

OFFICIAL COUNCIL PROCEEDINGS

December 20, 2011
7:00 p.m.

ROLL CALL

Present: Mayor Hark, Council Members Louderman, Hark, Draper, Mayor Pro Tem Knickerbocker, Council Members Dobson and Barta - 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

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

Motion carried.

APPROVAL OF MINUTES

Regularly Scheduled Council Meeting – December 6, 2011

Motion was made by Council Member Draper to approve the minutes of the last regular Council meeting that was held on December 6, 2011. Motion was seconded by Council Member Louderman.

Motion carried.

APPROVAL OF PAYROLL AND CLAIMS

First Half – December, 2011

Motion was made by Council Member Dobson to approve the payroll and claims for the first half of December, 2011. Motion was seconded by Council Member Barta.

Motion carried.

JOSHUA CLARK – OWNER/MANAGER - MUGSHOTS
Re: Appeal, Administrative Penalty – Section 3-85 Sale to Minors

Mr. Joshua Clark, requested the appeal of an administrative penalty that was recently issued as the result of two incidents that occurred at Mugshots, a bar owned and managed by Mr. Clark. Clark was cited because Section 3-85 of the Hannibal City Code – *Sale to Minors* was violated on two occasions. He gave details of each incident and explained that the violator of the first incident was negligent and was dismissed as a result of this negligence; however, when speaking of the second incident, Clark said that the employee, who Mr. Clark believed was a good bartender, took all precautions within his ability to avoid sale of liquor to a minor. The minor looked the legal age and had an identification that looked valid, according to Clark, who added that these situations are unfortunate, but happen at every establishment on some occasion.

In speaking of the fine that was issued, Clark indicated that his business, similar to many small businesses, is in a position where a \$500 fine would cause a set-back that he may not be able to overcome. He added that it was his goal to avoid these occurrences, while providing a clean service to those patrons who wish to drink responsibly. Clark said that he makes every effort to make that happen; and, since it is extremely difficult to hire employees that are trustworthy, he has personally taken over most of the duties. In conclusion, Mr. Clark asked that the penalty be forgiven.

Council Member Louderman questioned the procedure for carding patrons. Clark responded that after an individual is carded and purchases an alcoholic beverage, he is usually not carded again throughout the evening, especially if the bartender is very busy. It is not the bar's practice to require identification each time a drink is purchased. Although, Louderman commended Mr. Clark for his training and the termination of the offending bartenders, he did not believe that Council should excuse the fact that a minor was served alcohol in his bar.

Clark responded that the \$500 penalty will potentially close his business. He is being punished by receiving a fine when others are getting away with it when they do not do as much to control this problem.

Mayor Pro Tem Knickerbocker explained the history of the ordinance, how and why it was developed. He added that the prior ordinance was much more strict, involving the revocation of liquor licenses versus administrative penalties. The Hannibal business owners assisted in developing the administrative penalty to avoid creating additional undue hardship to the offending business owner, as opposed to immediately revoking their liquor license and causing them a significant financial hardship. He added that all that was in Clark's letter and what he had stated was merely what he was 'telling' Council. Unfortunately, the only thing that they 'knew' to be fact was two Mugshots employees were convicted of serving liquor to underage individuals.

City Attorney Lemon, when questioned, stated that the bartender plead guilty in both cases. When he reviewed the police report, it indicated that the young man in question made a Mirandized statement that he was playing volleyball, when a suggestion was by his brother that he should purchase an alcoholic beverage, he declined because he was in fear of getting caught; however, he was told by the brother that he could get by with it. Without giving any identification, he was served and continued to be served the entire evening. After he left the bar, he was later apprehended by Police and told them details of where and how he obtained liquor. When the Police suggested he return and attempt to purchase alcohol, he was again successful. Unfortunately, Lemon believes the bartender was not truthful with Mr. Clark, his employer. He told the Police Officer that evening was, "someone else served that kid first, he's been drinking in here all night, I just presumed he was O.K. and that's why I didn't check his ID". Clark's story does not match the story that was told to the Officer when he was taken into custody.

Mr. Clark admitted that, obviously, he had been untruthful in some way, but no one else was on duty that evening. He believed it was possible that the young man who purchased the liquor, then attempted to escape from the Police Officer was not being truthful.

Mayor Pro Tem Knickerbocker questioned Clark's earlier statement that 'two other employees were present and could corroborate his statement'. Clark clarified that the people that could corroborate the story were customers, not employees. They were actually off-duty employees. He contended that something should be done for a business owner who is doing all that he can to be compliant and is not the one in violation.

Council Member Dobson presented a question to City Attorney Lemon, "Is a bar or business owner guilty of serving to a minor if he is presented with an ID, showing that the person is old enough to consume alcohol, even though he may not be?"

Technically, according to the law, the person serving alcohol would be guilty; however, if presented with a good ID and this should happen, it would be unlikely, in Lemon's opinion, that the server would be prosecuted. In this instance, he said that the bartender pled guilty and, according to Lemon, much of the information, regarding the fake ID and the brother, was not included in the Police report.

Clark asked whether or not, during a sting operation, it is allowable to present ID stating that the minor is of legal age to purchase alcohol. Lemon responded that this would not be permitted. Chief Davis agreed and added that state regulations were strictly followed in a sting operation, which did not allow a false ID to be used.

It was noted that the offences occurred four months apart, so there were two convictions in this four month period. Council Member Draper questioned the carding procedure. Counselor Lemon responded that, according to Missouri State Statutes, it is not a requirement to seek identification each time an alcoholic beverage is purchased. If the offender had pled 'Not Guilty' that would have been considered.

Clark stated that, in consideration of the cost of representation, it would be to pay the penalty, even if he believed he had not broken the law. Mayor Hark asked Council if they wished to take action. Since there was no motion, the penalty remained in effect.

MICHAEL GAINES – HANNIBAL ARTS COUNCIL
Re: Request, Street Closure – Downtown Hannibal Art Fair
June 9-10, 2012

Ms. Gayle Viorel appeared n behalf of Michael Gaines to represent the Hannibal Arts Council and request street closure during the upcoming Downtown Hannibal Art Fair, scheduled for June 9-10, 2010. Viorel explained that she had recently submitted a special events application and asked for approval. Motion was made by Council Member Dobson to approve Viorel’s request. Motion was seconded by Council Member Hark.

Motion carried.

ANITA FAILOR – WADE STABLES
Re: 2010/2011 Audit Report

Anita Failor, representing Wade Stables, came before Council to present the City of Hannibal 2010/2011 Audit Report. Failor briefly detailed a few areas of the report. She explained that, according to GASB 45, with regard to post employment benefits, when an employee retires and benefits are offered, other than pension for a survivor, there must be an accounting of the liability involved. In the past, this was not taken into account because of the size of this benefit; however, because of this year’s growth, even though the exact amount has not been determined, it is now believed to be a material amount. Two paragraphs were included that regarded opinions and once the actuary study is completed, an accounting will be made of the amount, according to Failor.

She then reviewed the audit, commenting that there were good increases and all concerns had been addressed. Mayor Pro Tem Knickerbocker commented that Wade Stables had made significant improvements on their findings. In the past here had been major findings that needed improvement; however, current results indicate very minor adjustments are needed. He commended Wade Stables and Failor.

ROY G. HARK – MAYOR
Re: Recommendation of Appointments

Mayor Hark made the following recommendations:

MARK TWAIN HOME BOARD

- Diane Volkmer – Reappointment for a term to expire November, 2018

HANNIBAL CONVENTION & VISITOR’S BUREAU

- Mark Grieshaber – Appointment for a term to expire September, 2016

These nominations will be considered for approval at the next regular Council meeting.

JEFF LAGARCE - CITY MANAGER
Re: Capital Improvement Plan – 2012-2017
(Resolution No. 1806-12, to follow)

City Manager Jeff LaGarce requested Council approval of Resolution No. 1783-11 that would authorize more time on the Hannibal Machine lease. He reminded Council that the City had purchased this property, located at 400 South 11th Street last August but had allowed Hannibal Machine to temporarily lease the facility until another facility could be found. LaGarce added that Mr. Haycraft, the owner of Hannibal Machine, had recently purchased property for construction of a new production facility. Even though this property has been purchased, according to LaGarce, the U.S. EPA is slow in completing the environmental site review. The Haycraft's feel somewhat awkward, placing the City in this situation; however, have no alternative since they can not force the EPA into action.

LaGarce assured Council that an additional sixty days would not hinder the City's plans and requested that Council approve Resolution No. 1783-11 and the related lease addendum, later during the meeting.

LaGarce explained that he had two additional items to present, both were informational only. The first was regarding a letter from a Hannibal resident who lives on Broadway and discusses animal, hygiene, health and living condition problems in his neighborhood. A meeting was scheduled for December 21st at the Police Department that would address these various problems. Chief Davis, the Animal Control Officers and the Lieutenants plan to be in attendance, as well as the Building Inspector and the Property Maintenance Inspectors.

The City Manager advised Council that he had sent a letter earlier in the day to another business that was in violation of the "Sale to Minors" legislation. During the past compliance check, four violations were yielded; and LaGarce commented that compliance had been slipping in recent months from an initial 80% to 60-70% recently.

MARK REES – CITY ENGINEER
Re: Request, Temporary Street Closure – Wardlaw & Lemon Streets

City Engineer Mark Rees explained that this request regarded the Bear Creek cleanout. He added that recently his department had advertised for bids for the Bear Creek sediment removal; and, since the City Street trucks are otherwise detained with possible snow removal they will not be available to the contractor who will be required to provide their own trucks. The contractor and the DPW are requesting approval of this temporary street closure to be used as a temporary lay-down area of the excavated material until it can be hauled to the proper places in the spring. In the event over the winter, that the industrial site is not accessible, Rees requested the use of a portion of Wardlaw and Lemon Streets, behind the Sewer Treatment Plant to be used for this purpose. Notices will be distributed regarding closure and barricades will be placed, according to Rees. Motion was made by Mayor Hark to approve Rees' request. Motion was seconded by Mayor Pro Tem Knickerbocker.

Motion carried. City Manager LaGarce informed Council that five of these projects had been completed, including Market Street Crossing.

Re: Stardust Drive Extension – Concrete/Asphalt

Rees explained that he was now ready to advertise for bids on the Stardust Extension Project. He requested that Council approve the solicitation of concrete-only bids for the streets. He noted that, according to Hannibal City Code, Section 29-111, streets are constructed by using “seven-inch minimum Portland cement concrete with appropriate base on collector and commercial streets”. In response to concerns from Council Member Draper, involving the speed of traffic on the improved roadway, Rees explained that this project was not to improve an existing roadway, but to build a new road, extending from Head Lane to Veterans. Answering Draper’s concerns, Rees stated that they had a new traffic calming policy in place. The use of that, in addition to other tools and enforcement would help to keep this problem under control. Rees requested concurrence that this is how the property will be bid; however, since Rees was following City Code, after a short discussion, it was decided that no motion was needed.

Re: Traffic Committee Recommendations

Rees presented his third agenda item, recommendations from the Traffic Committee. He explained that as the result of their recent meeting, the Committee made the following recommendations:

- To install “NO PARKING” signs on the east side of the 600 block of North 7th Street, from Paris Avenue to Butler Street.
- To install handicap parking spaces at 2006 Chestnut Street, 312 North 5th Street and 214 South 10th Street

Since no action was taken by Council these recommendations became effective on December 15, 2011.

Re: 2011 Spring Mill & Overlay Project – Change Order

Bross Construction

(Resolution No. 1782-11, to follow)

During the spring of 2011, Chester Bross Construction completed a three-mile overlay project that overlaid or reconstructed these roadways. During this time, Tilden Lane, in Oakwood, was not completed because of an unavoidable utility repair in that area. Recently, a request was tendered that Tilden be completed.

Paving of Tilden from 30th to Westover required 479.09 tons of asphalt at \$82/ton, totaling \$39,285.38. Rees made a recommendation to Council that they approve Resolution No. 1782-11, authorizing the Mayor to execute a change order between the City of Hannibal and Chester Bross Construction in the amount of \$39,285.38.

ANDY DORIAN – PARKS & RECREATION DIRECTOR

Re: Bid Award Approval, 2012 F350

Tom Boland Ford

Parks and Recreation Director Andy Dorian explained that bids had recently been opened for the purchase of a new one-ton, four-wheel drive vehicle with a hoist. The lowest bid was received from Tom Boland Ford for \$36,466.00.

This truck, if approved, will replace a 2003 F350 one-ton truck, which Dorian intends to sell to the Fire Department. He made a recommendation that Boland Ford's bid be approved. Dorian added that \$40,000 was budgeted for this purchase. Mayor Hark made a motion to approve Dorian's request. Motion was seconded by Mayor Pro Tem Knickerbocker.

Motion carried.

RESOLUTION NO. 1782-11

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CHANGE ORDER BETWEEN THE CITY OF HANNIBAL AND CHESTER BROSS CONSTRUCTION IN THE AMOUNT OF \$39,285.38 FOR THE OVERLAY OF TILDEN AVENUE IN RELATION TO THE 2011 SPRING MILL AND OVERLAY PROJECT

Motion was made by Council Member Hark to have the City Clerk read Resolution No. 1782-11, and call the roll for adoption. Motion was seconded by Council Member Louderman.

Motion carried.

Roll Call

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

No: -0-

Absent: -0-

Mayor Hark declared Resolution No. 1782-11, duly approved and adopted on this date.

RESOLUTION NO. 1783-11

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A 60 DAY LEASE EXTENSION WITH HANNIBAL MACHINE INC. FOR THE USE OF 400 SOUTH ELEVENTH STREET

Motion was made by Council Member Barta to have the City Clerk read Resolution No. 1783-11, and call the roll for adoption. Motion was seconded by Council Member Louderman.

Motion carried.

Roll Call

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

No: -0-

Absent: -0-

Mayor Hark declared Resolution No. 1783-11, duly approved and adopted on this date.

BILL NO. 11-030

AN ORDINANCE PROVIDING FOR A MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 3, 2012 TO ALLOW HANNIBAL VOTERS TO CONTINUE A RECYCLING FEE OF \$.70 PER MONTH TO BE APPLIED TO EACH UTILITY BILL FOR THE PURPOSE OF FUNDING COMMUNITY WIDE RECYCLING TO BE OPERATED BY THE NORTHEAST MISSOURI SHELTERED WORKSHOP

SECOND AND FINAL READING

Motion was made by Council Member Draper to give Bill No. 11-030 a second and final reading and call the roll for adoption. Motion was seconded by Council Member Louderman.

Roll Call

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

No: -0-

Absent: -0-

Mayor Hark declared Bill No. 11-030 duly approved and adopted on this date.

**BILL NO. 11-031
(As amended)**

**AN ORDINANCE AMENDING CHAPTER 17, ARTICLE V, SECTION 17-347, OF
THE CODE OF THE CITY OF HANNIBAL RELATIVE TO PARKING
PROHIBITED IN CERTAIN PLACES**

SECOND AND FINAL READING

Motion was made by Council Member Louderman to give Bill No. 11-031, as amended, a second and final reading and call the roll for adoption. Motion was seconded by Council Member Barta.

Roll Call

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

No: -0-

Absent: -0-

Mayor Hark declared Bill No. 11-031, as amended, duly approved and adopted on this date.

ADJOURNMENT

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

Motion carried.