

SPECIAL CALL OFFICIAL COUNCIL PROCEEDINGS

**January 26, 2009
6:00 p.m.**

At the appointed time, Mayor Hark directed the City Clerk to read the call. It was:

To the Chief of Police of the City of Hannibal, Missouri:

Greetings:

You are hereby directed to notify City Attorney James Lemon, Council Members Knickerbocker, Janes, Mayor Pro Tem Wilson, Council Members Louderman, Behymer and Lyng that there will be a called session of the City Council to be held in the Council Chambers at City Hall at 6:00 p.m. on Monday, January 26, 2009.

ROLL CALL

Present: Council Member Janes, Mayor Pro Tem Wilson, Mayor Hark, Council Members Louderman, Behymer, Lyng and Knickerbocker - 7

Absent: -0-

CALL TO ORDER

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

JEFF LAGARCE – CITY MANAGER

**Re: Emergency Reading – Referendum to Establish Recycling Fee of \$1.00 for
Community Wide Recycling Program to be Provided by Northeast Missouri
Sheltered Workshop
April 7, 2009 Municipal Election
(Bill No. 09-002, to follow)**

Mayor Hark explained that the City Attorney was in attendance and was going to address Council on the issue at hand.

City Attorney James Lemon began by saying that several Council Members had contacted him and he had done some research in response to their questions. Lemon expressed his concerns with the proposition, as drafted. Specifically, the City would be in violation with regard to the Charter. He continued that the service contract would be

in excess of \$4,600, hence should be done by sealed bid. He included that he did not think that the proposition could specify a particular entity because of Charter requirements. Section 9.13 of the Charter would allow Council to promulgate particular rules and regulations for the recycling program, giving preference to an organization that benefits handicapped workers, specifically the Sheltered Workshop, in the bid process, since it is not a requirement to award the lowest bid.

In order to give specify the Sheltered Workshop in the proposition, the Charter would have to be amended. Lemon stated that Council could chose to place a proposition to amend the Charter allowing this venture on the April ballot, and in conjunction place the original proposition on the ballot, as well. He added that there is a danger in amending a document, such as the Charter (designed to encompass a wide scope), for an individual situation, because it ultimately leads to more tweaking and adjusting.

Council Member Knickerbocker suggested the possibility of amending the bill during the meeting, by removing 'the Sheltered Workshop'. Counselor Lemon concurred. City Manager LaGarce reminded Council that any ordinance or amendment approved this evening must be passed by a two-thirds vote of the people. He also stated that he would like to start working on the program logistics soon.

Council Member Behymer surmised that, should a \$.61 bid be submitted instead of the proposed \$.80 bid, the voter would not be liable for the \$.80, but only the \$.61 bid. In Council Member Behymer's opinion, bids should be let and should not subsidize a specific organization. By this, we would be violating the Charter.

Mayor Pro Tem Wilson said the recycling fee should be initiated for, no less than, three years in order to build a good solid program.

Mr. John Yancy, representing the Northeast Missouri Sheltered Workshop, was recognized and addressed Council stating that a good point was made by the City Attorney; however, the Sheltered Workshop is currently in dire necessity. He added that if the City is to have a recycling program, carried on by the Sheltered Workshop, something must be done promptly. He continued that the matter at hand is the decision whether or not to ask citizens to support recycling at \$1 per head minimum, for the next three years, a fairly simple challenge in his opinion. Mr. Yancy did not see a reason to delay, since there are immediate needs to be addressed.

Mayor Hark pointed out that Council Members had been receiving calls expressing public concern in subsidizing the Sheltered Workshop. Many would like the same consideration for their businesses and/or programs.

Council Member Knickerbocker stated that he had received no calls, but had solicited opinions from constituents. In doing this, he found that citizens are supportive of subsidizing the Sheltered Workshop's recycling program because they believe it should continue because of the service they provide. He stated that he had received no negative opinions.

City Attorney restated that his concern was in specifying the Sheltered Workshop as the provider of the recycling service on the ballot. He did not say that Council should not ask citizens to approve a \$1/month fee for recycling or that Council could not promulgate ordinances giving preference to entities such as the Sheltered Workshop, this is absolutely appropriate; however, under the existing Charter this must be a sealed bid in which any interested entities would be allowed to submit sealed bids. It would then be Council's decision in awarding the project. Council, if they chose, could then give preference to entities such as the Sheltered Workshop.

Council Member Janes stated that the Sheltered Workshop was a 501C3 (Non-profit) organization, adding that he had no desire to subsidize any organization that is not a charitable one. Lemon stated that ordinances and bid specs could be written specifying sealed bid would only be considered from 501C3 organizations. He added that, in his opinion, it would be permissible to amend this evening's legislation to state '*a 501C3 organization*' instead of '*the Sheltered Workshop*'. Lemon further stated that it could be done; however, he did not recommend it. Instead, he recommended that an ordinance be drafted stating the rules of the program, not stating these specifications, as such, on the ballot.

Council Member Louderman expressed his concerns and the concerns of several citizens that had contacted him recently. The concern was the amount of money to be collected, \$1/month per household or approximately \$92,000 per year, an amount almost three times the \$3,500 per month as discussed in the last Council meeting. He asked the possibility of the City overseeing the program, having some say in the decision making process for expending this amount of funds.

Council Member Knickerbocker asked for clarification whether less could be assessed if the ballot stated '*\$1/month per household*' but a lower bid was subsequently received. Lemon responded that this concern could be alleviated by changing the ballot wording to read '*up to \$1/month per household*'. The ordinance could be amended to reflect this amendment, if approved. Council Member Louderman agreed that he would be more comfortable with the language stating '*up to \$1/per month per household*'. He added that, in his opinion, citizens would also be more at-ease with this wording.

Sid Buckman, on behalf of the Sheltered Workshop, thanked Council for the opportunity to speak. He said that it is good to see Council support the recycling issue. He said that the Sheltered Workshop regretted the need to solicit help from the City, adding they saw no other option available. Buckman explained that he understood the dilemma set before Council, since he had served on the Park Board for nine years. He said that it is the goal of the Sheltered Workshop to work in creating a partnership with the City, not for a year or three years, but for a long period of time. It is the Workshop's intention, if successful, to develop new ways to recycle more economically, ultimately bringing prices down. One thing that he asked Council to consider was that the numbers crunched recently represent a cost for the Sheltered Workshop of more than \$1/per household per month. According to Buckman, the discussion regarding the possibility of the final fee being less than \$1 are for nothing, because the likelihood of a lower cost is not good.

Buckman continued that, in the past year, the Sheltered Workshop had collected \$40,000 for over 1,000,000 pounds of recyclable materials, adding that was during a good market, and future projections say the market will never be that good again. He also pointed out that, as Mr. Yancy had described, the drop in market values has placed the Workshop in a tough situation, financially, and that situation is not likely to change. For that reason, the City's help it is a necessity in order to succeed.

In the past, the Sheltered Workshop has made pallets; however, even though it does have other ventures, 80% or more of the work done is dedicated to the recycling program. This was acceptable when it produced income but that is no longer the case. He assured Council that they would continue to seek more diverse projects for their staff; but in the interim, the need is there.

It was Buckman's conclusion that the amount needed is in excess of the projected \$1; however, they are willing to work within the framework provided in order to make this program a success. He indicated that he understood the need for some sort of annual audit, adding that they would welcome input from the City defining their expectations for the recycling program, including residential vs. commercial recycling. He offered that currently the Sheltered Workshop receives a portion of their items from local commercial businesses and some items are even received from areas outside the City limits. Council Member Louderman questioned whether or not the Workshop received any state funding. Buckman responded that, although they do receive state funds, those dollars are used to pay the clients, leaving little to actually fund the program. Buckman reminded Council that the Sheltered Workshop is a non-profit organization, who hires the mentally disabled who are being paid according to their abilities.

After some further discussion, City Attorney Lemon agreed with Buckman that the City should specify what it expects from the recycling program. He added that, if the City expects an unlimited amount of pick-ups, it should be written accordingly in the bid specifications and could also be written in the ordinance. Additionally the ordinance should define what the City believes that recycling means to Hannibal. Buckman stated that the potential for collection in excess of 1,000,000 is there; however, their bid would be with regard to current collections.

Mayor Pro Tem Wilson asked if an audit of the Sheltered Workshop's books had been done to verify their accuracy. He asked if the Workshop had other donors and if so, the amount that was donated. He assured those in attendance that he was confident things were being handled correctly; however, wished to get this information 'on the record' for future reference. Jerry Rice, Board President, explained that an annual audit was performed by Wade Stables, adding that the City was welcome to review this at any time. He also reported that Marion County began donating last year. A total of \$4,000 was previously donated; however, this amount would probably be reduced by 10% this year. He stated that the Workshop had received capital equipment grants, as well.

John Yancy stated that, at the present time, beside the clients there are only two people being paid by the Sheltered Workshop. Most of the people who were employed to oversee are volunteers, Yancy included. He added that they are not a high-priced outfit; so if the City can find someone else who is willing to do the work now performed by the Sheltered Workshop for the \$1 that has been discussed, he will be surprised.

Mayor Pro Tem Wilson stated that he understood the recycling income is no longer there and that the City will no recoup any monies, this is merely a service fee for recycling. He does not foresee anyone making a profit from the recycling program for at least 2-3 years.

Mayor Hark referred back to City Attorney Lemon regarding the language that should be amended. Lemon stated that, in regard to the header, it could be changed quite easily to, *'AN ORDINANCE PROVIDING FOR A MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 17, 2009 TO ALLOW HANNIBAL VOTER TO CONSIDER APPROVAL OF A RECYCLING FEE OF UP TO \$1.00 PER MONTH TO BE APPLIED TO EACH RESIDENTIAL UTILITY BILL FOR THE PURPOSE OF FUNDING A COMMUNITYWIDE RECYCLING PROGRAM.* This would add the phrase *'up to'* and strike the last portion, *'to be provided by the Northeast Missouri Sheltered Workshop'*. Lemon also recommended striking the second *'Whereas'* clause, that states, *'WHEREAS, the Northeast Missouri Sheltered Workshop. . .'*, and also striking the clause that states *'WHEREAS, the City has a contractual agreement with Northeast Missouri Sheltered Workshop. . .'* Lemon then jumped to the fifth *'Whereas'* clause that begins, *'WHEREAS, voter approval of up to a \$1 recycling fee to be applied monthly against each residential utility account would generate the necessary. . .'* striking the words, *'Northeast Missouri Sheltered Workshop'* from the wording, and adding the phrase *'up to'* in this clause, as previously stated. All else in the ordinance can remain with the exception of *'Proposition 1 – Shall the City of Hannibal propose a recycling fee of up to \$1 per month to be applied to each residential utility bill for the purpose of funding a communitywide recycling program.'* (Adding *'up to'* and striking the portion reading, *'said program to be provided by the Northeast Missouri Sheltered Workshop'*.

According to Lemon, these changes would be in line with the City Charter and allow the flexibility that had been discussed.

BILL NO. 09-002

(As amended)

AN ORDINANCE PROVIDING FOR A MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 17, 2009 O ALLOW HANNIBAL VOTER TO CONSIDER APPROVAL OF A RECYCLING FEE OF UP TO \$1.00 PER MONTH TO BE APPLIED TO EACH RESIDENTIAL UTILITY BILL FOR THE PURPOSE OF FUNDING A COMMUNITYWIDE RECYCLING PROGRAM

EMERGENCY READING

Motion was made by Council Member Knickerbocker to give Bill No. 09-002, as amended and read by the Counselor, an emergency reading and call the roll for adoption. Motion was seconded by Council Member Behymer.

Motion carried

Roll Call

Yes: Council Member Janes, Mayor Pro Tem Wilson, Mayor Hark, Council Members Louderman, Behymer, Lyng and Knickerbocker - 7

No: -0-

Mayor Hark declared Bill No. 09-002, as amended, duly approved and adopted on this date.

ADJOURNMENT

Motion was made by Council Member Janes to adjourn the Special Call Council meeting at this time. Motion was seconded by Council Member Knickerbocker.

Motion carried.