

OFFICIAL COUNCIL PROCEEDINGS

March 2, 2010
7:00 p.m.

ROLL CALL

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

Absent: -0-

CALL TO ORDER

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

INVOCATION

Council Member Louderman gave the invocation.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Barta.

APPROVAL OF MINUTES

Closed Session Council Meeting – October 6, 2009
Closed Session Council Meeting – November 3, 2009
Closed Session Council Meeting – November 17, 2009
Regular Council Meeting – February 16, 2010

Motion was made by Mayor Pro Tem Behymer to approve the minutes of the Closed Session meetings that were held on October 6, 2009, November 3, 2009, November 17, 2009 and the regular Council Meeting of February 16, 2010. Motion was seconded by Council Member Louderman.

Motion carried.

APPROVAL OF PAYROLL AND CLAIMS
Second Half – February, 2010

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

Motion carried.

JEFF LAGARCE – CITY MANAGER
Re: Recommendation of Appointment

City Manager Jeff LaGarce made the following recommendation:

HISTORIC DEVELOPMENT DISTRICT COMMISSION

- Sarah North – Appointment of an unexpired term to expire, May, 2014

LaGarce explained that this appointment was necessary because of the resignation by Robert Saxbury. This nomination will be considered for approval at the next regular Council meeting.

Re: Bond Counsel for Street Bond Issue – Legal Agreement

Cunningham, Vogel & Rost, P.C.
(Resolution No. 1631-10, to follow)

Next, City Manager LaGarce presented the recommendation for approval of a legal agreement with Cunningham, Vogel & Rost, P.C. to serve as bond counsel for the proposed street bond issue. LaGarce added that Cunningham, Vogel & Rost did the bond work in 2008, this being the final portion of that two-part \$5.1 million endeavor. The agreement with Cunningham, Vogel & Rost would be approved with the approval of Resolution No. 1631-10, to follow. This firm is familiar with the project, according to LaGarce, who added that they are one of the premier municipal bond attorneys in Missouri.

DOUG WARREN – DIRECTOR OF FINANCE

Re: Five Year Capital Improvement Plan

(Resolution No. 1629-10, to follow)

Doug Warren, Director of Finance, introduced the next item on the agenda, the approval of the Five-Year Capital Improvement Plan. He added that the Planning & Zoning Commission had held a public hearing recently to discuss and review this program for FY2010/15 proposed improvements. He explained that this was merely a 'game plan', adding that, at this time, nothing was set in stone. This is a \$28 Million program that will span a 5-year period, according to the Finance Director. Funding for these improvements would come from various income sources, such as:

- Sales Tax (through the General Fund)
- Property Tax (through the General Fund)
- Bonds
- Grants

The Five Year Capital Improvement Plan would be approved with the approval of related Resolution No. 1629-10, to follow.

JAMES LEMON – CITY ATTORNEY
Re: Department of Natural Resources – Settlement Agreement
(Resolution No. 1628-10, to follow)

The next item on the agenda was the introduction of Resolution No. 1628-10, by City Attorney James Lemon. Lemon explained that this resolution was regarding approval of a settlement agreement with the Missouri Department of Natural Resources for alleged violations regarding asbestos contamination, during the renovations at the new Fire Department Administration Building on Palmyra Road. Terms of this agreement include the payment of a \$1,000 civil fine to the public schools within Marion County, according to the City Attorney.

ANGELICA VANCE – CITY CLERK
Re: Request, Set Public Hearing – Article of Impeachment
March 23, 2010 – 6:00 p.m.

In the absence of the City Clerk, Deputy City Clerk Rebecca Graves presented the next agenda item, a request to set a public hearing on March 23, 2010. Graves explained that recently, written charges for the impeachment of Fire Chief Tim Carter were filed with the Clerk's office by Council Members Jason Janes and Barry Louderman. She asked that a Special Called Council Meeting be scheduled for March 23, 2010 at 6:00 p.m. to hear said charges, subject to the availability of the Judge. The request was made in accordance with provisions of the City Charter, Section 18.08. Council Member Knickerbocker made a motion to set a Special Called Council Meeting on March 23, 2010 at 6:00 p.m., subject to the availability of the Judge. Motion was seconded by Mayor Pro Tem Behymer.

During the time of discussion, Council Member Lyng asked that this process be explained. Council Member Janes requested that he and Council Member Louderman be excused from the discussion; however, Council Member Knickerbocker suggested that Lyng's question be answered, adding that the City Charter mandates how this process is completed. He then listed these steps as outlined in the Charter, Section 18.08 entitled '*Impeachment*'.

Council Member Lyng queried whether or not the City Attorney would advise Council in these proceedings. City Attorney responded that, as the Charter specifies, he (the City Attorney) would be the counsel for the Fire Board, adding that the Judge would advise Council on the City's behalf. Council Member Lyng suggested that, instead of placing the Fire Chief on paid administration leave, if there was wrongdoing on his part of which there was just cause for impeachment, he should have been terminated or demoted when this occurred.

The City Attorney answered that Chief Carter has certain rights of due process as a City employee and an officer of the City. He added that, during the hearing, Council would have the chance to hear all evidence against Carter, as well as, hear from Carter and his Attorney, regarding Carter's side of the story. Lyng argued that, if the City had just cause for terminating Carter, this could have done and he still would have still been able to follow due process, as a terminated employee, as well as a paid employee who doesn't come to work.

City Attorney Lemon explained that there is a particular process that is required for the Fire Chief to be removed from office instead of termination as set up for other employees. These

are outlined in the City Charter, according to the City Attorney. He assured Council that, when all evidence is presented, the reason the process was handled in this way will be clearer. He added that he would not be comfortable sharing specifics in fear of prejudicing the case, since Council Member Lyng (and the rest of Council) would be the ‘Trier of Fact’.

The question arose regarding whether or not the Fire Board has the authority to fire the Fire Chief. Lemon responded that, in his opinion, although the Fire Board does not have the authority to terminate the Fire Chief, directly, it has the authority to **remove** the Fire Chief from office. In this instance, according to the Charter, he would return to shift.

City Attorney Lemon said that the only thing to happen if the hearing were approved would be that Fire Chief Carter would be served with a certified copy of the charges of impeachment. He continued by saying that, if Council votes in the Fire Board’s favor, during the hearing, Carter would be removed from office and from employment with the City; however, if Council were to vote in Chief Carter’s favor, he would remain in his present position.

In response to a question by Mayor Hark, the City Attorney explained that, if a hearing date was set, Chief Carter would be served with the charges being brought against him on March 3rd (the day following tonight’s Council meeting).

At this time, although the City Attorney would divulge the charges against Chief Carter if Council directed, he felt it appropriate and advised that charges remain a matter of closed record until Carter has the opportunity to view the charges made against him. Mayor Pro Tem Behymer asked that Council continue with the matter at hand, setting the date for the special call meeting. Mayor Hark reminded Council of the motion and second for setting the hearing.

Roll Call

Yes: Council Members Barta, Mayor Hark, Mayor Pro Tem Behymer and Council Member Knickerbocker - 4

No: Council Member Lyng – 1

Abstain: Council Member Janes and Louderman – 2

Motion carried. Special Call meeting was set for March 23, 2010 at 6:00 p.m. in Council Chambers, subject to the availability of the Judge. It was noted that Mayor Hark would notify Judge Cruse.

CHRIS ATKINSON – DIRECTOR, PARKS & RECREATION
Re: Admiral Coontz Armory Roof Rehabilitation – Design Contract

Poepping, Stone, Bach & Associates
(Resolution No. 1630-10, to follow)

Chris Atkinson, Director of Parks & Recreation presented the final item on the agenda, approval of a design contract for roof rehabilitation at the Admiral Coontz Armory. Atkinson explained that last September, Council approved his request to enter into a contract with Poepping, Stone, Bach & Associates to perform a comprehensive study of the Admiral Coontz Armory. Results of this report were received in February and, according to Atkinson, recommendations included repair/replacement of the roof on the Armory Building, POP’s Club portion and the lobby area. With Council approval, this will be Phase One of renovations that

will bring the Armory up to code. He asked Council to approve Resolution No. 1630-10, to follow, that would approve the contract with PSBA in the amount of \$9,500 for design work of the three separate roofs.

RESOLUTION NO. 1626-10

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR THE SALE OF REAL ESTATE BETWEEN THE CITY OF HANNIBAL, PARKS AND RECREATION DEPARTMENT AND WAUNITA D. BOWEN FOR THE PURCHASE OF PROPERTY KNOWN AS 911 WABASH, IN THE AMOUNT OF \$27,000 PLUS UNKNOWN CLOSING COSTS FOR THE PURPOSE OF EXTENDING THE BOUNDARIES OF RIVERVIEW PARK

Motion was made by Council Member Janes to have the City Clerk read Resolution No. 1626-10, and call the roll for adoption. Motion was seconded by Council Member Barta.

Motion carried.

Roll Call

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

No: -0-

Absent: -0-

Mayor Hark declared Resolution No. 1626-10, duly approved and adopted on this date.

RESOLUTION NO. 1628-10

A RESOLUTION OF THE CITY OF HANNIBAL, MISSOURI, APPROVING A SETTLEMENT AGREEMENT BETWEEN THE CITY OF HANNIBAL FIRE DEPARTMENT AND THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

Motion was made by Mayor Pro Tem Behymer to have the City Clerk read Resolution No. 1628-10, and call the roll for adoption. Motion was seconded by Council Member Knickerbocker.

Motion carried.

Roll Call

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

No: -0-

Absent: -0-

Mayor Hark declared Resolution No. 1628-10, duly approved and adopted on this date.

RESOLUTION NO. 1629-10

A RESOLUTION OF THE CITY OF HANNIBAL, MISSOURI, APPROVING AND ADOPTING THE FIVE YEAR CAPITAL IMPROVMENT PROGRAM 2010-2015 FOR THE CITY OF HANNIBAL, MISSOURI

Motion was made by Council Member Louderman to have the City Clerk read Resolution No. 1629-10, and call the roll for adoption. Motion was seconded by Council Member Knickerbocker.

Motion carried.

Roll Call

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

No: Council Member Lyng - 1

Absent: -0-

Mayor Hark declared Resolution No. 1629-10, duly approved and adopted on this date.

RESOLUTION NO. 1630-10

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN ENGINEERING/ARCHITECTURAL SERVICE AGREEMENT BETWEEN THE CITY OF HANNIBAL, PARKS & RECREATION, AND POEPPING, STONE, BACH & ASSOCIATES IN THE AMOUNT OF \$9,500 FOR THE PURPOSE OF A ROOF REHABILITATION AT THE ADMIRAL COONTZ ARMORY

Motion was made by Council Member Barta to have the City Clerk read Resolution No. 1630-10, and call the roll for adoption. Motion was seconded by Mayor Pro Tem Behymer.

Motion carried.

Roll Call

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

No: -0-

Absent: -0-

Mayor Hark declared Resolution No. 1630-10, duly approved and adopted on this date.

RESOLUTION NO. 1631-10

A RESOLUTION AUTHORIZING THE ENGAGEMENT OF BOND COUNSEL IN CONNECTION WITH THE ISSUANCE BY THE HANNIBAL MUNICIPAL ASSISTANCE CORPORATION OF SERIES 2010 LEASEHOLD REVENUE BONDS ON BEHALF OF THE CITY OF HANNIBAL; AND PROVIDING FURTHER AUTHORITY

Motion was made by Council Member Louderman to have the City Clerk read Resolution No. 1631-10, and call the roll for adoption. Motion was seconded by Council Member Barta.

Motion carried.

Roll Call

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

No: -0-

Absent: -0-

Mayor Hark declared Resolution No. 1631-10, duly approved and adopted on this date.

BILL NO. 10-003

AN ORDINANCE OF THE CITY OF HANNIBAL ESTABLISHING BID GUIDELINES FOR THE PURCHASE OF ADVERTISING BY THE HANNIBAL CONVENTION AND VISITOR'S BUREAU

SECOND AND FINAL READING

Motion was made by Council Member Louderman to give Bill No. 10-003 a second and final reading and call the roll for adoption. Motion was seconded by Council Member Knickerbocker.

Motion carried.

Roll Call

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

No: -0-

Absent: -0-

Mayor Hark declared Bill No. 10-003, duly approved and adopted on this date.

ADJOURNMENT

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

Motion carried.