

## NOTICE OF PUBLIC HEARING

September 21, 2010  
6:45 p.m.

### CALL TO ORDER

At 6:45 p.m., the appointed time, Mayor Hark called the public hearing to order.

#### **DOUG WARREN – FINANCE DIRECTOR** **Re: 2010 Ad Valorem Property Tax Rates**

Finance Director Doug Warren stated that the reason for the public hearing was to consider the 2010 property tax rate, required to be re-evaluated each year. He explained that the final documentation had been received from the Missouri State Auditor, certifying a total tax rate ceiling of \$1.2250 per \$100 of assessed value adding that this amount was staff's recommendation for 2010, totaling a 7/10 of a cent increase over last year's levy of \$1.2180. He continued by saying that on a medium dwelling in Hannibal (approximate value of \$89,000) the increase in property tax would be \$1.19. Warren stated that properties have been assessed by Marion and Ralls Counties and, even though the assessed values of local properties grew slightly; they still lagged behind the statewide average. This caused a slight bump in Hannibal's 2010 ceiling.

The recommendation for the 2010 tax rate of \$1.2250 per \$100 of assessed value would result in a gross revenue impact of slightly more than \$132,000, whereas, readopting the current levy would result in a property tax increase of \$118,761. The \$132,000 amount is in line with the Hancock Amendment that prohibits growth beyond the rate of CPI (consumer price index) in total dollars received. Bill No. 10-033 would approve the recommendation to the ceiling, or \$1.2250 per \$100 of assessed value. Warren said that he would answer any questions from the public at this time.

### PUBLIC COMMENTS

Mayor Hark asked if there were any questions or comments from those in attendance. Hallie Yundt-Silver, Librarian of the Hannibal Public Library asked to speak.

Ms. Yundt-Silver explained that the Library Board discussed the tax rate at their recent meeting and reminded Council that the library is capped and any increase will not affect their tax rate. The Board, according to Yundt-Silver, needs to see the maximum amount allowed by the Hancock Amendment

### ADJOURNMENT

There being no other comments for or in opposition to the proposed 2010 Ad Valorem Property Tax Rates, Mayor Hark adjourned the public hearing.

# OFFICIAL COUNCIL PROCEEDINGS

September 21, 2010  
7:00 p.m.

## ROLL CALL

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

**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 Barta led the Pledge of Allegiance to the Flag.

## APPROVAL OF MINUTES Regular Council Meeting – September 7, 2010

Motion was made by Council Member Louderman to approve the minutes of the last regular Council meeting that was held on September 7, 2010. Motion was seconded by Council Member Hark.

Motion carried.

## APPROVAL OF PAYROLL AND CLAIMS First Half – September, 2010

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

Motion carried.

**LYNDELL DAVIS – CHIEF OF POLICE**  
**Re: Request, Jury (Uri) Retirement – Transfer Ownership**

Police Chief Lyndell Davis explained that his first agenda item was regarding a request for approval to retire Jury, the senior canine with the Hannibal Police Department. Jury was in attendance, along with his partner, Sergeant Michael Routh, who recently returned from military leave in Afghanistan. As is the goal of most officers, they wish to someday retire to a less stressful and demanding lifestyle. This reality is no different for the K-9s that the department utilizes. With the arrival of the force's newest K-9, Charger, and Sergeant Routh has returned from active duty with the National Guard, it is time to retire his K-9 partner, Jury.

In order to accomplish this goal, Chief Davis requested Council approval to allow Sergeant Routh and his family to be the legal owners of Jury. Davis assured Council that this was customary practice of HPD, and will allow the K-9 to enjoy his remaining years with the family of which he is already a part. Motion was made by Mayor Hark to approve Chief Davis' request. Motion was seconded by Council Member Louderman.

Motion carried. Council Member Dobson thanked Routh for his service to Hannibal and to the Country.

**Re: Dangerous Dog Ordinance**

Davis continued by reminding Council that the Mayor had recently directed him to look into the concerns of Susan Shubert, a local mail carrier, regarding dangerous dogs.

Since that time, after much research, he is of the opinion that improvement of this issue should not include banning specific breeds, an opinion shared by the City Attorney. He explained that, instead, he chose to begin updating the current dangerous dog ordinance, which had not been modified since 1990. During his research, he also sought input from the department's animal control officers.

Davis continued by saying that one ordinance he found to be helpful was from Bridgeton, MO, a community with similar population, also with two full-time animal control officers. He distributed a copy of the modified ordinance, which had been reviewed by the City Manager and the City Attorney, as well. Davis added that he had also discussed these changes with Ms. Shubert. He summarized the proposed changes:

- Dogs declared dangerous will be prohibited from being sold or given away to anyone who resided within the City limits.
- All offspring born of a dangerous dog within the City must be removed within two (2) months of their birth and cannot be sold or given away to anyone who resides within the City limits.
- A dangerous dog database will be developed to track current and future owners/keepers of dogs declared dangerous so that animal control and police officers can be immediately informed of such declarations when responding to residence or investigating the owner or have received a complaint on the animal. The Dangerous Dog database will be incorporated within the current LAWMAN database that already has an extensive accumulation of contacts the department has made over the past eight years.

- The classifications used to describe the actions of a dog under consideration to be determined dangerous would now be used independently of one another instead of as in some case currently where there is tendency to consider them as a set of standards that need to be met in order to insure a permanent declaration of a dangerous dog.
- The process of declaring a dangerous dog would continue to start with the police department (Chief of Police), but the appeal would be streamlined to just the City Manager, instead of requiring a board be convened of the City Manager, Chief of Police and Director of the Northeast Missouri Humane Society. In addition, the City Council has been added as the final step to render as needed final disposition concerning appeals. This helps insure that public needs on all sides of the issue are being considered.
- The appeal process would now allow the victim of the dog in question to have a say. If the City Manager were to revoke the Dangerous Dog declaration, the victim of the dog in question could appeal the decision to the City Council.

Davis explained that, instead of scrapping the current ordinance, he had attempted to upgrade and modify it.

During a meeting with Susan Shulbert, the mail carrier, she expressed her desire to see a ban on tethering animals, in general. She would also like to see an increase in related fines and place the burden on irresponsible pet owners to solve these problems.

Council Member Dobson questioned how dangerous dogs could be identified in the event of future incidents. Digital photos would be on file of any dogs deemed dangerous (a list of characteristics could be included). Generally, Animal Control can identify these animals, as well, similar to procedures taken for other suspects. Chief Davis stated that there is no perfect solution, but this would allow HPD to deal with these irresponsible pet owners much more effectively than was possible in the past.

In response to a question posed, Davis responded that currently, the database is regarding individual cases; however, Davis would like to see input with regard to incidents, allowing the department to be more aggressive in dealing with dangerous animals. This new system would allow for input regarding a problem where an individual gives the subject dog away to friends or relatives, moving it around town. This ordinance should help to curtail this activity.

Davis concluded by explaining that the ordinance would be brought back to Council for a first reading in October.

**RICH LILIE – MISSY’S TRANSPORTATION**  
**Re: Request, Waive Window Tinting Restriction on Taxi Cab**

At this time, Mayor Hark recognized Rich Lilie, of Missy’s Transportation, who came forward, introduced himself and stated his purpose for appearing before Council. He requested Council consideration of his request to waive the window tinting restriction on taxi cabs and consider changing the related ordinance for same. He explained that the current ordinance is vague and does not include specifics with regard to the amount of window tint that is acceptable; therefore, his desire was that Council change the current requirements, making them similar to state regulations, which is 5% on back windows and 45% on front.

He referenced some of his passengers such as women from the shelter on Church Street who wish to remain anonymous and a number of seniors, who have eye and skin conditions, adding that they were the primary reason for his request.

Lilie stated that he owned his own vehicle and has been operating it as a cab for the past eighteen months. He said that he had passed three prior inspections; however, his last inspection was failed because of window tinting which is not specifically stated in the city ordinance, which only requires that the occupant must be visible from the outside.

When asked to address Mr. Lilie, regarding this issue, Police Chief Davis responded that since it was drafted in the 1990's, he did not know the original intentions behind this ordinance; but he did offer some suggestions, including safety issues for police officers. Chief Davis explained that suspects can use a taxi to evade the police.

Mayor Pro Tem Knickerbocker asked how this ordinance applied to minivan's window tinting. The Chief responded that he believed Knickerbocker was referring to front-side windows.

Lilie explained that the ordinance does not specify front, side or rear windows, but only requires a visible 'occupant' from the outside. This presents a problem, according to Mr. Lilie, in situations that require a passenger's anonymity, such as a battered woman from the Church Street shelter. He added he only wanted the City ordinance to reflect state statutes and stated that he had no history of violent felonies; therefore, police had no reason for suspicion toward any of his passengers.

Council Member Barta responded that the City's current ordinance did mirror state requirement, so there was no reason to modify it.

Mr. Lilie, referenced Police Officer Porter, stating that she makes up the 'rules' as she goes, because of window tint, she would not pass his vehicle; therefore, he was requesting a waiver in order that his vehicle could pass City inspection and he could continue working.

In response, Chief Davis produced a photo that had been provided by Porter, of Mr. Lilie's vehicle. Davis pointed out that the vehicle's front window did not meet state requirements. Lilie explained that he did revise the front tint, but had been unable to get it re-inspected.

When questioned, regarding Lilie's allegations, Davis responded that no license could be issued because of other traffic violations, but that is a separate matter. If he complies with state and City requirements, he would be able to have his vehicle inspected.

With this in mind, Mayor Pro Tem Knickerbocker stated that Mr. Lilie does not need a waiver; therefore, no action was needed, at this time.

**FRANCIS FOUBESTER – AMERICAN LEGION RIDERS**  
**Re: Request, Street Closure – Annual Veterans Day Parade**  
*November 6, 2010*

Mr. Mike Battles, representing the American Legion Riders and appearing in place of Francis Foubester, presented the next agenda item to Council, at this time. This was a request for street closure during the Annual Veterans Day Parade, to be held on Saturday, November 6, 2010, beginning at 12:00 noon until the completion of the parade as had been done in the past.

Motion was made by Mayor Pro Tem Knickerbocker to approve Battles' request. Motion was seconded by Council Member Louderman.

Motion carried.

**ROY G. HARK – MAYOR**

**Re: Approval of Appointments**

**HANNIBAL CONVENTION & VISITOR'S BUREAU**

- Beth Knight – Re-appointment for a term to expire September, 2015

**TREE BOARD**

- Ed Tamerius – Re-appointment for a term to expire September, 2013

Mayor Hark reminded Council of his recommendation to re-appoint Beth Knight to serve a term to expire in September, 2015 on the Hannibal Convention & Visitors Bureau and to re-appoint Ed Tamerius to serve a term to expire September, 2013 on the Tree Board. Motion was made by Council Member Louderman to approve these re-appointments. Motion was seconded by Mayor Hark.

Motion carried.

**Re: Recommendation of Appointments**

Mayor Hark made the following recommendation:

**HISTORIC DISTRICT DEVELOPMENT COMMISSION**

- Dena Ellis – Appointment for an un-expired term to expire May, 2015

This nomination will be considered for approval at the next regular Council meeting. Then Mayor Hark made another recommendation:

**AIRPORT ADVISORY BOARD**

- Dick Rupp – Appointment for a term to expire September, 2013

This nomination will also be considered for approval at the next regular Council meeting.

**BARRY LOUDERMAN – 4<sup>TH</sup> WARD COUNCIL MEMBER**

**Re: Improper Parking – Streets & Yards**

The next item on the agenda was presented by Barry Louderman, Council Member of the Fourth Ward and was concerning improper parking of vehicles. He began by distributing copies of an ordinance from Quincy, Illinois that addressed the issue of parking vehicles, boats, RV's, trailers and construction equipment front yards and along streets within city limits.

Louderman explained that, recently, he had received numerous calls with regard to this issue, adding that Council Members Dobson and Barta had indicated that they were also currently receiving calls of this nature. He noted that Council Member Dobson had copies of a similar ordinance from a community in Texas, as well.

Louderman explained that in certain areas within the City, vehicles such as this were parked along yards or in driveways past the acceptable time allowed for temporary parking. He said that he realized there were extenuating circumstances that occasionally made it necessary to park in this way; however, he believes that, if Hannibal is attempting to move forward with clean-up of the City, then this issue must be an area of focus.

Louderman said that he believes the roads are too narrow, with this occurring, to allow for emergency vehicles. He did note that he was anxious to see what the task force will recommend, whether it is a charter or code change, but explained that there are streets within the City limits that are paved from sidewalk to sidewalk and still do not allow for more than one vehicle to pass at the same time because of the various vehicles and/or equipment parked there. The presence of these vehicles limit the Street Department's ability to clean or sweep the street. He would like to see a stronger ordinance to deal with this problem. He continued by saying that, obviously, some type of permit would have to be offered for those who have no other place to park their vehicles.

Mayor Pro Tem Knickerbocker agreed that this was a good idea, adding that he has had concerns regarding boats being parked in front of homes. He said that, additionally, after driving around and viewing various parking problems, he sees many areas throughout the City where citizens, who have more vehicles than they can accommodate, have parked on streets in front of their homes. Some people have un-approved driveways that are gravel and a part of their front yard. These are all valid concerns; however, Knickerbocker's main concern was for citizens who are unable to afford an improvement to their parking situation. In making these requirements, he wanted to refrain from placing unintentional hardships on those citizens who were financially unable to comply.

Louderman expressed his desire to present a proposal at a future Council meeting.

**JEFF LAGARCE – CITY MANAGER**  
**Re: Voluntary Transfer & Acquisition for Condemned Properties**  
**& Criterion for Future Use**  
*(Bill No. 10-031, to follow)*

City Manager LaGarce advised Council that Bill No. 10-031, regarding voluntary transfer and acquisition of condemned property and criterion for future use, was scheduled for a first reading, later on, during the meeting. LaGarce explained that this would allow for a peaceful transfer of property to the City who, then, has a right to refuse. Properties will be prioritized in the following way:

1. Rehabilitation within six months (completion within eighteen months)
2. New construction within six months (completion within eighteen months)
3. Public amenity (Public parking, restoration etc.)
4. Private amenity (Split between neighbors)
5. Catalyze the displacement of blight with re-investment

This process would prevent properties for going into tax forfeiture. LaGarce assured Council that he had no desire to enhance the City's property ownership, but this ordinance will provide an opportunity to obtain these properties, sell them, marginally, to an investor to improve the structure or rebuild, abating a hazardous structure. He added that this could be a new economic tool to stimulate infill development.

Before presenting items on the agenda, City Engineer Mark Rees announced that he had a pre-construction meeting with MacGruder Construction regarding the milling and overlay of Palmyra Road earlier in the day. He explained that the milling process is scheduled to begin on September 30<sup>th</sup> and the overlay will commence on October 1<sup>st</sup> or 2<sup>nd</sup>. He planned to have a press release in order to urge the public to avoid this area during those dates.

**MARK REES – CITY ENGINEER**

**Re: Hannibal Municipal Airport Terminal Construction – Form of Contract Agreement**

*Bleigh Construction*

*(Resolution No. 1680-10, to follow)*

Rees' first item on the evening's agenda was a request to approve Resolution No. 1680-10, to follow, that would allow the Mayor to execute a contract agreement between the City of Hannibal and Bleigh Construction for construction of the Hannibal Municipal Airport Terminal. He reminded Council that Bleigh was approved as the successful low bidder at the last City Council meeting, held on September 7<sup>th</sup>.

Bleigh's original bid totaled \$533,000; however, as the result of negotiations with Bleigh, three items were eliminated and/or changed to reduce the contract to within budget and an appropriate construction contingency of 5%. These three items were acoustic tile, lighting fixtures and signage for a savings of \$9,720.00.

The initial amount of the contract to be approved with Resolution No, 1680-10, according to Rees, will be \$533,000; however, immediately following the execution, a change order will be issued to eliminate the three items, reducing the contract amount to \$523,280.00. This will allow the project to begin with the appropriate contingency. If, as the project develops, it is found that the contingency is not needed, any or all of these items may be reconsidered for reinstatement.

The City will pay 5% of this project, with the remaining 95% to be paid through the receipt of a State Aviation Trust Fund Grant.

**Re: Hannibal Municipal Airport Terminal Construction Observation – Aviation Project  
Consultant Supplemental Agreement No. 1 – Construction Services**

*Crawford, Murphy & Tilly*

*(Resolution No. 1681-10, to follow)*

Rees explained that his second agenda item was concerning the construction observation that is a state requirement for the Municipal Airport Terminal project. He continued by saying that Crawford, Murphy & Tilly has made a proposal to complete this work for \$31,000.00. The City of Hannibal will receive State Aviation Trust Fund Grant funding of 95/5% for this portion of the project, as well. The City will be responsible for 5% of the cost. The approval of Resolution No. 1681-10, to follow, would also approve this contract with Crawford, Murphy & Tilly.

**Re: Hannibal Municipal Airport Access Road & Parking Lot – Form of  
Contract Agreement**

*Bleigh Construction*

*(Resolution No. 1682-10, to follow)*

Recently, the Department of Public Works opened sealed bids for the construction of an access road and parking lot to be located at the Hannibal Municipal Airport; and, according to the City Engineer, Bleigh Construction was the apparent low bidder, with a bid amount of \$158,180.72. In light of this information, Rees, the City Engineer, came before Council with a request for approval, by resolution, to accept them as the successful low bidder, and to allow the Mayor to enter into a contract with them. Rees added that Value Engineering was used to delete a chain-link fence in order to bring the cost of the project within the City's current budget. The approval of Resolution No. 1682-10, to follow, would also approve this contract with Bleigh Construction. The City will receive STIP Grant funding of 90/10% for the construction of said access road and parking lot.

**Re: Hannibal Municipal Airport Access Road & Parking Lot Construction Observation  
– Aviation Project Consultant Supplemental Agreement No. 1 – Construction Services**

*Crawford, Murphy & Tilly*

*(Resolution No. 1683-10, to follow)*

Rees explained that the construction observation of the Municipal Airport access roadway and parking lot was mandated by the state and Crawford, Murphy & Tilly submitted a proposal for \$24,000 to complete this work, as well. Rees added that he had briefly considered completing this work since the DPW has two qualified employees, in-house; however, since the City share was only 10%, or \$2,400, considering the disruption that this project would cause, staff opted to hire CMT to complete the observation.

Rees concluded by saying that, with much juggling, the project is within the budgeted amount, with a slight contingency. He recommended approval of each of these Resolutions when they are considered, later in the meeting.

In response to a question posed by Council Member Lyng, Rees responded that \$37,000 was budgeted to cover the City's portion of these projects and the Hannibal Industrial Development Association committed an additional \$15,000.00 to supplement that amount. This will allow the City to meet the local share; however, if those funds become unavailable because of a street issue or occurrence of something else, the situation would be a difficult one. According to Rees, several things would transpire. First, the project would come to a halt, but that would not reduce the City's obligation for a portion of the money, at least some of the expended funds would have to be repaid.

Lyng questioned if money from other capital projects could be applied toward the City's match. Rees stated that he didn't believe this could be done, since these are all stand-alone projects in the eyes of the state. The City is allocated \$150,000 per year of funding which can be built up for four years, according to Rees, and they have already been very lenient, since one portion expired, but since a project was already in-process, they allowed leeway. The state is even looking at these projects separately, allowing two different funding sources and two different cost shares.

**DOUG WARREN – FINANCE DIRECTOR**

**Re: 2010 Tax Levy**

*(Bill No. 10-033, to follow)*

Director of Finance, Doug Warren explained that the 2010 tax levy was included in the evening's agenda and Bill No. 10-033, to follow, regarding the approval of this levy would be considered for a first reading. He added that this item was the subject of the public hearing, prior to the regular Council meeting, in which Hallie Yundt-Silver, of the Hannibal Public Library and also, Warren, himself, recommended that the ceiling amount be approved. This amount is 7/10 of a cent more than the amount levied in 2009, or \$1.2250/\$100 assessed value.

**Re: T-mobile Settlement Agreement**

*(Bill No. 10-032, to follow)*

Warren also made a request for Council consideration of Bill No. 10-032, to follow. If approved, this bill would also approve a settlement with T-Mobile. This is being submitted per requirement of the settlement agreement struck in the Circuit Court of St. Louis County where a class action lawsuit was filed by University City and members of the affected class, of which the City of Hannibal was a member. The defendant in the lawsuit was AT&T and T-Mobile. Last year AT&T settled, now T-Mobile is offering in conjunction with the affected class, a settlement. The heart of the case was the under-reporting of gross sales with regard to utility franchise fees.

Warren added that the City's portion of the settlement amount is \$1,819.84; however, T-Mobile has been paying those franchise fees for several months, under protest; therefore, this money had to be set aside. Once the settlement is complete those protested funds would then be released, which totals approximately \$10,000. Bill No. 10-032, regarding this settlement will be considered for a first reading later, during the meeting.

**RESOLUTION NO. 1680-10**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FORM OF CONTRACT AGREEMENT, IN THE AMOUNT OF \$533,000, BETWEEN THE CITY OF HANNIBAL AND BLEIGH CONSTRUCTION FOR THE PURPOSE OF CONSTRUCTING THE NEW TERMINAL AT THE HANNIBAL MUNICIPAL AIRPORT**

Motion was made by Council Member Louderman to have the City Clerk read Resolution No. 1680-10, and call the roll for adoption. Motion was seconded by Council Member Barta.

Motion carried.

**Roll Call**

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

**No:** -0-

Mayor Hark declared Resolution No. 1680-10, duly approved and adopted on this date.

**RESOLUTION NO. 1681-10**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE AVIATION PROJECT CONSULTANT SUPPLEMENTAL AGREEMENT NO. 1 – CONSTRUCTION SERVICES BETWEEN THE CITY OF HANNIBAL AND CRAWFORD, MURPHY, & TILLY FOR THE CONSTRUCTION OBSERVATION SERVICES OF THE NEW TERMINAL AT THE HANNIBAL MUNICIPAL AIRPORT**

Motion was made by Council Member Louderman to have the City Clerk read Resolution No. 1681-10, and call the roll for adoption. Motion was seconded by Mayor Pro Tem Knickerbocker.

Motion carried.

**Roll Call**

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

**No:** -0-

Mayor Hark declared Resolution No. 1681-10, duly approved and adopted on this date.

**RESOLUTION NO. 1682-10**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FORM OF CONTRACT AGREEMENT, IN THE AMOUNT OF \$158,180.72 BETWEEN THE CITY OF HANNIBAL AND BLEIGH CONSTRUCTION FOR THE CONSTRUCTION OF AN ACCESS ROAD AND PARKING LOT FOR THE NEW TERMINAL AT THE HANNIBAL MUNICIPAL AIRPORT**

Motion was made by Council Member Barta to have the City Clerk read Resolution No. 1682-10, and call the roll for adoption. Motion was seconded by Council Member Dobson.

Motion carried.

**Roll Call**

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

**No:** -0-

Mayor Hark declared Resolution No. 1682-10, duly approved and adopted on this date.

**RESOLUTION NO. 1683-10**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AVIATION PROJECT CONSULTANT SUPPLEMENTAL AGREEMENT NO. 1 –**

**CONSTRUCTION SERVICES BETWEEN THE CITY OF HANNIBAL AND  
CRAWFORD, MURPHY, & TILLY FOR THE CONSTRUCTION OBSERVATION  
SERVICES FOR THE ACCESS ROAD AND PARKING LOT AT THE HANNIBAL  
MUNICIPAL AIRPORT**

Motion was made by Council Member Louderman to have the City Clerk read Resolution No. 1683-10, and call the roll for adoption. Motion was seconded by Mayor Pro Tem Knickerbocker.

Motion carried.

**Roll Call**

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

**No:** -0-

Mayor Hark declared Resolution No. 1683-10, duly approved and adopted on this date.

**BILL NO. 10-030**

**AN ORDINANCE VACATING A TRACT OF LAND LYING IN PART OF  
HUBBARD'S ADDITION IN THE CITY OF HANNIBAL, MARION COUNTY,  
MISSOURI**

**SECOND AND FINAL READING**

Motion was made by Council Member Louderman to give Bill No. 10-030 a second and final reading and call the roll for adoption. Motion was seconded by Council Member Hark.

Motion carried.

**Roll Call**

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

**No:** -0-

Mayor Hark declared Bill No. 10-030 duly approved and adopted on this date.

**BILL NO. 10-031**

**AN ORDINANCE ESTABLISHING VOLUNTARY TRANSFER AND ACQUISITION  
PROCEDURES FOR CONDEMNED PROPERTIES IN THE CITY OF HANNIBAL  
AND ESTABLISHING CRITERION FOR FUTURE USE**

**FIRST READING**

Motion was made by Council Member Hark to give Bill No. 10-031 a first reading. Motion was seconded by Council Member Barta.

Motion carried.

**BILL NO. 10-032**

**AN ORDINANCE OF THE CITY OF HANNIBAL, MISSOURI, APPROVING  
AND ACCEPTING A SETTLEMENT AGREEMENT WITH T-MOBILE**

**FIRST READING**

Motion was made by Council Member Louderman to give Bill No. 10-032 a first reading. Motion was seconded by Council Member Barta.

Motion carried.

**BILL NO. 10-033**

**AN ORDINANCE FIXING AND ADOPTING THE RATE OF TAXATION FOR THE  
YEAR OF 2010 AND  
LEVYING TAXES THEREFORE**

**FIRST READING**

Motion was made by Council Member Louderman to give Bill No. 10-033 a first reading. Motion was seconded by Council Member Barta.

**Roll Call**

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

**No:** Council Member Lyng - 1

Motion carried.

**CLOSED SESSION**

*In Accordance with RSMo. 610-021 (1) & (3)  
Potential Litigation  
Employee Personnel*

At this time, Mayor Hark entertained a motion to go into closed session in accordance with RSMo 610-021, sub-paragraphs one (1) and three (3), admitting himself, rest of Council, City Manager Jeff LaGarce, City Attorney James Lemon and City Clerk Vance. Motion was made by Mayor Pro Tem Knickerbocker to go into Closed Session, as directed by Mayor Hark. Motion was seconded by Council Member Louderman. (Council Member Dobson requested that Chief Carter and his

Counselor be admitted to the Closed Session, since the outcome would determine the future of his job with the City; however, Mayor Pro Tem Knickerbocker stated that he was not inclined to change his motion.

Council Member Lyng asked if a City employee is an 'at-will' employee. City Attorney Lemon responded that a City employee is probably an 'at-will' employee under Missouri law, unless that employee is under contract that states otherwise. There may also be prior stipulations in the City Charter, as well.

Lyng questioned if there was some particular action being sought by the Closed Session. Council Member Louderman explained that it was for informational purposes only.

Council Member Lyng asked whether Tim Carter would have due process, pending any outcome. City Attorney Lemon responded that, without knowing, specifically, what the Fire Board will do and without knowing what action Council will take, he did not have an answer.

Lyng stated that, assuming the information will be to terminate Chief Carter, will he then have due process. The City Attorney answered that Carter would, indeed, have due process, then Council Member Lyng questioned what the next steps in the process would be.

If this is the action that the Fire Board intends to take and since this is an issue that has already been involved in litigation, Lemon explained that they believe it would be inappropriate for them to take action that would cause additional litigation for the City without apprising City Council, as a whole, of the actions they need to take.

Lyng asked if the next step in due process would be to appeal to Council, as a whole. Council Member Louderman had concern with regard to having this discussion in open session. Again, Lemon stated that, without knowing, specifically, what the Fire Board wishes to disclose in regard to their current actions, he was uncomfortable in saying anything that would taint the process. He continued by saying that, if Lyng's point was that disclosure should be made in public, he had concerns that Carter has certain rights for privacy. If this is to be addressed in open session, he could be allowed to waive those rights, if he wishes.

Council Member Lyng commented that he did not want to go into Closed Session for something that may hurt the City in the future.

Mayor Hark questioned that, if this were a Fire Board decision, did Council have any say in the matter. City Attorney Lemon responded that Council probably does not have any say at this point; however, the Fire Board is subject to administrative oversight by Council. He added that, the City Charter and Code delegate particular actions to the Fire Board, one of those areas being actions related to the Fire Chief.

Mayor Hark noted that, should Council agree with the Fire Board's decision, Carter still has the right to appeal the decision to the Circuit Court. Lemon clarified that anyone who is aggrieved by any decision of any administrative body in the State of Missouri has the ultimate right of review by the Circuit Court in the County wherever that is.

Council Member Hark commented that there is a recourse process outlined on page 79 of the Employee Guide to Success. City Attorney Lemon responded that he was unsure whether or not the Employee Guide to Success governed the Fire Chief. Lemon continued by explaining that, in some cases, the City Charter and Code contradict themselves and both documents pre-date the Employee Guide to Success. The original intent is unclear.

**Roll Call**

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

**No:** -0-

Motion carried.

**OPEN SESSION**

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

Motion carried.

**ADJOURNMENT**

Motion was made by Mayor Hark to adjourn the meeting. Motion was seconded by Council Member Dobson.

Motion carried.