

OFFICIAL COUNCIL PROCEEDINGS

January 5, 2010
7:00 p.m.

ROLL CALL

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

Absent: -0-

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

The Pledge of Allegiance was led by Council Member Lyng.

APPROVAL OF MINUTES

Regular Council Meeting – December 15, 2009
Special Call Council Meeting – December 29, 2009

Motion was made by Mayor Pro Tem Behymer to approve the minutes of the regular Council meeting that was held on December 15, 2009 and the Special Call Council meeting that was held on December 29, 2009. Motion was seconded by Council Member Knickerbocker.

Motion carried.

APPROVAL OF PAYROLL AND CLAIMS

Second Half – December 2009

Motion was made by Council Member Louderman to approve the payroll and claims for the second half of December, 2009. Motion was seconded by Council Member Knickerbocker.

Motion carried.

ROY HARK – MAYOR
Re: 3rd Ward Council Member Appointment

Mayor Hark explained that a 3rd Ward Council Member would be appointed at this time.

Council Member Knickerbocker made a motion to nominate Lou Barta for the position of 3rd Ward Council Member. Motion was seconded by Mayor Pro Tem Behymer.

Motion carried. Motion was made by Council Member Janes to nominate the remaining candidates for the position of 3rd Ward Council Member. Motion was seconded by Council Member Lyng.

Motion carried. City Clerk Vance advised that she would do a ‘roll call’ vote for each nomination, beginning with Mr. Barta, the candidate who was nominated first. Mayor Pro Tem Behymer explained that he would be casting only one single vote for the candidate that he believed was best fitted for the position. Council Member Knickerbocker made a motion to **appoint** Lou Barta for the position of 3rd Ward Council Member. Motion was seconded by Mayor Pro Tem Behymer.

City Attorney Lemon entered the proceedings.

The City Attorney was questioned, regarding the procedure for filling the position of 3rd Ward Council Member. He responded that the City Charter does not specify the method by which a replacement is chosen, only that the individual is chosen by majority vote. Council Member Lyng argued that all candidates had been nominated, but Council Member Knickerbocker pointed out that a motion had been made and seconded to appoint Mr. Barta; however, Mayor Pro Tem Behymer withdrew his second to that motion.

- **Lou Barta**

Roll Call

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

No: -0-

- **Robert Saxbury**

Roll Call

Yes: Council Member Janes and Mayor Hark – 2

No: Council Member Louderman, Mayor Pro Tem Behymer, Council Members Lyng and Knickerbocker - 4

- **Jack Moore**

Roll Call

Yes: Council Members Lyng, Janes and Mayor Hark – 3

No: Council Member Louderman, Mayor Pro Tem Behymer and Council Member Knickerbocker - 3

- **Monica Williams**

Roll Call

Yes: Council Members Louderman, Lyng, Janes and Mayor Hark - 4

No: Mayor Pro Tem Behymer and Council Member Knickerbocker – 2

- **Wesley Knapp**

Roll Call

Yes: -0-

No: Council Member Louderman, Mayor Pro Tem Behymer, Council Members Lyng, Knickerbocker, Janes and Mayor Hark – 6

- **Donald Sagar**

Roll Call

Yes: Council Member Lyng and Mayor Hark - 2

No: Council Member Louderman, Mayor Pro Tem Behymer, Council Members Knickerbocker and Janes - 4

- **Roy Que Ferrell**

Roll Call

Yes: Mayor Hark - 1

No: Council Member Louderman, Mayor Pro Tem Behymer, Council Members Lyng, Knickerbocker and Janes - 5

At this time, City Clerk Angelica Vance announced the appointment of Mr. Louis Barta as 3rd Ward Council Member.

Mayor Hark thanked each and every candidate for their interest in serving the City as 3rd Ward Council Member.

ADJOURNMENT
Sine-Die

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

Motion carried.

ROY G. HARK – MAYOR
Re: Oath of Office
(3rd Ward Council Member – Louis Barta)

Mayor Hark administered the Oath of Office to Louis Barta, being sworn in as the Third Ward Council Member.

ROLL CALL

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

Absent: -0-

CALL TO ORDER

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

KATHY & LESTER PARRISH - CITIZENS
Request, Waiver of Special Taxes
(425 Edwards Street)

Lester Parrish introduced himself and made a request to Council, at this time, to waive the special taxes that were assessed against the property known as 425 Edwards Street. Said taxes were charged against the property for weed liens. Parrish proposed that, should these taxes be waived, he would then pay city and county taxes that had accumulated for the past three years, rehab the structure and use it as rental property.

When asked by Council Member Knickerbocker, the time frame for rehabilitating the house, Parrish responded that he anticipated a six-month time frame until completion; however, upon closing, he assured Council that he would secure the structure by boarding-up windows and doors. Work would then be started in the spring. Council Member Knickerbocker explained that the property was currently on the Building Commission's agenda because of significant deficiencies

that would need immediate attention. He reiterated that he would address the immediate concerns, securing the structure until work began in the spring.

City Attorney Lemon advised that, even though taxes had been forgiven in the past, after looking at the City Charter as requested by a private citizen, he had discovered the only reason that taxes can be forgiven by Council is in the case of an error, if, in fact, special assessments are considered a tax. He added that, to error on the side of caution, he would consider the special assessment a tax.

Council Member Janes questioned whether or not it was legal for the City to tax citizens on this basis, because they do not maintain weeds, under the Hancock Amendment. In answer to Janes' question, Lemon responded that the Hancock Amendment does not apply to special assessments, since a service has been performed, maintaining the property, and this is not a tax assessment on everyone, but a specific assessment for a specific purpose.

The City Clerk noted that the City Collector, the City Clerk and the City Engineer, all sign-off on the Special Tax Bill.

Council Member Louderman questioned whether or not the \$795.00 Special Tax assessment would prevent Parrish from purchasing this property. He answered that it would prevent the purchase. City Attorney Lemon felt an argument might be made that the amount could be considered an assessment and indicated that he could review case law to help determine if this were a true tax or an assessment.

City Manager LaGarce stated that recycling fees are not actually a utility; yet, they are collected through the same manner as utilities. He concluded that he realizes the assessment is collected in the same way as taxes are collected, only because there is no other manner to collect assessments such as this. Council Member Louderman explained that, if it was only a matter of verbiage, he was in favor of forgiving the \$795 to keep the City from incurring thousands of dollars in expenses to tear down the structure.

Council Member Knickerbocker suggested that, in order to do everything legal, the item should be tabled for two weeks, allowing the City Attorney ample time to research case law and seek the advice of the Municipal League. Parrish stated that he would be out of town, not returning until March and asked if Council would inform him of their decision, upon his return.

Council Member Janes made a motion to approve Parrish's request and also change the wording of the ordinance and any other pertinent documents from "tax" to something else. Motion was seconded by Council Member Louderman.

Council Member Knickerbocker pointed out that, if this were a Charter change, it must go before a vote of the people. He suggested the possibility of Parrish placing the special tax into escrow; until such time that the house is brought up to rental code, then releasing the money. A lengthy discussion ensued, regarding the possibility of forgiving the special tax vs. incurring the expense of tearing down the structure. City Attorney stated that he would try to find and review case law, relating to the issue at hand. Council Member Janes called the question. The City Clerk restated the motion that was currently on the floor. This was, "to approve Parrish's request and also change the wording of the ordinance and any other pertinent documents from "tax" to something else."

Roll Call

Yes: Council Member Louderman, Janes and Barta – 3

No: Mayor Pro Tem Behymer, Council Member Lyng, Knickerbocker and Mayor Hark – 4

Motion failed. Motion was then made to table the issue until the next Council meeting and direct the City Attorney to do additional research and return an opinion. Motion was seconded by Mayor Hark.

Motion carried.

JEFF LAGARCE – CITY MANAGER

Re: Approval, Final Revenue Bond Series for Street Reconstruction

City Manager LaGarce explained that until 2007, with the funding available, the City was essentially re-building one street per year. If funds were left, re-surfacing would occur. In 2007 a strategy was devised to allow the issue of leasehold revenue bonds. The first bond issuance occurred in July of 2008 and the second was targeted for mid-2010.

LaGarce's request was for Council approval of the final revenue bond series for street reconstruction, stating that, since 4-5 months of preparation is needed, the initiative should begin now. Since staff was anticipating an issuance date in late April, a rating needs to be obtained by Moody. He added that Shinn Lane is not on the list for reconstruction; however, Paris Gravel Road is on the list. Motion was made by Council Member Louderman to approve LaGarce's request. Motion was seconded by Council Member Knickerbocker.

Motion carried.

Re: Commercial Flood Buyout Property Appraisals – Contract Addendum

*Rubison Appraisal Services
(Resolution No. 1618-10, to follow)*

The City Manager explained that appraisals for the commercial flood buyout program are currently underway. Mike and Pat Blue own commercial property at 613 Munger, intended for flood buyout, which contains three structures. The Blues are requesting that each structure be appraised individually, since they believe that they could sell these individually and make more than if the sale was combined.

LaGarce stated that he has no objections to the request, adding that he had spoken with the State CDBG people and they have no objections, either, nor does the appraiser; however, this would require an amendment of the appraisal contract. If approved, the change would also need an amended appraisal review contract, as well.

Rubison Appraisal Services' unit price for work being done is \$850; therefore, a contract addendum of \$1,700 would be necessary. Later, a similar recommendation for an Addendum to B&B Appraisals' contract for appraisal review will be presented. B&B's unit price is \$300, thus increasing that contract, when presented by \$600.

LaGarce added that it is the recommendation of staff to approve Resolution 1618-10, to follow, which would authorize the Mayor to execute a contract addendum with Rubison Appraisal Services in the amount of \$1,700 for separate building appraisals at 613 Munger.

Council Member Lyng asked the amount of the City's out-of-pocket expenses. The City Manager responded that there was no out-of-pocket expense for the City since the project was 100% grant-funded.

An argument ensued regarding possible costs to the City vs. property owners selling their properties on the open market. In response, Mr. LaGarce explained that mode of sale is strictly at the desecration of the property owner; but, since every property that is removed from the flood-way will help the City, long-term, he believes the City should be willing to be somewhat compliant.

MARK REES – CITY ENGINEER

**Re: Hannibal Municipal Airport Aviation Terminal Building - Aviation Project
Consultant Agreement**

*Crawford, Murphy & Tilly Inc.
(Resolution No. 1615-10, to follow)*

City Engineer Mark Rees introduced the next item on the agenda, Resolution No. 1615-10, regarding the contract with Crawford, Murphy & Tilly, Inc., who will subcontract Architectics to design the proposed airport terminal. This contract is slightly over \$50,000, according to Rees and will be approved with the approval of the related Resolution, to follow.

**Re: Hannibal Municipal Airport Terminal Access Roadway and Parking Lot - Aviation
Project Consultant Agreement**

*Crawford, Murphy & Tilly Inc.
(Resolution No. 1616-10, to follow)*

The next item presented by Rees was approval of Resolution No. 1616-10, to follow, that would approve a contract with Crawford, Murphy & Tilly, Inc. to design an access roadway and parking lot to serve the terminal facility. Rees added that this resolution, if approved, represents an \$18,000 contract.

During the time of questions, Council Member Lyng questioned the total project cost. Rees responded that he did not have an exact figure on-hand, but added that he thought the total was around \$500,000, with a 90-95% funding by MoDOT Aviation and the remaining 5-10%, a match from the City.

Re: West Ely Road Improvement Project – Change Order No. 3

*Bleigh Construction
(Resolution No. 1617-10, to follow)*

Rees' third item on the agenda regarded Change Order No. 3 of the West Ely Road Improvements Project. He explained that the project is shut-down for the winter; however, West Ely is open to local traffic.

The change order addresses clean-up of a three items:

- Two areas of unstable sub grade were encountered and repaired to proper density requirements resulting in an increase of \$1,959.42
- The original plans called for two 4' x 4' drop inlets in the bottom peak of a vertical curve, but to alleviate any future stormwater problems, two 4' x 7' drop inlets were installed to increase water intake resulting in an increase of \$2,390.00.
- Original plans showed that one property owner's driveway was to be replaced with asphalt, but the right-of-way agreement specified concrete replacement, and another driveway specified asphalt but the intent was to replace the original concrete drive with concrete resulting in an increase of \$1,232.35.

These changes have resulted in a total change order increase in the amount of \$5,581.77. Rees concluded by saying that the Department of Public Works has reviewed the change order and is recommending Council approval.

Re: Easement Vacation – Lot 4 Orchard Point Subdivision
(*Bill No. 10-001, to follow*)

The City Engineer explained that the final item, a request by the Planning & Zoning Commission, is in regard to Bill No. 10-001. Approval of this bill would vacate a portion of an easement on Lot4 of Orchard Point Subdivision.

The original request was made be Richard Destefane, the property owner, who wished to construct a garage that would slightly encroach into an access easement to a stormwater management facility.

Rees stated that, after reviewing all criteria, his recommendation was to approve Mr. Destefane's request.

When questioned, Rees explained that the easement was 30' wide which allowed machinery access to the bottom of an adjacent hill. He added that the area contains no utilities, pipes or etc.

Council Member Lyng questioned whether construction of this structure might cause the water to flow in another direction. City Engineer Rees agreed that this was a possibility; however, only 1/3 of the easement was utilized, therefore, the Planning Commission believes that enough easement remains to handle any unforeseeable stormwater issues.

Council Member Knickerbocker asked what would happen if the structure were to divert water below the structure, what was located in this area that could be impacted. Rees responded that property in this area is vacant or orchard, as far a he was aware. He added that a small pond or containment area was at the bottom of the hill.

Council Member Lyng asked how this issue would fall under the City's stormwater policy. City Manager LaGarce responded that this issue would not, in any way, affect the City.

RESOLUTION NO. 1615-10

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AVIATION PROJECT CONSULTANT AGREEMENT WITH CRAWFORD, MURPHY & TILLY, INC TO PROVIDE PROFESSIONAL SERVICES FOR THE DEVELOPMENT OF A

**NEW GENERAL AVIATION TERMINAL BUILDING AT THE HANNIBAL
MUNICIPAL AIRPORT IN THE AMOUNT OF \$50,143.91**

Motion was made by Council Member Janes to have the City Clerk read Resolution No. 1615-10, as amended, and call the roll for adoption. Motion was seconded by Council Member Knickerbocker.

Roll Call

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

No: Council Member Lyng - 1

Absent: -0-

Motion to read carried.

Roll Call

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

No: Council Member Lyng - 1

Absent: -0-

Mayor Hark declared Resolution No. 1615-10, as amended, duly approved and adopted on this date.

RESOLUTION NO. 1616-10

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AVIATION
PROJECT CONSULTANT AGREEMENT WITH CRAWFORD, MURPHY & TILLY,
INC TO PROVIDE PROFESSIONAL SERVICES FOR THE CONSTRUCTION OF A
TERMINAL ACCESS ROADWAY AND PARKING LOT AT THE HANNIBAL
MUNICIPAL AIRPORT IN THE AMOUNT OF \$17,927.77**

Motion was made by Council Member Knickerbocker to have the City Clerk read Resolution No. 1616-10, and call the roll for adoption. Motion was seconded by Council Member Barta. Council Member Lyng pointed out that, when the motion is made to read a resolution. A Council Member, such as himself, could approve the *reading* of the resolution; however, not vote to approve said resolution.

Roll Call

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

No: Council Member Lyng - 1

Absent: -0-

Mayor Hark declared Resolution No. 1616-10 duly approved and adopted on this date.

RESOLUTION NO. 1617-10

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER NO 3 WITH BLEIGH CONSTRUCTION RESULTING IN AN INCREASE AMOUNT OF \$5,581.77 FOR ADDITIONAL WORK NEEDED FOR THE WEST ELY ROAD IMPROVEMENT PROJECT

Motion was made by Mayor Pro Tem Behymer to have the City Clerk read Resolution No. 1617-10, and call the roll for adoption. Motion was seconded by Council Member Knickerbocker. In answer to Council Member Louderman's question regarding the number of change orders that were approved, regarding the West Ely Road Project, the response was (3). Louderman then questioned the dollar amount involved in all change orders, combined. That exact amount was not known; however, it was estimated at approximately \$25,000, which is less than 5% of the entire project.

Rees agreed with Louderman, stating that when he accepted the City Engineer position he made a commitment to keep change orders to a minimum. He explained that he had met with the Mayor and City Manager 3-4 months ago to look at the plans for this project. He noted that he had some issues at that time; however, they (the Mayor, the City Manager and Rees) were anxious to get the project implemented. Since Council had generously allowed him ample time, he knew that the Department would be able to bring the project to completion.

Rees itemized the change orders that had been approved for the project. They were:

- Omissions from the Plans (specifically, tree removal)
- Driveway Labeling (concrete vs. asphalt)
- Undergrading Problems

Rees concluded by saying that, although he promised to keep change orders to a minimum, there would probably be a few more driveways and undergrading issues.

Roll Call

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

No: Council Member Lyng - 1

Absent: -0-

Mayor Hark declared Resolution No. 1617-10 duly approved and adopted on this date.

RESOLUTION NO. 1618-10

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT ADDENDUM WITH RUBISON APPRAISAL SERVICE IN THE AMOUNT OF \$1,700 FOR APPRAISAL SERVICES RELATIVE TO THE FLOOD BUYOUT PROGRAM

Motion was made by Council Member Louderman to have the City Clerk read Resolution No. 1618-10, and call the roll for adoption. Motion was seconded by Council Member Janes.

Roll Call

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

No: -0-

Absent: -0-

Mayor Hark declared Resolution No. 1618-10 duly approved and adopted on this date.

BILL NO. 10-001

AN ORDINANCE VACATING A TRACT OF LAND LYING IN PART OF LOT 4 OF ORCHARD POINT SUBDIVISION IN THE CITY OF HANNIBAL, MARION COUNTY, MISSOURI

FIRST READING

Motion was made by Mayor Pro Tem Behymer to give Bill No. 10-001 a first reading. Motion was seconded by Mayor Hark.

Motion carried.

CLOSED SESSION

In Accordance with RSMo. 610-021 (1) & (2)

At this time, Mayor Hark entertained a motion to go into closed session, in accordance with RSMo 610-021, subparagraphs 1 and 2, admitting himself, the rest of Council, City Manager LaGarce, City Attorney Lemon, City Clerk Angelica Vance and Chris Atkinson, Director of Parks & Recreation. Motion was made to go into closed session as Mayor Hark directed by Council Member Louderman. Motion was seconded by Council Member Knickerbocker.

Council Member Lyng voiced some concerns regarding one topic to be discussed during closed session. The City Attorney explained that he had reviewed all the issues to be discussed and all met closed session guidelines. Lyng referenced open minutes of the Park Board, discussing the property, as well as the pricing per acre. Lemon responded that, as long as it is a subject that is specifically addressed under the sunshine law that Council has allowed to close the meeting for, it would not necessarily constitute the vote to be closed.

Council member Behymer excused himself from the portion of the meeting, due to illness.

Roll Call

Yes: Council Members Louderman, Knickerbocker, Janes and Barta - 4

No: Mayor Pro Tem Behymer, Council Member Lyng and Mayor Hark - 3

Absent: Council Member Behymer - 1

Motion carried.

OPEN SESSION

Motion was made by Council Member Janes to return to open session. Motion was seconded by Council Member Louderman

Roll Call

Yes: Council Members Louderman, Lyng, Janes, Barta and Mayor Hark – 5

No: Council Member Knickerbocker - 1

Absent: -0-

Motion carried. .

ADJOURNMENT

Motion was made by Council Member Knickerbocker to adjourn. Motion was seconded by Council Member Lyng.

Motion carried.

