

**NOTICE OF PUBLIC MEETING
COUNCIL AGENDA**

**August 3, 2010
7:00 p.m.**

ROLL CALL

Present: Council Member Lyng, Mayor Pro Tem Knickerbocker, Council Members Dobson, Barta, Mayor Hark and Council Member Louderman – 6

Absent: -0-

CALL TO ORDER

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

INVOCATION

Mayor Pro Tem Knickerbocker gave the invocation.

PLEDGE OF ALLEGIANCE

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

**APPROVAL OF MINUTES
Regular Council Meeting – July 20, 2010**

Motion was made by Council Member Louderman to approve the minutes of the last regular Council meeting that was held on July 20, 2010. Motion was seconded by Mayor Pro Tem Knickerbocker.

Motion carried.

**APPROVAL OF PAYROLL AND CLAIMS
Second Half of July, 2010**

Motion was made by Council Member Dobson to approve the payroll and claims for the second half of July, 2010. Motion was seconded by Council Member Barta.

Motion carried.

PAUL LEWELLEN – MAIN STREET WINE STOPPE LLC
Re: Request, Extension of Liquor License to Sidewalk
(303 North Main)

Mr. Paul Lewellen, of the Main Street Wine Stoppe, introduced himself then stated his request, Council approval of extending his liquor license at 303 North Main to include the sidewalk in front of his business. Mr. Lewellen explained that the area in front of his business is twenty-two (22) feet wide, containing twelve (12) feet deep sidewalks. His desire is to place three tables (24” diameter), each with two stools, curbside. He noted that he has gotten written permission to do this from his neighbors before coming to Council.

He said that he may, eventually, place tables against the building, and added that with all the tables in place, there would still be ample sidewalk space, in accordance with the City ordinance.

Chief Lyndell Davis spoke, briefly, regarding Mr. Lewellen’s request. Davis explained that there were various issues, including sidewalk passage that needed to be addressed. He continued by stating that one particular area of concern being that “open liquor” is in violation of City ordinance, adding that guidance should be given on roping-off this area.

Lewellen explained that he believes all establishments are unique in their style and this plan would not work at all bars in the area. He stated that his market is somewhat different from other businesses, since the biggest portion of his receipts is wine sales. Mr. Lewellen noted that, in the fourteen months that he had been in business, no calls had been made to the City Police with regard to his establishment, for alcohol related issues.

Mayor Pro Tem Knickerbocker commented that he believes approval of this request would trigger requests from other bar owners. He referenced two other businesses, one with an area in front and the other with an area beside the establishment, pointing out that both are located on private property. Rumor Has It was mentioned; however, it was noted that they do not allow liquor outside their facility.

Council Member Lyng commented that he was concerned about liability issues that might arise if Lewellen’s request was approved. City Attorney James Lemon explained that, in his opinion, any liability would fall on the bar owner; however, he agreed with Chief Davis that this would be a violation of the “open container” ordinance. Lemon added that Council has the right to give Mr. Lewellen an open container waiver. He also stated that he agreed with Chief Davis comment that, instead of waiving the conditions of the ordinance, maybe Council should consider amending the existing ordinance to specify what is actually occurring. In conclusion, Lemon clarified that Council does have the right to grant the open liquor, but he does not believe that it would be a good idea to do this.

Council Member Dobson questioned the difference between Mr. Lewellen’s request and the request regarding the Boyhood Home area events occurring on Thursday nights. In response, it was noted that the Thursday night events are “special events” needing a special events application with recommendations from all departments; whereas, Mr. Lewellen’s request would be a permanent waiver regarding his property.

Mayor Pro Tem Knickerbocker commented that he is not opposed to Lewellen’s request his only concern is that the issue be handled properly. Lewellen stated that he was aware of the

insurance requirements, since he currently is involved with the Thursday night events, Music Under the Stars.

Council Member Barta suggested giving Mr. Lewellen a ninety day provisional approval; however, Council Member Louderman believes the request should be tabled until the open liquor laws have been more closely examined, since more requests of this nature may be forthcoming. In conclusion, Louderman believes the ordinance should be amended instead of granting a waiver to Lewellen.

Council Member Dobson suggested that Council might direct City Attorney Lemon to modify or amend the ordinance. The City Attorney stated that he would prepare an amended ordinance making this permissible with the approval of staff. Motion was made by Mayor Pro Tem Knickerbocker to table Mr. Lewellen's request at this time. Motion was seconded by Council Member Louderman.

Motion carried. Motion was then made by Council Member Dobson to direct the City Attorney to modify the current ordinance, placing it on the August 17th Council meeting for their consideration. Motion was seconded by Mayor Pro Tem Knickerbocker.

Motion carried.

ROY G. HARK – MAYOR

Re: 5th Ward Council Member Candidate Forum/Appointment

- **Richard Garrett**
- **James Hark**
- **Michael Marx**

Mayor Hark explained that the next item on the evening's agenda was the appointment of a 5th Ward Council Member. He then excused himself from the proceedings, turning the meeting over to Mayor Pro Tem Knickerbocker. Motion was made by Mayor Pro Tem Knickerbocker to excuse Mayor Hark from this portion of the meeting. Motion was seconded by Council Member Louderman.

Motion carried. Mayor Pro Tem Knickerbocker instructed that each candidate would be allowed five minutes in which to make a brief introduction and to explain the reason for their interest in the Fifth Ward Council seat. This would be followed by a period of questions and answers. He added that, in fairness to each candidate, they should leave the Council chambers until they were called upon to make their presentation.

After his instruction, Mayor Pro Tem Knickerbocker explained that candidates would be asked to step out of the room until their interview process.

RICHARD GARRETT

Candidate #1

Mayor Pro Tem Knickerbocker pointed out that Candidate #1, Richard Garrett, was not present.

JAMES HARK

Candidate #2

James Hark was the first candidate to speak regarding his interest in the Fifth Ward Council seat. He stated that he was a life-long resident of Hannibal and had worked for the City since 1988, beginning his tenure as a custodian, working his way up to a dispatcher, police officer, eventually continuing through the ranks to the Deputy Chief, where he retired approximately thirty days ago with 22 years of service. He explained that he was making application as Council Member of the 5th Ward because he believes in the community, which he added, has been proven through his dedicated service to the community.

After retiring, his initial plan was to run for this office in April, 2011, when the seat became vacant; however, since the resignation of Jim Behymer, he decided to become a candidate. He received his education from this community, graduating from Hannibal LaGrange College with a bachelor's degree. He stated that he had worked closely with the other City departments, regarding budgetary issues and the development of programs. He said that he had assisted during the flood and with firefighters during fires. Hark added that he believes he has something to offer, bringing to the table his extensive background in internal affairs investigation at the Police Department, as it pertains to dealing with public employees, noting the vast difference in dealing with public vs. private employee issues.

Mr. Hark added that he had been responsible for seeking grants and the approval and administration of those grants for the City. He believes that much of his experience will be of benefit to Council. He said that he had invested his time, looking into programs that would further enhance the community that he would like to share with the City Manager and the Council.

When asked why he was interested he reiterated that he believes in this community and has physically walked the streets of the 5th Ward. He explained that he believes he is in tune with the likes and dislikes of the citizens. He understands that you can not please all the people all the time, but he will strive to do the right thing for the right reason. He said that he was willing to listen to people.

When asked what his goals and objectives for, not only the 5th Ward, but the City as a whole, he responded that, first, he would like to be on a "first-name" basis with the 5th Ward constituents so that he can listen to what they say and discover what they think is important.

Hark was asked about budget experience and he responded that for the past eleven years he has been a part of the administrative section of the Police Department, working on capital improvement plans, budgeting mass purchases for the HPD and vehicle rotation programs. He stated that he had also been responsible for the portion of the budget that pertained to the line items with which he directly dealt, adding that he is very familiar with the budget process.

When asked about his ideas for economic development within Hannibal, Hark explained that he believes Council cannot wait for opportunities to come, but instead the positive growth should be shown, seeking out opportunities. He believes that instead of the population dwindling within the City, Hannibal has a 'seepage issue' whereas some of the populace has seeped outside the City limits, but the daily population in the City is the same or greater than in the past. He referenced the City's exceptional hospital, college and school system that should be offered to prospective companies.

Hark was questioned regarding whether or not he was prepared to jump in with both feet. In answer, he said that he was ready to "hit the ground running" immediately, if appointed, still

being abreast of City issues, since his retirement was so recent. He added that he had ample time to dedicate to the position, if chosen.

In answer to a question posed, Hark responded that he is comfortable doing things that may be unpopular with citizens, if need arises, citing certain examples from his recent position with the Hannibal Police Department. He stressed the importance of explaining the process, adding that most people just want to be aware of what is occurring.

MICHAEL MARX **Candidate #3**

Michael Marx the second and final candidate spoke regarding his interest in the Fifth Ward Council seat. He stated that he had grown up in Hannibal, left for approximately thirty years, returning in 1999, after a career in the entertainment business. He stated that, since his return he had tried to do things to make Hannibal a better place. He listed a few of his endeavors:

- Spearheading a television show (still in the planning process)
- Serving for the past six years on the Hannibal Concert Association, which has increased in popularity during his tenure
- Serving on the board of Douglas Community Services (which he is current president)
- Planning a benefit concert at the ball field in August with proceeds to Douglas Community Services

Marx concluded that he would be a good fit to serve on Council.

When asked why he was interested in representing the 5th Ward on the City Council, Marx responded that he wishes to help the citizens of the 5th Ward.

Marx was questioned regarding his goals and objectives, not only for the 5th Ward but for the City, as a whole. He responded that he would strive to make the best decisions that would benefit Hannibal and all of its citizens.

In response to the question, “What experience do you have in budgeting and budgeting processes used?” he answered that he ran his own company for twenty-five (25) years.

Marx was questioned regarding his ideas for promoting the economic development within the City of Hannibal; Marx stated that he would do this by making his best effort, within his Ward and the City, to promote anything that is currently happening here.

When asked if he was prepared tonight to “hit the ground running” if he is selected. Marx responded that he was indeed ready to start.

Marx was questioned if he was prepared to explain to the citizens within his Ward, when Council finds it necessary to make an unpopular decision, enhancing the City, as a whole, but not for the 5th Ward specifically, his response was a confident, ‘yes, I can do that’.

Council Member Dobson stated that Mr. Marx had indicated he was a business owner for twenty-five years, and asked him to expound on that. Marx explained that he had a public relations personal management office in Los Angeles where he represented various actors and actresses.

The question was asked, since Council Members are asked to serve on various board and commissions, in addition to their Council responsibilities, did he have a problem or concern in

servicing in these additional capacities. He assured Council that he was not aware of any concern or problem that he might have, and would be willing to serve in that capacity.

After Mr. Marx was excused from the podium, Mayor Pro Tem asked Council's pleasure. Motion was made by Council Member Louderman to nominate James Hark to serve as 5th Ward Council Member. Since there were no other nominations, nominations closed and Council Member revised his original motion proposing to appoint James Hark to serve as 5th Ward Council Member. Motion was seconded by Council Member Barta.

Roll Call

Yes: Council Member Lyng, Mayor Pro Tem Knickerbocker, Council Members Dobson, Barta and Louderman – 5

No: -0-

Motion carried. Mayor Pro Tem Knickerbocker thanked both candidates for their interest in the Council seat and City government, and then he explained the process of 5th Ward candidacy for the April, 2011 election.

Motion was made by Council Member Dobson to readmit Mayor Hark to the Council proceedings. Motion was seconded by Council Member Louderman.

Motion carried.

BILL NO. 10-024

AN ORDINANCE RATIFYING AND REAFFIRMING CITY OF HANNIBAL, ORDINANCE NUMBER 3760; ESTABLISHING THE PROCEDURE TO DISCLOSE POTENTIAL CONFLICTS OF INTEREST AND SUBSTANTIAL INTERESTS FOR CERTAIN MUNICIPAL OFFICIALS AND EMPLOYEES AS REQUIRED, BIENNIALY, BY MISSOURI STATE STATUTES 105.483 & 105.485.4

SECOND AND FINAL READING

Motion was made by Council Member Louderman to give Bill No. 10-024 a second and final reading and call the roll for adoption. Motion was seconded by Mayor Pro Tem Knickerbocker.

Roll Call

Yes: Council Member Lyng, Mayor Pro Tem Knickerbocker, Council Members Dobson, Barta, Mayor Hark and Council Member Louderman – 6

No: -0-

Absent: -0-

Mayor Hark declared Bill No. 10-024 duly approved and adopted on this date.

BILL NO. 10-025

AN ORDINANCE AMENDING ARTICLE V, SECTION 16-170 OF THE HANNIBAL MUNICIPAL CODE RELATIVE TO BUILDINGS AND STRUCTURES USED FOR THE ILLEGAL USE, KEEPING, OR SELLING OF CONTROLLED SUBSTANCES

SECOND AND FINAL READING

Motion was made by Council Member Barta to give Bill No. 10-025 a second and final reading and call the roll for adoption. Motion was seconded by Mayor Pro Tem Knickerbocker.

Roll Call

Yes: Council Member Lyng, Mayor Pro Tem Knickerbocker, Council Members Dobson, Barta, Mayor Hark and Council Member Louderman – 6

No: -0-

Absent: -0-

Mayor Hark declared Bill No. 10-025 duly approved and adopted on this date.

BILL NO. 10-026

AN ORDINANCE AMENDING APPOINTMENT PROVISIONS OF THE CODE OF THE CITY OF HANNIBAL, MISSOURI REGARDING THE APPOINTMENT AUTHORITY OF CITY BOARDS AND COMMISSIONS

SECOND AND FINAL READING

Motion was made by Council Member Dobson to give Bill No. 10-026 a second and final reading and call the roll for adoption. Motion was seconded by Council Member Louderman.

Roll Call

Yes: Council Member Lyng, Mayor Pro Tem Knickerbocker, Council Members Dobson, Barta, Mayor Hark and Council Member Louderman – 6

No: -0-

Absent: -0-

Mayor Hark declared Bill No. 10-026 duly approved and adopted on this date.

ADJOURNMENT Sine-Die

At this time, Council Member Louderman made a motion to adjourn the Council meeting Sine-Die. Motion was seconded by Council Member Barta.

Motion carried.

ROY G. HARK – MAYOR Re: Oath of Office (5th Ward Council Member)

Mayor Hark administered the Oath of Office to James Hark, being sworn in as the Fifth Ward Council Member.

ROLL CALL

Present: Council Member Lyng, Mayor Pro Tem Knickerbocker, Council Members Dobson, Barta, Mayor Hark, Council Members Louderman and Hark – 7

Absent: -0-

CALL TO ORDER

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

MARK REES – CITY ENGINEER Re: Commanche Avenue Stormwater Runoff Improvement – Contract Agreement Bleigh Construction (Resolution No. 1668-10, to follow)

Mark Rees, City Engineer, introduced the first of two items that he had placed on the evening's Council agenda, a contract agreement with Bleigh Construction for the Commanche Avenue Stormwater Runoff Improvement. Rees said that approval of Resolution No. 1668-10, to follow, would also approve this contract for \$189,854.10.

On July 23rd, according to the City Engineer, three bids were opened. All were more than the budgeted amount; however, cost savings in the two accounts that will be funding this project, specifically, the DPW Fund and ½ Cent Sales Tax Fund, make this project possible.

In response to a question posed by Council Member Louderman, City Manager LaGarce explained that budget adjustments would be necessary.

Council Member Lyng questioned if Lowe's property or the recent grading that had been done at the Marx's site was in part responsible for the Commanche Avenue stormwater issues. Mr. Rees responded that there would be run-off from both of those properties, adding that, as the City's current code stands, Wal-Mart, being built to code, will also give appearance of additional run-off

Lyng asked if the property owners mentioned could be held legally responsible in any way. Rees answered that the City could seek legal recourse; however, this current plan this being the path of least resistance. He explained that work had been in process for approximately a year on a three-way agreement to construct a stormwater pond on the Marx or Lowe's property; however, Rees said that he advised staff until a conveyance, the problem would still not be solved.

According to Rees, something is going to occur on the Marx property, since he has a preliminary site plan that has a stormwater pond. He has not made contact with Lowe's for some time, but advised Council that Tom Marx planned to contact them seeking partnership for this undertaking.

Re: Traffic Committee Recommendations

Rees presented his final item on the evening's agenda, the recommendations of the Traffic Committee. He explained that recently, the Traffic Committee received a request from Mr. and Mrs. Richard Pence who reside at 2005 Chestnut. Their request is for a handicap parking space in front of their home. The recommendation given by the Traffic Committee doesn't meet the exact letter of the law, since handicap guidelines state, "***There should not be more than two (2) handicap spaces per block; limit of one (1) on each side of the street***", and there are already two handicap spaces on this block; however, Mr. and Mrs. Pence meet the physical requirements.

According to Rees, given the authenticity of this need, the Traffic Committee asks that Council waive the limit of 2 handicap parking spaces per block to accommodate this couple. Since no action was taken by Council the recommendation will become effective immediately.

BEAU HICKS – DIRECTOR, HANNIBAL CONVENTION VISITOR'S BUREAU

Re: Mark Twain Boyhood Home & Museum Sponsorship/Loan

Beau Hicks, the Director of the Hannibal Convention Visitor's Bureau, presented the final item on the evening's agenda, a request for approval of a Mark Twain Boyhood Home & Museum Sponsorship/Loan. Hicks explained that it was very rare that the HCVB Board agrees to give a cash donation. Normally the Bureau would directly pay for the advertising, as done in instances such as National Tom Sawyer Days, Folk Life Festival, the Karate Tournament or the upcoming Douglas Concert. After receiving details of the event, the Bureau would place advertising in places where it might bring the most people to the area.

Only five instances have occurred in the past five years, in which funds are directly donated, according to Hicks. These being:

- Annual donation for Jaycees' fireworks
- Annual donation for Hannibal LaGrange sports
- Annual donation for Tom & Becky Program
- Annual donation for Mark Twain Home
- Donation in regard to the LST Boat Tour (one-time event)

Hicks stated that he was appearing before Council because the Board is considering a much larger donation to the Mark Twain Home Board & Museum, who are sponsoring two fund-raisers for the restoration of the Becky Thatcher House.

The first fund-raiser will be a concert with Ralph Stanley on Sunday, September 26th. The difference in this donation is that HCVB would donate \$1,500 in promotional monies and would donate an additional \$1,500 to assist in bringing Mr. Stanley to town to have this concert.

The second would also be working with Mr. Stanley through the Mark Twain Home & Museum on a "CD Project". Mark Twain Home & Museum would split the cost with Stanley, to produce a thirteen-song CD that would tell the story of Mark Twain. This CD would not be found at the Mark Twain Museum alone, but would also be distributed (using Stanley's distributor, nationwide and worldwide and would be available at Wal-mart and other retailers.

The artist is donating his time in order to make this CD; and, Mark Twain Home & Museum have agreed to pay for 50% of the total production costs of \$60,000. In turn, they will receive 50% of the proceeds. According to Hicks, the Home will need to raise \$30,000. Currently they have about \$10,000, and the HCVB Board would like to offer a \$5,000 matching grant to help propel the Home's fund-raising effort, since funds are needed quickly. He added that they have offered to loan the Home as much as \$20,000, if needed, to make this project happen. Profits from this project could sustain the Boyhood Home for years to come, stated Hicks.

He continued by saying that the Boyhood Home has declined the offer of the \$20,000 loan; however, they have agreed to take the \$5,000 matching grant, already having a party who has agreed to match the Board's amount.

As a final note, Hicks shared that Jimmy Buffet, Emmylou Harris, Ralph Stanley and Ricky Skaggs will be included in the CD lineup and Garrison Keillor will provide the voice.

Council Member Lyng questioned whether any of these plans were in conflict with Article 6 of the Missouri Constitution, *placing limitations on the use of credit and grant of public funds by local governments, pensions and retirement plans for employees in certain cities and counties.*

City Attorney Lemon responded that there was a potential for that restriction, adding that it is was not a good idea for a city to donate funds to private entities. Perhaps wording could be changed; however, Lemon offered to review case law before making that determination.

Mr. Hicks explained that he had spoken with Branson Wood and the St. Charles CVB because of apprehension following the donations made during the docking of the LST Boat several years ago. Their response was, as long as the money is not coming from the general fund, but strictly from bed tax dollars, it would not be an issue.

Council Member Louderman made a motion to table this item for the moment, until research could be done regarding the procedure. Motion was seconded by Council Member Lyng.

Motion carried.

RESOLUTION NO. 1668-10

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT AGREEMENT WITH BLEIGH CONSTRUCTION IN THE AMOUNT OF \$189,854.10 TO CONSTRUCT STORMWATER RUNOFF IMPROVEMENTS RELATIVE TO COMMANCHE AVE

Motion was made by Council Member Louderman to have the City Clerk read Resolution No. 1668-10, and call the roll for adoption. Motion was seconded by Council Member Dobson

Roll Call

Yes: Council Member Lyng, Mayor Pro Tem Knickerbocker, Council Members Dobson, Barta, Mayor Hark, Council Members Louderman and Hark – 7

No: -0-

Absent: -0-

Mayor Hark declared Resolution No. 1668-10 duly approved and adopted on this date. Mayor Hark reminded Council that a Special Called Council Meeting would be held the following Thursday, August 5th at 6:00 p.m.

ADJOURNMENT

Motion was made by Council Member Louderman to adjourn the meeting. Motion was seconded by Council Member Barta.

Motion carried