

OFFICIAL PROCEEDINGS OF CITY COUNCIL

July 19, 2011
7:00 p.m.

ROLL CALL

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

Absent: -0-

CALL TO ORDER

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

INVOCATION

Council Member Draper gave the invocation.

PLEDGE OF ALLEGIANCE

Sergeant Chaney, of the United States Armed Forces, led the Pledge of Allegiance to the Flag.

APPROVAL OF MINUTES Regularly Scheduled Council Meeting – July 5, 2011

Motion was made by Mayor Pro Tem Knickerbocker to approve the minutes of the last regular Council meeting that was held on July 5, 2011. Motion was seconded by Council Member Draper.

Motion carried.

APPROVAL OF PAYROLL AND CLAIMS First Half – July, 2011

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

Motion carried.

MAURICE SALIGHEH – PROPERTY OWNER

Re: Fencing Heights

Maurice Saligheh, a local property owner, requested audience with Council to discuss fencing heights within the City of Hannibal. Mr. Saligheh explained that he had been a citizen in the City for fourteen or fifteen years; however, he has recently been disturbed with the lack of cooperation from some City officials, regarding various issues with his neighbor, the resident of 1116 Center Street. He commented that he appreciated the efforts of City Manager LaGarce and employees of the Street Department, who work to maintain streets in the summer and winter.

Saligheh stated that City employees are hired to serve and protect and that is the job of the City Inspector and Code Enforcement Officers, to protect the public from hazardous materials and items that are dangerous to health. His suggestion is that the issue at hand be a stepping stone for enactment of a fence, garbage and compost ordinance to protect the local citizens from those people who come into the community and do what they want. He added that, for the most part, the local citizens are the calmest people he has ever met.

Mr. Saligheh referenced his neighbor, who had:

- Tied garbage bags onto her fence to use as a barrier for over a year before she was ordered to remove them.
- An 8-9 foot wooden fence constructed between the two properties. Upon researching this, Saligheh stated that in most other communities throughout the U.S. a fence built to this height is against city policy, unless the fenced area is a commercial, industrial or military area. He complained that, when he requested that the City Inspector look into this, the Inspector took offense at his request. Saligheh said that upon further investigation, he found that lumber yards or hardware stores do not sell fencing taller than six feet unless it was a special request order, which must be approved by the ordinance of the City.
- Made a compost area next to his property, surrounded by chicken net fencing. (She does not have garbage pick-up). Because of the stench his wife could not have a garden in their back yard this year, as she had done in previous years; however, when the Building Inspector came to investigate, he contended that he didn't smell anything.

Mr. Saligheh displayed photos of the neighbor's property and suggested that no Council Member would like to have this adjacent to their property, since his back yard now felt like a prison. In conclusion, he expressed his love for the community and asked Council to make some phone calls, use common sense and consider a solution to his current plight.

KEVIN LIONBERGER – PROPERTY OWNER

Re: Vehicles on Residential Property

City Clerk Vance explained that Mr. Lionberger had called, stating that he was currently out of town. He requested that his issue be tabled until the next regular Council meeting. Motion was made by Mayor Hark to table this item until the next meeting, since Mr. Lionberger was unable to attend. Motion was seconded by Council Member Hark.

Motion carried.

JAMES LEMON – CITY ATTORNEY
LOU BARTA – 3RD WARD COUNCIL MEMBER
Re: Code Amendment, Chapter 19, Article II, Section 19-38
Keeping or Parking Certain Commercial Vehicles and Construction or Commercial Grade
Equipment at or Upon Residential Property
(Bill No. 11-015, to follow)

City Attorney Lemon explained that, in response to the instruction of Council, he had drafted changes to the ordinance on the administrative variance regarding ***Keeping or Parking Certain Commercial Vehicles and Construction or Commercial Grade Equipment at or Upon Residential Property***; however, after this was completed, the related bill (Bill No. 11-015) was tabled at the last regular Council meeting because of Mayor Hark's absence.

Lemon added that, after discussing the item with Council Member Barta, Barta informed him that he had another proposed amendment to submit. Council Member Barta agreed and explained that there was only one point he wished to add, that was not included in Bill No. 11-015 which had been distributed. Section 3 - 99-38 should contain: An exclusion for any of the notices, mailed by the City and returned as undeliverable AND any of the notices, mailed by the City and returned as undeliverable ***because the property owner is deceased*** - from the total number of required parcels to meet the 75% requirement. In light of these changes, Barta suggested that Ms. Caddell should have the opportunity to complete the process again and Mayor Hark agreed.

Barta added that original amendments included:

- Extending the time frame to file an appeal for administrative variance from August 1, 2011 to September 1, 2011
- Increasing the required time allowed for return of the votes - from fourteen (14) days to twenty-one (21) days from the date of the postmark on the City's notification
- Votes would be returned to the City Clerk's Office for tallying

Mayor Pro Tem Knickerbocker believed that, with these amendments, Bill 11-015 now meets the group's intent. Mayor Hark clarified that the 75% requirement remained; specifically, 75% of ALL property owners within 185 feet of the property where the variance is sought would be required to approve the administrative variance. He voiced his opposition to this clause, pointing out that, if an adjacent property owner chose not to return the card for whatever reason, this "vote" was counted against the property owner seeking the variance. Mayor Pro Tem Knickerbocker reminded Council that, at the time of the discussions, several Council Members did not even want an exclusionary process. When the decision was made to include this process, it was with the understanding that the process would be very strict. Mayor Hark posed the question regarding how many people in Hannibal actually understood this process, or understood whether they would even be affected by this ordinance or not. He commented that when they finally discover that they are affected, the variance process will be concluded and then it's "tough luck, Charlie!"

Mayor Hark remarked that Hannibal had many problems, including trash, junk and houses that are falling down. In a town with so many major problems, arguing over whether or not someone has a truck, boat or camper parked is counterproductive. In his opinion Council should get to the crux of the problem and focus on cleaning up the filthy town and not let two or three individuals be in charge.

Mayor Hark admitted that he agreed with the concept and was not trying to stop this ordinance, altogether; however, commented, “This is America and people should have a chance.”

Council Member Dobson questioned what the Mayor offered as an alternative; and, Mayor Hark responded that if people did not have the gumption to return a card, this should not be counted against the applicant. Dobson stated that he believes this process places the burden on the individual who is requesting the variance, where it should be.

Council Member Draper commented that the confusion that started this was focused on the fact that people who don't vote count as “no” votes. He added that, if that is the process, that is O.K; however, previously, this was unclear and we must insure that the confusion is addressed and the process detailed in the ordinance is made very clear. Council Member Barta responded that in the past several months, the City's Property Maintenance Inspectors have been visiting with property owners who may be adversely affected, but are unaware of these proposed changes that will become effective with the passage of this ordinance. This is being done in an attempt to give them an opportunity to apply for an administrative variance, because it was not Council's intention to blind-side anyone.

Ms. Kim Cattrell wished for clarification from Council regarding her process. She stated that, originally, there were 32 property owners contacted, two votes being excluded because the property owner was deceased, leaving a possible 30 votes. Previously, nineteen (19) “Yes” votes, two (2) received after postmarked date and six (6) “No” votes, one (1) received after postmarked date. Since Council was allowing her to use the votes that had previously been obtained, she wished to verify that she would need to contact the seven (7) remaining property owners and secure only four (4) additional yes votes within the twenty-one (21) day time frame to be approved for the variance. Motion was made by Council Member Hark to allow Ms. Cattrell to retain the current “Yes” votes and work with the seven (7) remaining property owners to secure four (4) additional “Yes” votes for the variance. Motion was seconded by Council Member Draper.

Motion carried.

Cattrell then questioned whether or not equipment could be stored in a garage. She was told that, if the variance was approved she could keep this equipment in a garage, if she wished; however, if the variance was not approved, she would not be permitted to construct a garage for the equipment and keep it on her property.

ROY G. HARK - MAYOR
Re: Recommendation of Appointment

Mayor Hark made the following recommendation:

HANNIBAL HISTORIC DEVELOPMENT DISTRICT COMMISSION
➤ Dian Volkmer – Re-appointment for a term to expire May, 2016

He explained that this appointment would be considered for approval at the next regular Council meeting.

JEFF LAGARCE – CITY MANAGER

Re: Approval of Appointments

City Manager Jeff LaGarce reminded Council of three candidates presented at the last regular Council meeting for the Hannibal Park Board. These were:

HANNIBAL PARK BOARD

- James O'Donnell – Reappointment for a term to expire July, 2014
- Debbie Catlett – Reappointment for a term to expire July, 2014
- Marlene Rodenbaugh – Appointment for a term to expire July, 2014

He asked Council for their approval of these nominations. Motion was made by Council Member Dobson to approve this nomination. Motion was seconded by Council Member Hark.

Motion carried.

MEGAN RAPP – HCVB ASSISTANT DIRECTOR

Re: Approval, Declaration of Surplus Property – 2008 Dodge Durango

Megan Rapp, HCVB Assistant Director, came before Council to request approval to declare surplus property, specifically a 2008 Dodge Durango, owned by the Tourism Department. This would be done, with Council approval, in order to sell this vehicle and acquire one that is more fuel efficient. Mayor Pro Tem questioned this procedure, since he was aware of the Parks & Recreation Department's intention to purchase this vehicle. He was not sure this was the appropriate method since it was merely being moved between departments.

City Manager LaGarce commented that the process of getting Council approval was probably overkill and is not a requirement; however, it is the mechanism that is normally used to avert any questions the public may have and to keep all exchanges ethical and above-board.

Council Member Dobson suggested that the vehicle be transferred between departments at the fair market value since all vehicles are titled in the "City of Hannibal" name. Mayor Pro Tem Knickerbocker made a motion that the Parks Department and the HCVB work out a fair market value trade of assets for this vehicle. Motion was seconded by Council Member Louderman.

Motion carried.

ANDY DORIAN – DIRECTOR, PARKS & RECREATION

Re: Purchase Approval, 2008 Dodge Durango

Hannibal Convention & Visitor's Bureau

Parks & Recreation Director Andy Dorian explained that the Parks & Recreation Department was in need of an SUV in order to perform some of their duties; and, acquiring the 2008 Dodge Durango from the HCVB would be much easier than going out for bids. He stated that the Parks & Rec. Department had budgeted \$60,000 for an SUV and a new ¾ ton truck in their FY 2011/12 Budget. Since the Parks Department and HCVB had agreed that

\$17,500 was a fair price, that this transaction would save the Parks & Recreation Department a considerable amount and that it would still be beneficial to the HCVB.

Re: Bid Award Approval, Zero Turn Mowers (5)
Sydenstrickers

Dorian's next item on the agenda was a request for a bid approval regarding five (5) zero turn mowers. He explained that on Wednesday, July 6th sealed bids were opened for these mowers that would replace five (5) mowers that are no longer under warranty.

As a result of this bidding process, three (3) bids were submitted with the lowest, most favorable bid being submitted by Sydenstrickers. The final bid amount of \$29,000, includes the total cost for five (5) new John Deere zero turn mowers, plus a forty-eight (48) month or 1,200 hour comprehensive warranty for each mower, minus the trade-in cost of four (4) used John Deere zero turn mowers. Dorian added that the fifth mower would be declared surplus property, with Council approval and offered to the public, using the sealed bid process. Motion was made by Mayor Hark to approve Dorian's request to approve the bid. Motion was seconded by Council Member Louderman.

Motion carried.

Re: Nipper Park Marina Dredging – Contract Agreement
Magruder Construction, Inc.
(Resolution No. 1737-11, to follow)

Lastly, Dorian presented a contract agreement for the Nipper Park Marina dredging with Magruder Construction, Inc. He explained the department had been unable to proceed with this project because of the spring flooding. The increased levels of silt and debris left there because of high waters over the past couple of years has made this a necessity for continued use of the Marina, since the entranceway, which should normally be approximately 6 feet is currently only about 1 – 3 inches deep. Dorian informed Council that the Parks & Recreation Department had submitted an application to FEMA for funding assistance to remove the silt using hydraulic dredging. As a result, the department was notified earlier in the year funding had been approved. That money, along with funds donated by a third party will cover the entire cost of this project.

He explained that, as the result of the recent bidding process, Magruder Construction was the sole bidder for this project, with a bid amount of \$91,206.10, noting that the Parks Department had estimated this project to total approximately \$120,000. He commented that this is the same company that was awarded the bid the last time the Marina was dredged, in 2008. At that time, approximately 1,400 cubic yards of silt were removed. The current dredging project will remove approximately 8,403 cubic yards and encompass a square area from the entrance of the Marina from the River, to the gas dock then over to the covered docks. Resolution No. 1737-11, to follow, would approve this bid and authorize the Mayor to sign the contract.

Dorian concluded by saying that this process will only buy some additional time, but dredging will have to be done again in the future. He admitted that this was a drain on the

taxpayers and advised that he was researching alternative measures, such as redesign or purchase of a dredge, to alleviate this ongoing problem, which is not at all cost effective.

MARK REES – CITY ENGINEER
Re: Highway 61 Intersection of Pleasant & West Ely Road – Apportionment Agreement

Missouri Highways & Transportation Commission
(Resolution No. 1738-11, to follow)

City Engineer presented Resolution No., 1738-11, to follow, regarding the cost apportionment agreement with Missouri Highways & Transportation Commission for the Highway 61 intersection of Pleasant and West Ely Road. Rees explained that this project would utilize the City's STP funds as well as federal funding. Bids will be let at a later date, according to City Engineer Rees who recommended the approval of this contract by approving Resolution No., 1738-11, to follow.

RESOLUTION NO. 1737-11

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH MAGRUDER CONSTRUCTION CO. INC. IN THE AMOUNT OF \$91,206.10 FOR THE DREDGING OF NIPPER PARK MARINA

Motion was made by Council Member Dobson to have the City Clerk read Resolution No. 1737-11, and call the roll for adoption. Motion was seconded by Council Member Barta.

Motion carried.

Roll Call

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

No: -0-

Mayor Hark declared Resolution No. 1737-11, duly approved and adopted on this date.

RESOLUTION NO. 1738-11

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A COST APPORTIONMENT AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION RELATIVE TO THE RECONSTRUCTION OF HIGHWAY 61 AT THE INTERSECTION OF PLEASANT STREET AND WEST ELY ROAD IN THE AMOUNT OF \$407,049.65

Motion was made by Council Member Draper to have the City Clerk read Resolution No. 1738-11, and call the roll for adoption. Motion was seconded by Mayor Pro Tem Knickerbocker.

Motion carried.

Roll Call

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

No: -0-

Mayor Hark declared Resolution No. 1738-11, duly approved and adopted on this date.

BILL NO. 11-015

AN ORDINANCE AMENDING CHAPTER 19, ARTICLE II, SECTION 19-38 OF THE HANNIBAL CITY CODE RELATIVE TO KEEPING OR PARKING CERTAIN COMMERCIAL VEHICLES AND CONSTRUCTION OR COMMERCIAL-GRADE EQUIPMENT AT OR UPON RESIDENTIAL PROPERTY

FIRST READING

Motion was made by Council Member Louderman to give Bill No. 11-015, as amended, a first reading. Motion was seconded by Council Member Barta.

Roll Call

Yes: Mayor Pro Tem Knickerbocker, Council Members Dobson, Barta, Council Members Louderman and Draper - 5

No: Mayor Hark and Council Member Hark - 2

Motion carried.

CLOSED SESSION

In Accordance with RSMo. 610-021 (1)

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

Roll Call

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

No: -0-

Motion carried.

OPEN SESSION

Motion was made by Council Member Barta to return to open session at this time. Motion was seconded by Council Member Dobson.

Motion carried.

ADJOURNMENT

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

Motion carried.