

Official Council Proceedings

**Tuesday, December 17, 2013
Council Chambers
7:00 p.m.**

ROLL CALL

Present: Mayor Hark, Council Members Louderman, Hark, Locke, Mayor Pro Tem Knickerbocker, Council Members Dobson and Lionberger - 7

Absent: -0-

CALL TO ORDER

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

INVOCATION

Council Member Lionberger gave the invocation.

PLEDGE OF ALLEGIANCE

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

APPROVAL OF MINUTES

**Closed Session Meeting – June 1, 2010
Closed Session Meeting – June 15, 2010
Closed Session Meeting – July 6, 2010
Closed Session Meeting – August 17, 2010
Closed Session Meeting – December 7, 2010
Closed Session Meeting – May 15, 2012
Closed Session Meeting – June 5, 2012
Closed Session Meeting – August 21, 2012
Closed Session Meeting – November 6, 2012
Closed Session Minutes – November 5, 2013
Regularly Scheduled Council Meeting – December 3, 2013**

Motion was made by Council Member Dobson to approve the minutes, as amended, of the Closed Sessions and the regularly scheduled Council meeting that was held on the various dates, listed above. (Amendments are with regard to August 21, 2013 and November 6, 2013 Closed Session minutes that should read “Asphalt” instead of “Chip Seal”). Motion was seconded by Council Member Louderman.

Motion carried.

**APPROVAL OF PAYROLL AND CLAIMS
First Half – December, 2013**

Motion was made by Council Member Locke to approve the payroll and claims for the first half of December, 2013. Motion was seconded by Council Member Louderman.

Motion carried.

**ALAN BOWEN – LOAFERS CAR CLUB
Re: Request, Street Closure – Annual Car Show
(May 10, 2014 – 6:00 a.m. – 4:00 p.m.)**

Mr. Alan Bowen, representing the Loafer’s Car Club, requested Council approval to close Main Street from Broadway to North Street. The request also included Bird Street and Center Street from 3rd Street to the Levee and Hill Street to the Levee since the Murphy Motors car lot is no longer available. The request was for the purpose of hosting the Loafer’s Nineteenth Annual Car Show. He assured Council that the Club would be leaving a fire lane open for emergencies.

Bowen explained that a survey was sent to participants who expressed the desire to be relocated to Main Street as in the past. Motion was made by Council Member Dobson to approve Bowen’s request for street closure. Motion was seconded by Council Member Louderman.

Motion carried.

**ANITA FAILOR – WADE STABLES
Re: Audit Presentation, 2012/13 Fiscal Year**

Anita Failor, representing Wade Stables, came before Council to present the City of Hannibal 2012/2013 Audit Report. Failor expressed the firm’s confidence that the financial statements provided were materially correct; then, briefly detailed a few areas of the report. She explained that:

- Over-all Assets - Including Capital Assets, Infrastructure and BPW totals \$119,000,000.00 (BPW totals \$68,000,000.00) There is a total increase in assets of

\$700,000.00 over last fiscal year; however without the BPW, the City's total assets decreased \$800,000.00.

- Over-all Liabilities - Including long-term and bond debts decreased by \$1,800,000.00 (BPW's portion was \$1,200,000.00 and City's portion was \$600,000.00).
- Over-all Change in Net Worth - \$2,800,000.00 increase, which included a large increase of the BPW, totaling \$3,000,000.00 and a small decrease of \$200,000.00 for the City.
- Over-all Revenues – Remained almost the same, with BPW increasing \$2,700,000.00 and City decreasing \$2,600,000.00. (City made less in grant revenue this year with \$2,500,000.00 less than last year, Charges for services was down about \$350,000.00 but taxes increased about \$180,000.00 over last year.)
- Over-all Expenses - \$3,000,000.00 increase, mostly credited to the BPW (BPW had \$2,300,000.00, mostly in electric expenses, City had \$200,000.00 increase in public safety and \$500,000.00 increase in community development – flood buyout).

If all Capital assets and long-term liabilities were removed from the equation, there would be a large decrease in fund balance of \$2,800,000.00 on the governmental side because of the amount spent on capital outlay from proceeds received in a prior year, according to Ms. Failor. She noted that the General Fund had a slight loss of \$100,000.00 on the modified accrual basis; however, on the budgetary (cash) basis there was a \$166,000.00 decrease in the General Fund versus a budgeted increase of \$620,000.00; resulting in a large variance between budget and actual, over-all.

Failor continued by explaining that expenses had been under-budgeted by approximately \$428,000.00; however, the real problem was the under-budget on revenues of \$1.3 million, mostly in sales taxes, which were under-budget by approximately \$526,000.00. She added that, if this were compared to the year there was an approximate \$100,000.00 increase, but the budget was a lot more than last year's collections. Failor stated that losing one red light camera caused a drop in fines of about \$320,000.00.

There were two findings:

1. BPW – Accounts Payable Reconciliation. During the course of the audit, it was found that the detail of accounts payable did not agree to the amount on the general ledger and a reconciliation was not performed. (Failor stated that this would be fixed with the new software that will be installed.)
2. COH – Budgeting/Excess of Approved Budgeted Amounts/Deficit Budgets. In the case of one fund – Capital Projects – the City approved budgeted expenditures in excess of available estimated resources. Since the City adopts an annual budget in accordance with State law, State statutes forbid budgeting expenditures in excess of available resources (deficit budgeting). (Failor explained that, in this case, she believed the problem was that the beginning balance used was incorrect, which is more of a compliance issue.

Council Member Dobson commented that, in light of the financial situation, the fact that the bottom line is only \$200,000.00 less than last year in a credit and a testament to department heads that everything was managed so well.

Mayor Pro Tem Knickerbocker mentioned that, when he began serving on Council, the findings were longer than the actual presentation.

City Manager LaGarce stated that he had just received the audit, adding that the City's finding dealt with low balances in two funds, as well as over-budgeting. In figuring out, logistically, how this happened, he and Finance Director Warren concluded that these balance were set in April, projecting totals for two months, since it can not be known what these balances will be, this is a "best guess" trying to be conservative. In the prior year, according to LaGarce, two street vehicles were purchased because of some safety-sensitive issues. When a budget is on an accrual basis, this is different than a cash basis, since the cash can be looked at daily to determine the amount.

According to the City Manager, another issue involved the bond payment that was due on Sunday, July 1, 2013. Because of the due date, the payment had to be made on Friday, June, 29th, the opening balance of the budget was not what had been projected. Technically, the year did not end with the positive balance (on an accrual basis, but on a cash basis since the money had to be paid out early). He concluded by stating that the audit validates the integrity of the system and how people handle the money.

ROY G. HARK - MAYOR
Re: Recommendation of Appointment

Mayor Hark made the following recommendation:

INDUSTRIAL DEVELOPMENT AUTHORITY

➤ **James Grisham – Appointment for a term to expire January, 2020**

This nomination will be considered for approval at the next regular Council meeting, to be held on January 7, 2014.

JEFF LAGARCE – CITY MANAGER
Re: 213 Broadway, Breach of Contract - Century Used Brick
Demolition – Contract Agreement - Roberts Demolition & Roll-off
(Resolution No. 1938-13, to follow)

City Manager LaGarce explained that, in May, demolition of the building located at 213 Broadway had been deemed an emergency because of its condition; therefore, quotes were obtained and on July 2nd the City authorized a contract with Century Used Brick to raze the building. Subsequently, it was necessary to delay this project because of litigation. Later, after a contempt order was obtained, the contractor was issued a "Notice to Proceed" and stabilization occurred. LaGarce advised that it is now time for the actual demolition; however, the contractor has now submitted a \$6,000 change order for the \$5,000 contract,

which is an increase of 120%. This was not favorable since there were no hidden waterlines and any additional issues that could be discovered from the 19th century map that was being utilized.

Because of this, the City Manager requested that City Attorney Lemon issue a letter to the contractor, reminding them of their contractual obligation. Breach of contract was also discussed, a very serious allegation. The contractor was given until noon on December 17th (the current day) to make a response, which they have done. According to Lemon, additional research is necessary before making a determination.

LaGarce explained that Resolution No. 1938-13, to follow, includes a substitute, Roberts Demolition and Roll-off. The change adds nothing to the original resolution, but only extracts the litigious portions from the title and one section. Otherwise, this resolution, if approved will award the demolition contract to Roberts Demolition in the amount of \$17,500.00.

City Attorney Lemon explained that upon receipt of the letter, earlier in the day, he discovered that Century Used Brick had no intention to go forward with the contract, using the price they had quoted. Since he hadn't had an opportunity to speak with City Building Inspector Joey Burnham he could not confirm or deny any factual allegations that Century Used Brick had made regarding their not being made aware of the actual problems that existed in the structure. For this reason, he would like to further review before recommending to proceed with litigation for breach of contract. There is no reason to rush into litigation, according to Lemon; but, because of the need to demolish the building, the prior resolution must be amended.

City Manager LaGarce agreed that he wanted the building demolished; therefore, the contract would need to be awarded. That being said, he wished to allow the City Attorney ample time to further research the issue. He added that he had given Lemon a stack of written discussions with the contractor in which he will find inaccurate views from those stated in the current letter from the contractor.

Council Member Dobson questioned the procedures regarding the resolution. City Manager LaGarce responded by stating that the request to amend the resolution only extracts the litigious portions from the title and one section of the resolution, making it solely a resolution awarding the contract.

It was pointed out that Roberts is ready to proceed. There is, however, a ten-day notice through DNR, even though the City does have a waiver, due to the emergency.

DOUG WARREN – FINANCE DIRECTOR
Re: Request, Bond & Interest Payments
2010 Build America Bond & 2013 Street Bond

Finance Director Doug Warren presented the next item on the agenda, the approval of the 2010 Build America Bond and 2013 Street Bond and interest payments. Warren explained

that his was merely a simple housekeeping request, since these payments are due on January 1, 2014.

Typically, Council approves all monies prior to distribution, however, these payments, done by wire transfers, will need a voice vote since they will need to be completed prior to January 1, in order to be paid in a timely fashion. This is a yearly request, according to Warren, and would be completed on December 27th, with Council approval. Total amount of payment is \$103,000.00 with a rebate of \$19,000.00 from the Federal Government, no later than January 31, 2014. Motion was made by Mayor Pro Tem Knickerbocker to approve Warren's request. Motion was seconded by Council Member Hark.

Motion carried.

BRIAN CHAPLIN – DPW PROJECT MANAGER
Re: Traffic Committee Recommendation

DPW Project Manager Brian Chaplin presented one recommendation from the Traffic Committee, held on December 12, 2013. He detailed this recommendation, as follows:

- Extend the yellow curb to 40 feet on Booker Street from Choteau south – To allow fire trucks and snow plows a wider turning radius during emergency situations.

This request received unanimous recommendations from the Traffic Committee, according to Chaplin. Since no action was taken by Council, this recommendation became effective on December 17, 2013.

RESOLUTION NO. 1938-13
(As Amended)

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH ROBERTS DEMOLITION & ROLL-OFF IN THE AMOUNT OF \$17,500 FOR THE EMERGENCY DEMOLITION OF 213 BROADWAY

Motion was made by Council Member Locke to have the City Clerk read Resolution No. 1938-13, as amended, and call the roll for adoption. Motion was seconded by Council Member Hark.

Motion carried.

Roll Call

Yes: Mayor Hark, Council Members Louderman, Hark, Locke, Mayor Pro Tem Knickerbocker, Council Members Dobson and Lionberger – 7

No: -0-

Absent: -0-

Mayor Hark declared Resolution No. 1938-13, as amended, duly approved and adopted on this date.

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 City Building Inspector Joey Burnham. Motion was made by Council Member Louderman to go into Closed Session, as directed by Mayor Hark. Motion was seconded by Council Member Locke.

Roll Call

Yes: Mayor Hark, Council Members Louderman, Hark, Locke, Mayor Pro Tem Knickerbocker, Council Members Dobson and Lionberger – 7

No: -0-

Absent: -0-

Motion carried.

OPEN SESSION

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

Motion carried.

ADJOURNMENT

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

Motion carried.