

OFFICIAL COUNCIL PROCEEDINGS

Tuesday, July 2, 2013
Council Chambers
7:00 p.m.

ROLL CALL

Present: Mayor Pro Tem Knickerbocker, Council Members Dobson,
Lionberger, Mayor Hark, Council Members Louderman and Hark - 6

Absent: Council Member Locke - 1

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 Hark led the Pledge of Allegiance to the Flag. Mayor Hark entertained a motion to excuse Council Member Locke, who was unable to attend the meeting. Motion was made by Council Member Louderman to excuse Council Member Locke, as requested by the Mayor. Motion was seconded by Council Member Hark.

Motion carried.

APPROVAL OF MINUTES Regularly Scheduled Council Meeting – June 18, 2013

Motion was made by Council Member Louderman to approve the minutes of the regularly scheduled Council meeting that was held on June 18, 2013. Motion was seconded by Council Member Lionberger.

Motion carried.

APPROVAL OF PAYROLL AND CLAIMS Second Half – June, 2013

Motion was made by Council Member Hark to approve the payroll and claims for the second half of June, 2013. Motion was seconded by Council Member Lionberger.

Motion carried. Mayor Hark entertained a motion to amend the evening's agenda and include three (3) additional resolutions of a timely nature. In each case, the information was just received; and, the Mayor explained that it is important Council proceed with each of these resolutions. He added that all represented the favorable outcomes that the City desired. He advised that:

- The first was a bid acceptance award for demolishing 213 Broadway
- The second was a bid acceptance contract, awarding stabilization of 211 Broadway
- The third represented easements being granted to the City by CVS Pharmacy so construction can begin

Motion was made by Mayor Pro Tem Knickerbocker to amend the agenda per the Mayor's request. Motion was seconded by Council Member Louderman.

Motion carried.

TOM SAWYER
Re: Presentation to City of Hannibal

Mr. Thomas G. Sawyer, Jr. of Troy, Michigan made a presentation to Council. Sawyer commented that he was so excited to be present during the National Tom Sawyer Days and added that he had known about the festival since 1992 and had been attending with his family since 2010. His son is also named Tom Sawyer (III).

He explained that he and his family have developed a great love for the Hannibal community and the community has honored his family with National Tom Sawyer Days. He stated that he was overwhelmed by the Hannibal Jaycee's efforts in promoting NTSD since 1957. According to Sawyer, NTSD and the community have made him feel special since, in this city, he is "The" Tom Sawyer. He thanked Council and those in attendance for that honor; then proceeded with offering a flag to the City and its residents, requesting that it be displayed during the week that the National Tom Sawyer Days is held. He stated that an identical flag is flown at his home in Troy when he is in Hannibal, each year.

Sawyer also requested that City Council grant just one wish: to locate a flagpole, preferably one of the seventeen (17) at the base of Broadway, to fly the flag he presented, for one week each July 4th, then the flag be taken down and stored with the City from year to year. His wish was that this could be done as long as one member of the current Council is serving. He also requested that the City Staff help him raise the new flag for the first time. He suggested that it could even be flown below the American flag, but asked that it be raised before his date of departure on July 12th.

At the Mayor's prompting, Sawyer explained that his son had won second place in the National Fence Painting Contest in 2011. Mr. Sawyer concluded his presentation by distributing a small token gift to each member of Council.

BILL MADORE – FIRE CHIEF

Re: Presentation, Letter of Appreciation - Citizen Jordan Gross

Fire Chief Bill Madore explained that, on Father’s Day, the Hannibal Fire Department had responded to a residential structure fire. Firefighters contained the fire, with a little assistance from a Hannibal resident, Jordan Gross. Madore asked Mr. Gross to come forward then he proceeded to read a letter of appreciation to Gross for his quick, decisive actions in assisting the resident by catching three small children who were thrown from a second story window, insuring their safety. Madore continued by reading that Gross’ “superior actions helped to provide control; and thus, provided for patient, responder and bystander safety”. Mayor Hark thanked Gross, on behalf of the Council, for his actions.

ROY G. HARK – MAYOR

Re: Approval of Appointments

Mayor Hark reminded Council of candidates presented at the last meeting for the Hannibal Municipal Assistance Corporation and the Hannibal Industrial Development Authority. These were:

HANNIBAL MUNICIPAL ASSISTANCE CORPORATION

- **Tom Boland – Reappointment for a term to expire June, 2016**

HANNIBAL INDUSTRIAL DEVELOPMENT AUTHORITY

- **Glen Ruhl – Reappointment for a term to expire January, 2018**

He asked Council for their approval of these nominations. Motion was made by Council Member Louderman to approve Tom Boland’s reappointment to serve on the Hannibal Municipal Assistance Corporation for a term to expire in June, 2016 and Glen Ruhl’s reappointment to the Hannibal Industrial Development Authority for a term to expire on January, 2018. Motion was seconded by Council Member Dobson.

Motion carried.

Re: Recommendation of Appointments

Mayor Hark made the following recommendations:

REAL PROPERTY REDEVELOPMENT TAX INCREMENT FINANCING COMMISSION

- **Mike Ginsberg – Reappointment for a term to expire June, 2017**

HANNIBAL LIBRARY BOARD

- **Pam Warfield – Reappointment for a term to expire June, 2016**

These nominations will be considered for approval at the next regular Council meeting, to be held on July 16, 2013.

JEFF LAGARCE – CITY MANAGER

Re: Approval of Appointment

City Manager LaGarce reminded Council of a candidate presented at the last meeting for the Planning & Zoning Commission. This was:

PLANNING & ZONING COMMISSION

- **Don Bastian – reappointment for a term to expire June, 2017**

He asked Council for their approval of this nomination. Motion was made by Council Member Louderman to approve Don Bastian to serve on the Planning & Zoning Commission for a term to expire in June, 2017. Motion was seconded by Council Member Hark.

Motion carried.

Re: Recommendation of Appointment

City Manager LaGarce made the following recommendation:

BOARD OF ADJUSTMENT

- **Sharon Colbert – appointment for an unexpired term to expire July, 2014**

This nomination will be considered for approval at the next regular Council meeting, to be held on July 16, 2013.

Re: Hannibal Nutrition Center – Contract for Services

(Resolution No. 1913-13, to follow)

City Manager LaGarce explained that this request is similar to one made each year and regarded a service agreement with the Hannibal Nutrition Center in the amount of \$18,357 to provide senior services, such as nutrition and meals, exercises, activities, guest speakers, crafts, health tips, etc. He added that Staff recommended renewal of this agreement. The approval of Resolution No. 1913-13, to follow, would accomplish this and approve the FY2014 payment.

MARK REES – CITY ENGINEER

Re: Landfill Survey – Professional Services Agreement

Poepping, Stone, Bach & Associates

(Resolution No. 1914-13, to follow)

City Engineer Mark Rees explained that, despite his extensive efforts to find the boundaries at the municipal landfill, he was unable to accomplish this; therefore, he had asked Poepping, Stone, Bach & Associates (PSBA) to submit a fee and proposal for that task. As a result, they submitted the requested proposal, in the amount not to exceed \$4,500.00. This will cover costs associated with a survey, marking of corners and providing a plat. Since the location of these boundaries is necessary in order to administer current and future obligations required by DNR, City Engineer Rees advised that staff's recommendation was to accept the proposal and authorize Mayor Hark to enter into an agreement with PSBA. Approval and adoption of Resolution No. 1914-13, to follow, would accomplish this.

In response to a question posed by Council, Rees stated that he did not solicit bids for this project since it is against state law to solicit bids for professional surveying services. He assured Council that he always used a qualified firm that can deliver the results. He admitted that this type of surveying was expensive, but added that the cost was in line with others of this type.

Re: New London Gravel Road Bridge – Professional Services Agreement

*Poepping, Stone, Bach & Associates
(Resolution No. 1915-13, to follow)*

City Engineer Rees explained that it had been brought to his attention that some of the bridges on Warren Barrett Drive and New London Gravel Road are experiencing distress in the expansion joints. He added that the plan was to fix these bridge problems, in-house. Rees told Council that he had asked Poepping, Stone, Bach & Associates to devise a sketch detailing the method for fixing this problem; then, a training session would be scheduled with PSBA for the appropriate City staff.

PSBA submitted a fee and proposal at a cost of \$1,500.00. Rees stated that this would transfer to all the bridges with the same type of distress; and, he added that the Department of Public Works recommended accepting the proposal from PSBA and authorizing the Mayor to enter into a contract. The approval and adoption of Resolution No. 1915-13, to follow, would accomplish this.

Re: Mark Twain Motor Inn Easement

City Engineer Rees explained that it was recently brought to his attention that the engineers were going to close on the Mark Twain Motor Inn property, the future location of the new CVS Pharmacy. They requested the City execute a drainage easement. After some discussion, it was decided to present this matter to Council for their approval in accepting this drainage easement.

Rees explained that a new building is being placed on this site and the box culvert is in the way. CVS Pharmacy's plan is to relocate this culvert at their own expense. Rees added that there was a small complication—in relocating this box culvert, it slightly encroached onto a neighboring property. As a solution, an arrangement has been made with this property owner to provide an additional easement and allow the relocation of the box culvert.

JOEY BURNHAM – BUILDING INSPECTOR

Re: Stabilization Agreement for 211 Broadway

*River City Restorations
(Resolution No. 1917-13, to follow)*

Joey Burnham, the City Building Inspector, explained that, because of the problem at 213 Broadway, it had become imperative to stabilize the structure located at 211 Broadway, owned by Cindy Benjamin. Recently, bids were let for the stabilization portion of this project with the low bid received from River City Restoration in the amount of \$38,584. Burnham recommended Council approval of Resolution No. 1917-13, to follow, that would approve and adopt this contract with River City Restorations for the stabilization of the structure located at 211 Broadway.

Re: Demolition contract for 213 Broadway
Century Used Brick
(Resolution No. 1918-13, to follow)

Burnham explained that bids were also let for demolition of the structure located at 213 Broadway. Low bid for this portion of the project was \$5,000 from Century Used Brick. Even though Burnham noted that the bids came in very low, the demolition company, Century Used Brick, commented that there is much salvageable material in this structure. Burnham also recommended Council approval of Resolution No. 1918-13, to follow, that would approve and adopt this contract with Century Used Brick for the demolition of the structure located at 213 Broadway.

Council Member Louderman questioned the payment details for the stabilization of 211 Broadway. Burnham asked City Attorney Lemon to give a response. First, Lemon requested that the resolutions be slightly amended to be subject to the approval of the circuit court. Lemon explained that the City currently has an order requiring the property owner to take action and he is now in contempt because of his failure to do so.

He added that the City needs to request a hearing with the Judge to bring this to light, at that time, the Judge would rule the owner in contempt of court; and, as a part of the order, Lemon said that he would request the Judge allow the City to complete the demolition. According to City Attorney Lemon, without that ruling, the City does not have the authority to go onto this property. In doing this, a request could be made to have the cost be assessed against the property owner. That is the ultimate plan, to have the cost be assessed against him. The City Attorney admitted that, just because there is an order, does not mean that a check would be immediately forthcoming; however, he believed this would be the ultimate result since there would be a lien against this property which could also be transcribed against any other property that he may own in any other county. In response to a question posed by Mayor Pro Tem Knickerbocker regarding clarification of the proposed amendment, Lemon explained that he would request a line be added to both Resolution No. 1917-13 and Resolution No. 1918-13 that read, '*subject to the approval of the circuit court*'.

Council Member Louderman made a request that City Manager LaGarce meet with Cindy Benjamin, the owner of the property located at 211 Broadway, to discuss payment details of the building stabilization, prior to the court date. LaGarce asked whether or not the Judge was aware of the delicacy of the problem. City Attorney responded that the Judge had given a general order requiring the property owner to fix or demolish the building, nothing else was specified. LaGarce asked if photos would help with the Judge's decision; however, Lemon did not believe that there would be a problem in getting the Judge to rule in the City's favor, only that the solution is not instantaneous but would come only after the Judge's ruling. Lemon agreed to take photos with him, adding that they may, indeed, be helpful.

Mayor Pro Tem Knickerbocker asked if there were a chance that the Judge would declare Ms. Benjamin an injured party, as well, since the building at 213 Broadway could not be demolished without fixing the building located at 211 Broadway (Benjamin's building). Lemon stated that Benjamin had been invited to join in the lawsuit; however, under the advice of her Counsel, she had declined. Lemon added that he was unsure whether the stabilization of the adjacent building was, part and parcel, a portion of the order; and, without that ruling from the Judge, he could not advise Council about this, even though he believes that would be a reasonable assumption.

Lemon stated that, for this reason, he was suggesting the amendment to the two resolutions. If the Court were to decide that the City's request was inappropriate, nothing would happen except that he would return to Council with the Court's decision. At that time, Council would have to decide what their next step would be. With this in place, the City would be ready to take immediate action if the Judge did rule in its favor. Knickerbocker suggested that presenting the actual stabilization/demolition cost assessments to the Judge would be helpful in obtaining a favorable ruling. City Attorney Lemon agreed and added that he believed the Judge would not be able to assess a specific dollar amount without a contract. With numbers in hand, Lemon's opinion was that he could request the Judge assess the costs, as a judgment, against the property owner. The Judge may do this or he may wish to see the building completely demolished, repairs made and a final bill submitted before he would be willing to make the final assessments. Lemon admitted that this was new territory for him, adding that he believed this was the first time in the City's history that common law nuisance had been used to deal with this type of situation, and certainly not since he had been the City Attorney. In two previous incidents that Lemon recalled, the matter had been settled prior to a court hearing date.

City Manager LaGarce commented that he liked the process and thought the City Attorney had done a good job with this case, but had felt the need to rush this item on the agenda. Lemon responded that he did not feel that he was being inappropriately pushed, but did not want the City bound to a contract without a court order to enter the property.

Cindy Benjamin asked to speak, with regard to this issue. She commented that she knew bids had been received for the stabilization of her property; however she had not been informed of these results. She wanted to know the projected costs involved in securing her structure. City Building Inspector Joey Burnham responded that the costs were more reasonable than he had expected, adding that the projected costs for stabilization totaled \$38,584 with the cost for demolition of 213 Broadway totaling \$5,000. LaGarce admitted that the bids were, indeed, favorable; however, this amount was 2/3 of the City's demolition budget and his concern was that this day (July 2nd) was only the second one of the new fiscal year.

LaGarce reminded Benjamin that he had been directed, by Council, to meet with her and work out a cost-share, adding that he would be contacting her on the following day.

RESOLUTION NO. 1913-13

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SERVICE AGREEMENT WITH THE HANNIBAL NUTRITION CENTER IN THE AMOUNT OF \$18,357 FOR SENIOR MEALS AND RELATED SERVICES

Motion was made by Council Member Lionberger to have the City Clerk read Resolution No. 1913-13, and call the roll for adoption. Motion was seconded by Council Member Hark.

Motion carried.

Roll Call

Yes: Mayor Pro Tem Knickerbocker, Council Members Dobson, Lionberger, Louderman and Hark - 5

Abstain: Mayor Hark - 1

No: -0-

Absent: Council Member Locke – 1

Mayor Hark declared Resolution No. 1913-13, duly approved and adopted on this date.

RESOLUTION NO. 1914-13

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT IN THE AMOUNT OF \$4,750 WITH POEPPING, STONE, BACH AND ASSOCIATES, INC TO PERFORM SURVEYING SERVICES AT THE LANDFILL PROPERTY

Motion was made by Council Member Louderman to have the City Clerk read Resolution No. 1914-13, and call the roll for adoption. Motion was seconded by Council Member Lionberger.

Motion carried.

Roll Call

Yes: Mayor Pro Tem Knickerbocker, Council Members Dobson, Lionberger, Mayor Hark, Council Members Louderman and Hark - 6

No: -0-

Absent: Council Member Locke – 1

Mayor Hark declared Resolution No. 1914-13, duly approved and adopted on this date.

RESOLUTION NO. 1915-13

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF HANNIBAL AND POEPPING, STONE, BACH AND ASSOCIATES, INC IN THE AMOUNT OF \$1,500.00 FOR THE PREPARATION OF PLANS TO REPAIR EXPANSION JOINTS ON THE NEW LONDON GRAVEL ROAD BRIDGE

Motion was made by Council Member Hark to have the City Clerk read Resolution No. 1915-13, and call the roll for adoption. Motion was seconded by Council Member Louderman.

Motion carried.

Roll Call

Yes: Mayor Pro Tem Knickerbocker, Council Members Dobson, Lionberger, Mayor Hark, Council Members Louderman and Hark - 6

No: -0-

Absent: Council Member Locke – 1

Mayor Hark declared Resolution No. 1915-13, duly approved and adopted on this date.

RESOLUTION NO. 1916-13

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN DRAINAGE EASEMENT DOCUMENTS FOR THE RELOCATION OF AN EXISTING BOX CULVERT ON THE MARK TWAIN MOTOR INN PROPERTY

Motion was made by Council Member Dobson to have the City Clerk read Resolution No. 1916-13, and call the roll for adoption. Motion was seconded by Council Member Louderman.

Motion carried.

Roll Call

Yes: Mayor Pro Tem Knickerbocker, Council Members Dobson, Lionberger, Mayor Hark, Council Members Louderman and Hark - 6

No: -0-

Absent: Council Member Locke – 1

Mayor Hark declared Resolution No. 1916-13, duly approved and adopted on this date.

RESOLUTION NO. 1917-13

(As Amended)

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR STRUCTURAL STABILIZATION OF 211 BROADWAY DUE TO THE CONDEMNED PROPERTY LOCATED AT 213 BROADWAY BETWEEN THE CITY OF HANNIBAL AND RIVER CITY RESTORATION, *SUBJECT TO THE ORDER OF THE MARION COUNTY CIRCUIT COURT*

Motion was made by Mayor Pro Tem Knickerbocker to have the City Clerk read Resolution No. 1917-13, as amended, and call the roll for adoption. Motion was seconded by Council Member Hark.

Motion carried.

Roll Call

Yes: Mayor Pro Tem Knickerbocker, Council Members Dobson, Lionberger, Mayor Hark, Council Members Louderman and Hark - 6

No: -0-

Absent: Council Member Locke – 1

Mayor Hark declared Resolution No. 1917-13, as amended, duly approved and adopted on this date.

RESOLUTION NO. 1918-13

(As Amended)

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR DEMOLITION OF CONDEMNED PROPERTY LOCATED AT 213 BROADWAY BETWEEN THE CITY OF HANNIBAL AND CENTURY USED BRICK, *SUBJECT TO THE ORDER OF THE MARION COUNTY CIRCUIT COURT*

Motion was made by Council Member Louderman to have the City Clerk read Resolution No. 1918-13, as amended, 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, Lionberger, Mayor Hark, Council Members Louderman and Hark - 6

No: -0-

Absent: Council Member Locke – 1

Mayor Hark declared Resolution No. 1918-13, 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 Pro Tem Knickerbocker.

Motion carried.