

OFFICIAL COUNCIL PROCEEDINGS

August 21, 2007

7:00 P.M.

ROLL CALL

Present: Mayor Hark, and Council Members Hatton, Hull,
Knickerbocker, Janes and Wilson – 6

Absent: Mayor Pro Tem Dexheimer - 1

CALL TO ORDER

There being a quorum present, Mayor Hark called the meeting to order.

INVOCATION

Council Member Janes gave the invocation.

PLEDGE OF ALLEGIANCE

Council Member Wilson led the Pledge of Allegiance to the Flag.

At this time in the meeting, Mayor Hark entertained a motion to excuse Pro Tem Dexheimer who was unable to attend this meeting. Motion was made by Council Member Wilson to excuse the Mayor Pro Tem. Motion was seconded by Council Member Janes.

Motion carried.

APPROVAL OF MINUTES Regular Council Meeting of August 7, 2007

Motion was made by Council Member Janes to approve the minutes of the last regular Council meeting that was held on August 7, 2007. Motion was seconded by Council Member Hull.

Motion carried.

APPROVAL OF PAYROLL AND CLAIMS First Half of August 2007

Motion was made by Council Member Wilson to approve the payroll and claims for the first half of August, 2007. Motion was seconded by Council Member Hatton.

Motion carried.

GARY FISHBACK – PROPERTY OWNER
Re: Construction Plan Approval Process and Enforcement

Mr. Lou Leonotti, an attorney from Mexico, MO, appeared before Council on behalf of Gary Fishback, a local property owner. Mr. Leonotti distributed information on the area of concern owned by Mr. Fishback, located in the vicinity of Fiddlestix Restaurant, including a copy of the original plat submitted in 2003 and approved by the City Council. He referenced two areas that he called a 'retention ponds' that were constructed to retain water from stormwater drainage. The surface water drainage has been rerouted since the construction of 2003; and is the subject of recent litigation between Mr. Fishback and other area landowners, explained Leonotti. Judge Motley has issued a permanent injunction in this case, indicating there can be no surface water from the northern properties onto Mr. Fishback's property.

Mr. Leonotti indicated that a set of plans to renovate the rear portion of Quality Inn's property had been submitted to the City in May and the City Engineer, Jamie Page had sent back all review comments with suggested changes and modifications. Leonotti stated that since lots 1, 2 and 4 are now within the city limits, if there is construction that alters surface water flow, then it has to comply with the City building codes. Sometime during construction, according to Leonotti, there was a voluntary annexation and these properties came into the City. All along, he added, the engineering firm hired by the owners was submitting plans to the City seeking their approval for building permits and surface stormwater drainage.

Also in the information that Mr. Leonotti distributed were copies of a letter from Mr. Mougler, the architect/engineer with the engineering firm to DPW. This letter states that the 'present detention ponds of the Fiddlestix property will be removed and the flows will be added to the hotel run-off'. Leonotti explained that this meant the water would be coming south and a hydrologic examination will be provided for the City to approve.

Various other letters and information were also included in the packet that was distributed and explained by Mr. Leonotti as he gave a lengthy recap of the situation causing Mr. Fishback's concerns about the approval process for the original plans of construction and the lack of enforcement by the 'City Building Official'. He asked the City to comply with the city building codes that are already in place during the construction process in this area. Mr. Leonotti concluded by requesting that the City not approve the plans until they have the required documentation and the City insures the surface water drains to the east and not to the south.

City Attorney James Lemon responded by asking Leonotti if he had received the letter that had been sent detailing the steps the City was willing to take in order to rectify this situation. Among those steps was requirement that City code and ordinances be met during the construction process. When Mr. Leonotti indicated that he had received no such letter, Mr. Lemon assured him that the letter would be redirected. He apologized for the time that Mr. Leonotti had wasted.

TERRELL & VICKI DEMPSEY – MOLLY BROWN BIRTHPLACE PROPERTY OWNERS

Re: Offer of Donation, Molly Brown Birthplace to City of Hannibal

Ms. Vicki Dempsey, came with an offer of donation to the City. She referenced a letter that she and her husband, Terrell Dempsey, had sent to Mayor Hark concerning this proposal. She stated that copies had also been forwarded to City Manager Jeffrey LaGarce, Parks Director Chris Atkinson and Tourism Director Beau Hicks.

She gave a brief history of the property and stated that they had acquired it ten years ago from the Marion County Historical Society. Dempsey stated that because of changes in their lifestyle, it has become necessary to turn stewardship of this piece of Hannibal history to some other group within the community. The property was offered to the Boyhood Home Foundation, and they declined. Now, according to Dempsey, they are asking that the City of Hannibal receive the property and incorporate it into either the Parks and Recreation system or tourism. Since the museum previously operated at a loss, they are offering to pay operating costs, not to exceed \$5,000 per year for the next five years to offset the City's costs.

Beau Hicks, Tourism Director, spoke in favor of the donation, stating that this is a notable part of American History. He concluded by recommending acceptance and stating this property would be an added asset to the City, if accepted. Motion was made by Council Member Knickerbocker to accept the Dempsey's donation. Motion was seconded by Council Member Janes.

Motion carried.

MICHAEL POLSTER – PROPERTY OWNER

Re: Request, Awning Placement – 204 Bird Street

Mr. Polster began by stating that he had previously appeared before Council with this request. More information was needed at that time, including whether the request was for an awning or a canopy. Mr. Polster included a drawing for Council's consideration. It was noted that Mr. Polster's request was for a canopy and not an awning. Council Member Knickerbocker asked about the Historic District's guidelines and Assistant Building Inspector Connie Quinn clarified that this request must be approved by Council before seeking the approval of the HDDC. Motion was made by Council Member Janes to approve Mr. Polster's request, with the exception that it must comply with City Code. Motion was seconded by Mayor Hark.

Roll Call

Yes: Mayor Hark, and Council Members Knickerbocker, Janes and Wilson – 4

No: Council Members Hatton and Hull - 2

Absent:

Mayor Pro Tem Dexheimer - 1

Motion carried. In conclusion, Mr. Polster reminded Council about the building next door to his business that is in total disrepair. He stated that he had mentioned this at a previous meeting; however, now the building had developed a crack in the front and mortar is loose and sifting out. He asked that something be done to alleviate this problem.

JEFFREY LAGARCE – CITY MANAGER

Re: Request, “Legislative Intent” – Potential E-1 Zoning Use

Jeffrey LaGarce, City Manager, addressed Council concerning a request of legislative intent, trying to ascertain from Council how they perceive a particular zoning code. He added that no one at staff level could determine what the policy is with regard to zoning. He stated that a local marina is considering the purchase of additional property for boat storage. A potential site exists in an area that is zoned “E-1 Supplementary”. If the owner pursues this course, he would construct a building on the site, and use both the indoor and outdoor premises for boat storage. In reviewing the E-1 Zoning District, LaGarce explained that a potential red flag arose. Permitted uses in the E-1 Zoning District exclude the following:

Fuel and building material or storage yards primarily operated as a retail business herein defined.

According to Mr. LaGarce, this is unusual sentence structure. He asked if all storage yards were excluded or only fuel and building material storage yards. He said that this restriction could specifically mean:

1. No fuel. No building materials. No building material storage yards.
2. No fuel. No building materials, No storage yards of any type.

Since the 1990 Code predates most Council Members, LaGarce concluded that he was now seeking legislative intent from the present Council as the elected successors.

After some discussion, regarding the possible draft of a clearer ordinance for the E-1 zoning use, a motion was made by Council Member Wilson to have the City Attorney draft new legislature with intent, placing some restrictions, and bring it to Council for their approval. Motion was seconded by Mayor Hark.

Motion carried.

Re: Recommendations of Appointment

City Manager LaGarce made the following recommendations to be approved at the next regular Council meeting to be held on September 4, 2007. These were:

HANNIBAL AIRPORT COMMISSION

Carl Treaster – Appointment for a term to expire September, 2010

Re: Community Development Block Grant Intent

(Resolution No. 1394-07, to follow)

LaGarce stated that the next item he had placed on the agenda was the community development block grant. He stated that this grant has been written for the DREAM Initiative Downtown Development project. Resolution No. 1394-07, to follow, is part of the City's official application for this grant. The City Manager added that Council has already authorized that this grant be submitted, this Resolution is only the "official" part of the City's application.

Re: Service Contract Approval, Hannibal Nutrition Center
(Resolution No. 1397-07, to follow)

City Manager LaGarce stated that the final item he had placed on the evening's agenda was a contract approval with the Hannibal Nutrition Center. This approval will be done through the approval of Resolution No. 1397-07 to follow for a total of \$17,367. LaGarce explained that the FY-2007 budget already contains an appropriation for this amount.

At this time, City Manager LaGarce asked Hallie Yundt-Silver, the new librarian, to stand. He introduced her to Council and all others in attendance and he welcomed her to the City.

JAMIE PAGE – CITY ENGINEER
Re: Hayes Haven Subdivision Voluntary Annexation
(Bill Nos. 07-022 and 07-023, to follow)

Jamie Page, City Engineer, introduced Bill Nos. 07-022 and 07-023, which would be presented to Council later during the meeting for a first reading. These bills are for the voluntary annexation for properties located at #10 Shawnee Road and #11 Lady Sioux Lane in Hayes Haven Subdivision. At the direction of Council, the Planning and Zoning Commission held a public hearing on July 19, 2007. Following the public hearing, the Commission unanimously voted to forward a recommendation of A-One & Two Family zoning to the City Council.

Re: Grand Avenue Project, Change Order No. 6
(Resolution No. 1395-07, to follow)

Page stated that his next order of business on the agenda was Grand Avenue Project, Change Order No. 6, which would be approved with the approval of Resolution No. 1395-07, to follow. This change order consists of multiple additions, deductions, anticipated over-runs and under-runs. The total financial impact for the project, if this change order is approved would be an additional \$6,205.98, according to City Engineer Page.

Re: South Main Street Bridge Project, Engineering/Architectural Agreement
(Resolution No. 1396-07, to follow)

Mr. Page introduced Resolution No. 1396-07, to follow, the approval of which would also approve an agreement with Klingner & Associated, P.C. The contract is the result of a solicited proposal for the final design and construction inspection services for the South Main Street Bridge project. Solicited by Page at the direction of Council. The final design phase, if approved by Council would total \$19,500 and the construction services phase, if approved would cost an estimated \$20,000. Because of the nature of this specific project, Page stated

that it was his recommendation to Council that both the “Final Design” and “Construction Service” phases of the proposal be approved.

Re: Traffic Committee Recommendations

City Engineer Page presented the recommendations made by the Traffic Committee during their recent meeting. They were:

1. At new Stowell School (Union and School Streets) paint curb yellow, at various specified points, and sign same area with “NO PARKING” signage.
2. At new Stowell School install crosswalks at various specified points.

Council Member Hull asked about the request presented to the Traffic Committee to have a stop sign installed at the intersection of James Road and St. Mary’s Avenue. City Engineer Page answered that it has been reviewed and the Committee determined that this movement needs continued patrol. MoDOT also reviewed this and, based on the flow of traffic, it has been determined that the St. Mary’s traffic needs to continue to flow and the James Road traffic needs to continue to stop.

Since there was no objections or discussion concerning these recommendations, Mayor Hark declared them approved and adopted as presented.

RESOLUTION NO. 1394-07

A RESOLUTION OF THE CITY OF HANNIBAL, MISSOURI STATING INTENT TO SEEK FUNDING THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AND AUTHORIZING THE MAYOR TO PURSUE ACTIVITIES IN AN ATTEMPT TO SECURE FUNDING

Motion was made by Council Member Wilson to have the City Clerk read Resolution No. 1394-07 and call the roll for adoption. Motion was seconded by Council Member Hull.

Motion carried.

Roll Call

Yes: Mayor Hark, and Council Members Hatton, Hull, Knickerbocker, Janes and Wilson – 6

No: -0-

Absent: Mayor Pro Tem Dexheimer - 1

Mayor Hark declared Resolution No. 1394-07 duly approved and adopted on this date.

RESOLUTION NO. 1395-07

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN CHANGE ORDER NO. 6 OF THE BLEIGH CONSTRUCTION COMPANY CONTRACT FOR GRAND AVENUE IMPROVEMENTS IN THE AMOUNT OF \$6,205.98

Motion was made by Council Member Janes to have the City Clerk read Resolution No. 1395-07 and call the roll for adoption. Motion was seconded by Council Member Hatton.

Motion carried.

Roll Call

Yes: Mayor Hark, and Council Members Hatton, Hull, Knickerbocker, Janes and Wilson – 6

No: -0-

Absent: Mayor Pro Tem Dexheimer - 1

Mayor Hark declared Resolution No. 1395-07 duly approved and adopted on this date.

RESOLUTION NO. 1396-07

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN ENGINEERING/ARCHITECTURAL AGREEMENT WITH KLINGNER & ASSOCIATES PC FOR FINAL DESIGN AND CONSTRUCTION PHASE SERVICES FOR THE SOUTH MAIN STREET BRIDGE PROJECT

Motion was made by Council Member Wilson to have the City Clerk read Resolution No. 1396-07 and call the roll for adoption. Motion was seconded by Council Member Janes.

Motion carried.

Roll Call

Yes: Mayor Hark, and Council Members Hatton, Hull, Knickerbocker, Janes and Wilson – 6

No: -0-

Absent: Mayor Pro Tem Dexheimer - 1

Mayor Hark declared Resolution No. 1396-07 duly approved and adopted on this date.

RESOLUTION NO. 1397-07

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SERVICE AGREEMENT WITH THE HANNIBAL NUTRITION CENTER FOR SENIOR MEALS AND RELATED SERVICES

Motion was made by Council Member Hatton to have the City Clerk read Resolution No. 1397-07 and call the roll for adoption. Motion was seconded by Council Member Janes.

Motion carried.

Roll Call

Yes: Mayor Hark, and Council Members Hatton, Hull, Knickerbocker, Janes and Wilson – 6

No: -0-

Absent: Mayor Pro Tem Dexheimer - 1

Mayor Hark declared Resolution No. 1397-07 duly approved and adopted on this date.

BILL NO. 07-006

AN ORDINANCE APPROVING AND ACCEPTING THE PLAT OF PARSONS SUBDIVISION AMENDED, A SUBDIVISION LYING IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 57 NORTH, RANGE 5 WEST, IN THE CITY OF HANNIBAL, MARION COUNTY, MISSOURI

FIRST READING

A motion was made by Council Member Hatton to have the City Clerk give Bill No. 07-006 a first reading. Motion was seconded by Council Member Green.

Motion carried.

BILL NO. 07-022

**AN ORDINANCE APPROVING ANNEXATION OF A TRACT OF
GROUND LYING IN THE SOUTHEAST ONE-FOURTH (SE ¼) OF
THE SOUTHWEST QUARTER (SW ¼) OF SECTION TWENTY-FIVE
(25), TOWNSHIP FIFTY-SEVEN (57), RANGE FIVE (5) WEST, INTO
THE CITY OF HANNIBAL, MARION COUNTY, MISSOURI**

FIRST READING

A motion was made by Council Member Wilson to have the City Clerk give Bill No. 07-022 a first reading. Motion was seconded by Council Member Janes.

Motion carried.

BILL NO. 07-023

**AN ORDINANCE APPROVING ANNEXATION OF A TRACT OF
GROUND LYING IN THE SOUTHEAST QUARTER OF THE
SOUTHWEST QUARTER OF SECTION TWENTY-FIVE, TOWNSHIP
57 NORTH, RANGE FIVE WEST, INTO THE CITY OF HANNIBAL,
MARION COUNTY, MISSOURI**

FIRST READING

Motion was made by Council Member Wilson to have the City Clerk give Bill No. 07-023 a first reading. Motion was seconded by Council Member Janes.

Motion carried.

BILL NO. 07-018

**AN ORDINANCE PROVIDING FOR A MUNICIPAL ELECTION TO
BE HELD ON TUESDAY, APRIL 8, 2008 TO ALLOW HANNIBAL
VOTERS TO CONSIDER APPROVAL OF A ½ CENT
TRANSPORTATION SALES TAX TO REPEAL AND REPLACE THE
EXISTING ½ CENT TRANSPORTATION SALES TAX**

SECOND AND FINAL READING

Motion was made by Council Member Hatton to have the City Clerk give Bill No. 07-018 a second and final reading and call the roll for adoption. Motion was seconded by Council Member Janes

Motion carried.

Roll Call

Yes: Mayor Hark, and Council Members Hatton, Hull, Knickerbocker, Janes and Wilson – 6

No: -0-

Absent: Mayor Pro Tem Dexheimer - 1

Mayor Hark declared Bill No. 07-018 duly approved and adopted on this date.

BILL NO. 07-019

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE I AND III OF THE CODE OF THE CITY OF HANNIBAL PERTAINING TO THE PURCHASE/POSSESSION OF NON-INTOXICATING BEER BY PERSONS UNDER 21 YEARS OF AGE AND REDEFINING “INTOXICATING LIQUOR”

SECOND AND FINAL READING

Motion was made by Council Member Janes to have the City Clerk give Bill No. 07-019 a second and final reading and call the roll for adoption. Motion was seconded by Mayor Hark.

Motion carried.

Roll Call

Yes: Mayor Hark, and Council Members Hatton, Hull, Knickerbocker, Janes and Wilson – 6

No: -0-

Absent: Mayor Pro Tem Dexheimer - 1

Mayor Hark declared Bill No. 07-019 duly approved and adopted on this date.

BILL NO. 07-020

AN ORDINANCE AMENDING CHAPTER 21, PERSONNEL, ARTICLE II, POLICE AND FIRE PENSIONS, SECTIONS 21-51 THROUGH 21-72 OF THE HANNIBAL CITY CODE

SECOND AND FINAL READING

Motion was made by Council Member Wilson to have the City Clerk give Bill No. 07-020 a second and final reading and call the roll for adoption. Motion was seconded by Council Member Hull.

Motion carried.

Roll Call

Yes: Council Members Hatton, Hull, Knickerbocker, Janes and Wilson – 5

Abstain: Mayor Hark - 1

No: -0-

Absent: Mayor Pro Tem Dexheimer – 1

Mayor Hark declared Bill No. 07-020 duly approved and adopted on this date.

BILL NO. 07-021

AN ORDINANCE APPROVING GUIDELINES FOR OPEN MEETINGS AND RECORDS IN THE CITY OF HANNIBAL, MARION COUNTY, MISSOURI

SECOND AND FINAL READING

Motion was made by Council Member Hatton to have the City Clerk give Bill No. 07-021 a second and final reading and call the roll for adoption. Motion was seconded by Council Member Hull.

Motion carried.

Roll Call

Yes: Mayor Hark, and Council Members Hatton, Hull, Knickerbocker, Janes and Wilson – 6

No: -0-

Absent: Mayor Pro Tem Dexheimer - 1

Mayor Hark declared Bill No. 07-021 duly approved and adopted on this date.

CLOSED SESSION
In Accordance with RSMo 610-021 (1)

At this time, Mayor Hark asked for a motion to go into closed session in accordance with RSMo 610-021, sub-paragraph 1, admitting himself, rest of Council, City Manager LaGarce, City Attorney Lemon, City Clerk Zerbonia, and City Engineer Page. Motion was made by Council Member Hatton to go into closed session, admitting those that Mayor Hark named. Motion was seconded by Council Member Knickerbocker

Roll Call

Yes: Mayor Hark, and Council Members Hatton, Hull, Knickerbocker, Janes and Wilson – 6

No: -0-

Absent: Mayor Pro Tem Dexheimer - 1

Motion carried. No official action was taken in the closed session.

OPEN SESSION

Motion was made by Council Member Janes to return to open session at this time. Motion was seconded by Mayor Hark.

Motion carried.

ADJOURNMENT

Motion was made by Council Member Janes to adjourn. Motion was seconded by Mayor Hark.

Motion carried.

ADJOURNMENT

Motion was made by Mayor Pro Tem Dexheimer to adjourn. Motion was seconded by Mayor Hark.

Motion carried.