Roberts for opposition to the I-57 East TIF District. Mr. Roberts, representing three individuals adversely affected by the TIF district, questioned Beth Ruyle of Ehlers & Associates with respect to the types of flooding, eligibility report, blighted condition, Loxa's flooding, FEMA's involvement, determination of condition of surface water, discharging of water on vacant property, exhibit six, other studies, analysis for surface water impairing the development of the TIF, plans for infrastructure, and plans for the north and south part of the TIF district. Mr. Roberts further questioned Jack Schultz of Agracel with respect to property owned by Agracel within the TIF district, additional property abutting the TIF district, current intentions for development, plans north of Route 16, developers north of Route 16, other developments, detention ponds, studies of surface water draining to Loxa, and if Agracel's engineer was present. Mr. Roberts submitted a letter with two reports as attachments, stated no studies performed on property, and that the statute must meet the "but for" test.

City Attorney Owen called for further questions for Mr. Roberts, and asked for anyone else to speak in opposition to the I-57 East TIF District. Mr. John Hayden spoke against the I-57 East TIF District, and had an exhibit for the opposition. Jeanne Gustafson of Coles Together questioned Mr. Hayden on his comments on the Enterprise Zone. Ms. Shackles stated she was not for or against the I-57 East TIF District, and her only concern was about the flooding in Loxa. City Attorney Owen called for any other opposition comments from the floor. No other comments were offered.

Certified Shorthand Reporter Jill Nicole Stevens of Maninfior Court Reporting, P.C. transcribed the public hearing.

Mayor Pro-tem Schilling closed the I-57 East TIF District public hearing at 7:57 p.m.

Mayor Pro-tem Schilling recessed the Council meeting at 7:58 p.m. to allow for a break.

Mayor Pro-tem Schilling reconvened the Council meeting at 8:06 p.m.

Mr. Brian Daniell of West & Company with Heather Wolke presented to the Council the City Audit for Fiscal Year 2002-2003. Mr. Daniell reviewed the balance sheet, fund categories and explanations of categories, special revenue funds, enterprise funds, health insurance fund, debit margin, total fund equity and other credits for fund balances, unreserved fund balances, income statement summary, declination of intergovernmental revenues with a substantial increase to simplified telecommunications tax, excess (deficiency) of revenues, utility funds and component units (library), capitalization thresholds and depreciation schedules, one-time charge to adjust depreciation schedule, declination of investment earnings further reducing income, and motor fuel tax fund's miscellaneous bridge easements and other reimbursements/fees for bridge easements.

Commissioner Donnell seconded by Commissioner Gambill moved to approve the minutes of the Regular Meeting December 16, 2003 and Special Meeting December 30, 2003.

Mayor Pro-tem Schilling declared the motion carried by the following vote: YEA Commissioner Donnell, YEA Commissioner Gambill, Absent Commissioner Hesse, YEA Mayor Pro-tem Schilling, Absent Mayor Carter.

Mayor Pro-tem Schilling seconded by Commissioner Gambill moved to approve the Bills and Payroll for the last half of December.

**Bills and Payroll for the last half of December 2003**

**General Fund**

Payroll		\$ 423,722.07
Bills		\$ 233,844.96
	Total	\$ 657,567.03

**Hotel Tax Fund**

Payroll		\$ 2,545.60
Bills		\$ 49,822.86
	Total	\$ 52,368.46

**Festival Management**

Bills		\$ 4,396.45
	Total	\$ 4,396.45

**Capital Project**

Bills		\$ 8,532.69
	Total	\$ 8,532.69

**Water Fund**

Payroll		\$ 62,018.06
Bills		\$ 46,688.26
	Total	\$ 108,706.32

**Sewer Fund**

Payroll		\$ 69,495.39
Bills		\$ 939,143.93
	Total	\$1,008,639.32

**Cemetery Fund**

Payroll		\$ 7,686.02
Bills		\$ 376.30
	Total	\$ 8,062.32

**Health Insurance Fund**

Bills		\$ 193,584.14
	Total	\$ 193,584.14

**Revolving Loan Fund**

Bills		\$ 40.00
	Total	\$ 40.00

**Motor Fund Tax Fund**

Bills		\$ 14,519.34
	Total	\$ 14,519.34

**Water Fund**

Bills		\$ 88.37
		88.37

Mayor Pro-tem Schilling declared the motion carried by the following vote: YEA Commissioner Donnell, YEA Commissioner Gambill, Absent Commissioner Hesse, YEA Mayor Pro-tem Schilling, Absent Mayor Carter.

Commissioner Donnell seconded by Commissioner Gambill moved to adopt Resolution 2004-2535, authorizing an indemnification agreement with Mattoon Rural King Supply, Inc. incidental to a variance sought by Rural King from building code requirements for a two-hour rated fire wall on the west and north sides of a warehouse under construction at 4216 DeWitt Avenue.

CITY OF MATTOON, ILLINOIS

**RESOLUTION NO. 2004-2535**

**A RESOLUTION AUTHORIZING AN INDEMNIFICATION AGREEMENT WITH MATTOON RURAL KING SUPPLY INCIDENTAL TO A VARIANCE SOUGHT BY RURAL KING FROM BUILDING CODE REQUIREMENTS FOR A TWO-HOUR RATED FIRE WALL ON THE WEST AND NORTH SIDES OF A WAREHOUSE UNDER CONSTRUCTION AT 4216 DEWITT AVENUE**

**BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF MATTOON, COLES COUNTY, ILLINOIS**, that the Mayor is authorized to execute an indemnification agreement with Mattoon Rural King Supply, Inc., attached hereto and incorporated herein by reference.

Upon motion by Commissioner Donnell, seconded by Commissioner Gambill, adopted this 6<sup>th</sup> day of January, 2004, by a roll call vote, as follows:

AYES (Names): Commissioner Donnell, Commissioner Gambill, Mayor Pro-tem Schilling

NAYS (Names): None

ABSENT (Names): Commissioner Hesse, Mayor Carter

Approved this 6th day of January 2004.

/s/ David R. Schilling

David R. Schilling, Mayor Pro-tem  
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM

/s/ Susan J. O'Brien

Susan O'Brien, City Clerk

/s/ J. Preston Owen

J. Preston Owen, City Attorney

Recorded in the Municipality's Records on January 7, 2004.

**AGREEMENT FOR THE RELEASE & INDEMNITY OF THE**  
**CITY OF MATTOON, COLES COUNTY, ILLINOIS**  
**A MUNICIPAL CORPORATION**

**WHEREAS**, Mattoon Rural King Supply, Inc., an Illinois corporation, (hereinafter, "Rural King") maintains a certain building utilized for retail, warehousing and office purposes in the City of Mattoon; said building is commonly known as 4216 DeWitt Avenue, Mattoon, Illinois; and

**WHEREAS**, Rural King recently commenced and has almost completed an addition to said building for warehouse purposes; and

**WHEREAS**, code enforcement officials of the City of Mattoon (hereinafter, "City") have advised Rural King that a two-hour rated fire wall is required on the west and north sides of the warehouse structure to comply with requirements of the building code adopted by the City; and

**WHEREAS**, said requirements for a two-hour rated fire wall are without any public or private fire protection benefit since the land on the west side of this structure is a public right-of-way and the land on the north side of the structure is in agricultural use; and

**WHEREAS**, Rural King is willing to indemnify and hold harmless the City for any liability that the City may have as a result of the City failing to enforce the building code standards with respect to these two-hour rated firewalls.

**NOW, THEREFORE**, in consideration of the City granting a variance from the requirement to install two-hour rated firewalls on the west and north sides of the warehouse structure and granting an occupancy permit respecting the warehouse addition to the Rural King building, Rural King covenants and agrees to indemnify and hold the City harmless from and for any liability attributable to the City for its failure (if any) in enforcing building code requirements for these two-hour rated firewalls.

Nothing in this agreement shall be construed as an admission by the City that it was in fact negligent.

Both parties acknowledge that the City should have immunity for any injury caused by its failure to enforce the building code standards, pursuant to 745 ILCS 10/2-103.

DATED this 6th day of January 2004.

ACCEPTED this 6th day of January 2004.

Mattoon Rural King Supply, Inc.  
Illinois

City of Mattoon, Coles County,

/s/ Gary W. Melvin  
By an Authorized Officer

/s/ David R. Schilling  
David R. Schilling, Mayor Pro-tem

Mayor Pro-tem Schilling declared the motion carried by the following vote: YEA Commissioner Donnell, YEA Commissioner Gambill, Absent Commissioner Hesse, YEA Mayor Pro-tem Schilling, Absent Mayor Carter.

Commissioner Donnell seconded by Mayor Pro-tem Schilling moved to adopt Special Ordinance 2004-1011, revising the Fire Department budget to account for revenues and expenditures allocable to a grant from the Federal Emergency Management Agency. The Fire Department has been offered a \$107,145 grant to acquire equipment that requires a \$11,906 local cash-matching share.

## CITY OF MATTOON, ILLINOIS

### SPECIAL ORDINANCE NO. 2004-1011

#### AN ORDINANCE REVISING THE FIRE DEPARTMENT BUDGET TO ACCOUNT FOR REVENUES AND EXPENDITURES ALLOCABLE TO A GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY

**WHEREAS**, the Mattoon Fire Department has been offered a \$107,145 grant from the Federal Emergency Management Agency to acquire equipment that requires a \$11,906 local cash-matching share.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Mattoon as follows:

**Section 1.** The budget for the fiscal year that ends April 30, 2004 is hereby revised as follows:

- A. FEMA grant revenues in the amount of \$107,145 are hereby appropriated to revenue account 110-4313-023.
- B. FEMA grant expenditures in the amount of \$119,051 are hereby appropriated to expenditure account 110-5251-316.

**Section 2.** This ordinance shall be deemed published as of the day of its adoption and approval by the City Council.

**Section 3.** This ordinance shall be effective upon its approval as provided by law.

Upon motion by Commissioner Donnell, seconded by Mayor Pro-tem Schilling, adopted this 6<sup>th</sup> day of January, 2004, by a roll call vote, as follows:

AYES (Names): Commissioner Donnell, Commissioner Gambill, Mayor Pro-tem Schilling

NAYS (Names): None

ABSENT (Names): Commissioner Hesse, Mayor Carter

Approved this 6<sup>th</sup> day of January 2004.

/s/ David R. Schilling

David R. Schilling  
Mayor Pro-tem

ATTEST:

APPROVED AS TO FORM

/s/ Susan J. O'Brien

Susan O'Brien, City Clerk

/s/ J. Preston Owen

J. Preston Owen, City Attorney

Recorded in the Municipality's Records on January 7, 2004.

Council discussed the grant and revenues.

Mayor Pro-tem Schilling declared the motion carried by the following vote: YEA Commissioner Donnell, YEA Commissioner Gambill, Absent Commissioner Hesse, YEA Mayor Pro-tem Schilling, Absent Mayor Carter.

Mayor Pro-tem Schilling seconded by Commissioner Donnell moved to adopt Special Ordinance 2004-1012, approving a variance to the sign code of the municipality on real estate owned by Comer Nissan Mazda at South State Route 45.

**CITY OF MATTOON, ILLINOIS  
SPECIAL ORDINANCE NO. 2004-1012**

**AN ORDINANCE APPROVING A VARIANCE TO THE SIGN CODE OF THE  
MUNICIPALITY ON REAL ESTATE OWNED BY COMER MAZDA NISSAN  
AT 2404 LAKE LAND BOULEVARD**

**WHEREAS**, there was filed with the Community Development Coordinator of the City of Mattoon, County of Coles, Illinois, a certain petition by Monitor Sign Inc., agent for Comer Mazda Nissan, praying that variance be granted from requirements of the sign code of the municipality on real estate described as:

2404 Lake Land Boulevard a.k.a. Comer Mazda Nissan

**WHEREAS**, said Petition was reviewed by the Community Development Coordinator and recommended to the City of Mattoon Planning Commission; and,

**WHEREAS**, said Petition was considered by the Planning Commission on December 8<sup>th</sup>, 2003; and was recommended by unanimous vote, that the Petition be allowed, and that a variance be granted from requirements of the sign code.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Mattoon as follows:

**Section 1.** That facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** A variance is hereby granted from requirements of the sign code as authorized by Section §160.13 of

Chapter 160 of the Code of Ordinances of the City of Mattoon for real estate described as 2404 Lake Land Blvd. a.k. a. Comer Mazda Nissan, to allow three freestanding signs on the property, to allow the height of a new Nissan sign to be 30 feet tall and the separation distance between the signs be reduced to 45 feet.

**Section 3.** This ordinance shall be deemed published as of the day of its adoption and approval by the City Council.

**Section 4.** This ordinance shall be effective upon its approval as provided by law.

Upon motion by Mayor Pro-tem Schilling, seconded by Commissioner Donnell, adopted this 6<sup>th</sup> day of January, 2004, by a roll call vote, as follows:

AYES (Names): Commissioner Donnell, Commissioner Gambill,  
Mayor Pro-tem Schilling

NAYS (Names): None

ABSENT (Names): Commissioner Hesse, Mayor Carter

Approved this 6<sup>th</sup> day of January 2004.

/s/ David R. Schilling  
David R. Schilling, Mayor Pro-tem  
City of Mattoon, Coles County, Illinois

ATTEST:  
/s/ Susan J. O'Brien  
Susan J. O'Brien, City Clerk

APPROVED AS TO FORM  
/s/ J. Preston Owen  
J. Preston Owen, City Attorney

Mayor Pro-tem Schilling opened floor for discussion. No discussion.

Mayor Pro-tem Schilling declared the motion carried by the following vote: YEA Commissioner Donnell, YEA Commissioner Gambill, Absent Commissioner Hesse, YEA Mayor Pro-tem Schilling, Absent Mayor Carter.

Mayor Pro-tem Schilling seconded by Commissioner Donnell moved to approve Council Decision Request 2004-271, authorizing an agreement for engineering services for the extension of Progress Drive and Logan Street.

Mayor Pro-tem Schilling opened floor for discussion. No discussion.

Mayor Pro-tem Schilling declared the motion carried by the following vote: YEA Commissioner Donnell, YEA Commissioner Gambill, Absent Commissioner Hesse, YEA Mayor Pro-tem Schilling, Absent Mayor Carter.

Commissioner Donnell seconded by Commissioner Gambill moved to approve Council Decision Request 2004-272, authorizing an amendment to an agreement with Sarah Bush Lincoln Health Center for medical services in exchange for fire protection services provided to the Health Center.

Mayor Pro-tem Schilling declared the motion carried by the following vote: YEA Commissioner Donnell, YEA Commissioner Gambill, Absent Commissioner Hesse, YEA Mayor Pro-tem Schilling, Absent Mayor Carter.

Commissioner Gambill seconded by Commissioner Donnell moved to approve Council Decision Request 2004-273, approving the re-appointments of Jeremy Doughty, Stan Kenton and Dan Lawrence to the Public Works Advisory

Board for three-year terms expiring December 31, 2006.

Mayor Pro-tem Schilling opened floor for discussion. No discussion.

Mayor Pro-tem Schilling declared the motion carried by the following vote: YEA Commissioner Donnell, YEA Commissioner Gambill, Absent Commissioner Hesse, YEA Mayor Pro-tem Schilling, Absent Mayor Carter.

Mayor Pro-tem Schilling opened the floor for discussion. No discussion.

Commissioner Donnell seconded by Commissioner Gambill moved to adjourn to executive session to discuss matters that may lawfully be discussed in closed session at 8:33 p.m., topic pertaining to personnel, real estate or potential litigation, including potential Midtown Redevelopment Area Real Estate Exchange.

Mayor Pro-tem Schilling declared the motion carried by the following vote: YEA Commissioner Donnell, YEA Commissioner Gambill, Absent Commissioner Hesse, YEA Mayor Pro-tem Schilling, Absent Mayor Carter.

Council reconvened after executive session at 8:59 p.m.

Council with Finance Director/Treasurer Kim Leffler discussed the utility billing software glitch with regard to “missing” accounts and her personalized letter to affected customers, resulting from a shortage of staff, abnormal reads from the meter readers, shut-off problems, and lack of water meter locks. Public Works Director David Wortman with City Administrator Richard Underkofler suggested having another meeting with supervisor and meter readers present. Commissioner Donnell suggested Commissioner Gambill research the problem. Administrator Underkofler would contact the eight highest accounts to inform them of the situation and billing.

Commissioner Donnell seconded by Commissioner Gambill moved to adjourn at 9:25 p.m.

Mayor Pro-tem Schilling declared the motion carried by the following vote: YEA Commissioner Donnell, YEA Commissioner Gambill, Absent Commissioner Hesse, YEA Mayor Pro-tem Schilling, Absent Mayor Carter.

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Susan J. O'Brien  
City Clerk