

## **OFFICIAL COUNCIL PROCEEDINGS**

**Tuesday, November 4, 2014  
Council Chambers  
7:00 p.m.**

### **ROLL CALL**

**Present:** Council Members Hark, Locke, Mayor Pro Tem Knickerbocker,  
Council Members Dobson, Lionberger and Mayor Hark – 6

**Absent:** -0-

### **CALL TO ORDER**

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

### **INVOCATION**

At this time, Council Member Lionberger gave the invocation.

### **PLEDGE OF ALLEGIANCE**

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

### **APPROVAL OF MINUTES**

**Closed Session Meeting – June 17, 2014**

**Closed Session Meeting – July 1, 2014**

**Closed Session Meeting – August 5, 2014**

**Closed Session Meeting – August 19, 2014**

**Regularly Scheduled Council Meeting – October 21, 2014**

Motion was made by Council Member Dobson to approve the minutes of the regularly scheduled Council meeting that was held on October 21, 2014 and the minutes from the Closed Session meetings held on June 17, 2014, July 1, 2014, August 5, 2014 and August 19, 2014. Motion was seconded by Council Member Hark.

Motion carried.

**APPROVAL OF PAYROLL AND CLAIMS**  
**Second Half – October, 2014**

Motion was made by Mayor Pro Tem Knickerbocker to approve the payroll and claims for the second half of October, 2014. Motion was seconded by Council Member Locke.

Motion carried.

**FRANCIS FOUBESTER – AMERICAN LEGION**  
**Re: Request, Street Closure – Veterans Day Parade**  
*Saturday, November 8, 2014 – 9:30 a.m. – 12:00 p.m.*

Mike Battles, representing the Emmett J. Shields Post 55 American Legion and American Legion Riders on behalf of Francis Foubester who was unable to attend, came before Council with a request for approval of street closure during the Annual Veterans' Day Parade to be held on November 8, 2014. He requested the closure of Broadway from Grand Avenue to Main and Main Street from Broadway to North Street. It was noted that all pertinent information had been received; therefore, motion was made by Mayor Hark to approve this request. Motion was seconded by Council Member Dobson.

Motion carried.

**JIM MITCHELL**  
**Re: Monument, Douglasville & Joe Douglas (Injun Joe)**

Mr. Jim Mitchell came before Council to present the next item on the agenda, a request to erect a monument in honor of Douglasville and Joe Douglas (Injun Joe). Mitchell explained that recently he discovered the significance of the Douglasville area to Hannibal. Douglasville, according to Mr. Mitchell, had been named after Joe Douglas, the supposed model for Injun Joe. Mitchell added that Joe Douglas was not typical of the character of Injun Joe, being a diligent businessman as he grew older, even though he was a Roust-About when he was younger. Douglasville became one of the first African-American homeowners' communities in the entire Country, even though there were other areas where people rented their residences. Joe Douglas purchased the property where Douglasville was later located shortly after the Civil War.

Descendents of some Douglasville residents, Faye Dant and Rhonda Hull, were present at the meeting; and, Mitchell commented that they had expressed a desire to have a monument erected, recognizing Douglasville and its historical significance, not only to the Hannibal area, but to the whole country. Mitchell indicated that the cost of the proposed monument, including two posts and a 4'x3' plaque, would be approximately \$800.00. Not only would the monument recognize Joe Douglas and Douglasville, but point out the possible connection between Mark Twain and Joe Douglas. It would also contain a statement depicting Douglas as the honorable person that he was, despite the possibility that Injun Joe was modeled after him.

He appealed to Council for permission to initiate the process and erect this monument, adding that the property owner, Mr. Gillian, had been contacted and he had already given permission to have the monument placed on his property. Mayor Pro Tem Knickerbocker

made a motion to approve Mitchell's request. Motion was seconded by Council Member Dobson.

During discussion, LaGarce said that \$800 could be allocated for the completion of the monument. Mitchell indicated that he could request the additional funding be provided by the donations. Parks Director Dorian questioned who the responsible party would be with regard to future maintenance, since the sign would be located on City-owned property.

Mitchell admitted that this was a very pertinent question that had not previously been addressed. City Attorney Lemon advised that an easement could be drafted and recorded, if the current owner was willing to do this. This could provide for access, should the City need to perform some type of maintenance to that area. If there was no easement and the property changed owners, nothing would deter the future owner from removing the sign. He added that the easement would be his suggested avenue. He offered to do this, but stated that he would need the property address, including legal the description, and the owner's name before he could begin drafting the easement.

Mayor Pro Tem suggested that Council approve the request, then the project could move forward and when the price and easement paperwork are completed, those could be brought before Council for approval at that time.

Council Member Dobson suggested that, in response to the Parks Directors' maintenance question, it would be the Parks' responsibility to maintain; however, Dorian countered that it should be the Street Department's responsibility. The City Manager agreed to find an avenue for maintenance of the sign.

A lady from the audience questioned the type of sign to be used and Mitchell responded that the sign would be similar to the story board by the lighthouse.

Motion carried.

**ROY G. HARK – MAYOR**  
**Re: Approval, Council Appointment – Building Commission**

At this time, Mayor Hark expressed his desire to appoint Council Member Lionberger as Council for the Building Commission in place of Council Member Louderman. Motion was made by Mayor Hark to appoint Council Member Lionberger, seconded by Council Member Locke.

Motion carried.

**Re: Recommendation of Appointment**

Mayor Hark made the following recommendation:

**AIRPORT COMMISION**

- **Michael Riesenbeck – reappointment for a term to expire  
September, 2017**

This nomination will be considered for approval at the next regular Council meeting, to be held on November 18, 2014.

**JEFF LAGARCE – CITY MANAGER**

**Re: Code Amendment – Chapter 16, Section 170**

*Habitable Structures Used for Illegal Sale or Use of Controlled Substances  
(Bill No. 14-023, to follow)*

City Manager LaGarce referenced the Ordinance that was created in 2010 with regard to drug houses. He explained that, because of continuing drug problems and activity in the community, he believed that an amendment to this ordinance was necessary. According to LaGarce, the original ordinance, which was modeled after similar ordinances in a couple of other communities, would allow the City to declare a structure uninhabitable for a period ranging from 90 to 365 days if arrests for illegal drugs (sales or use) occur at that location. This ordinance maintained a standard of three (3) drug arrests over a 24 month period.

This was well-intended, but what was discovered was that there were certain residences where there were repeated drug arrests next door or across from other citizens where the 3-arrest threshold has not been met. In cases such as these, during a five-year period, a citizen may have 8-9 drug arrests next door, but none triggering the ordinance. LaGarce assured Council that he was not looking to “trigger” the ordinance; however, when problems persist, there must be a solution.

Hence, the original ordinance has been explored and a request was now being made to modify this ordinance. The proposed ordinance would do three things:

- Retain the standard for three (3) drug arrests over 24 months
- Incorporate the “manufacture” of illegal controlled substances as a nuisance, as well as sales and use.
- Create prima facie evidence against a property owner if, at least, one (1) drug arrest occurs on the property, and the arrested tenant was previously evicted under the authority of RSMo 441.740 (which is a drug-related eviction brought by the City Prosecutor.)

The ordinance proposed that names of any person evicted of drug use, manufacture or possession would be communicated to the City Clerk’s office and placed on an open list that would be made available for public inspection. The City Manager assured Council that the City Staff was not trying to hurt anyone, only to take a strong approach to the drug related activities at hand.

Council Member Lionberger inquired whether or not there would be a call placed to the landlord of an individual placed upon the list. The availability of the list would be broadcast so that landlords could check it periodically, according to LaGarce who added that, in his opinion, anyone renting a house should be concerned who their tenants were. This could even assist landlords in their background checks. The list would be kept, solely, for the purpose of public disclosure.

Police Chief Lyndell Davis indicated that a couple, living in a certain area of town, had brought this to the forefront. He added that they had lived in the same residence for nineteen years, during numerous drug raids that occurred next door; however, there was never enough on any of these to trigger the ordinance. LaGarce concurred and added that since 2010, he had never enacted this ordinance, even though the intentions were good.

City Attorney Lemon commented that the City has a problem, but the question is: how to deal with it without being punitive on the landlords. In searching for answers, he discovered

that a state statute exists where any prosecutor can evict a tenant in a residence where police have evidence of drug activity, since the goal is to protect people in these neighborhoods, not to attack the landlords. If the City were to keep an eviction list, landlords could check these lists and refrain from renting to anyone who is on them. Landlords will have a tool alerting them to the drug dealers so they will not rent to those individuals.

Lemon stated that when an ordinance such as this exists there is a risk, since the City would have to show that someone had knowledge and was allowing the drug dealer to reside there. He voiced concerns, both from the standpoint of doing what is right and the chance that the City would be sued for an unlawful taking because the people had no notice. The option spelled out in this ordinance was the most favorable, taking all these things into consideration.

Council Member Lionberger questioned whether City Hall could contact the landlord in these situations to alert them that a tenant is dealing drugs and is on the list; however, Mayor Pro Tem Knickerbocker stated that it is not incumbent upon the City to notify every landlord since that is what the list is for. Landlords should take that responsibility.

City Attorney Lemon clarified that, in the case of current residents, landlords should be notified if the City were to file an eviction, pursuant to state statutes; however, in the case of potential tenants, the eviction list would be a tool to be checked by landlords during the background check process. Police Chief Davis added that the Police Department's role would be very small, since they would merely notify the City Prosecutor with evidence of drug activity. The City Prosecutor would then act accordingly. It was pointed out that some responsibility still lies with the landlord in these instances, even though the City will be accepting some responsibility in removing the offenders. After they are evicted, the responsibility of keeping them out will be shared between the landlord and the City, according to Lemon.

Council Member Lionberger asked what would happen if the offender was evicted, then got two additional arrests. Lemon responded by stating he believed the new process being put into place would be more likely to work than the old one, even though, he did not believe that the old process had never been utilized.

**Re: Code Amendment – Chapter 7, Article III, Division 4, Section 7-246**  
*Levels of Contamination Due to Production of Methamphetamine & Protocols for*  
*Abating such Contamination*  
*(Bill No. 14-024, to follow)*

The City Manager advised that, in order to rid Hannibal of debilitating drug problems, research was conducted of other communities who have adopted EPA standards for the proper testing and decontamination of structures where methamphetamine has been manufactured, used or stored. While EPA is known for regulatory overreach, these standards are not required by any means; they have simply been developed by EPA as a safe standard, and some jurisdictions have simply adopted those national standards to assure meth houses are safe for the next occupant. Staff recommended the City of Hannibal also do this.

If law enforcement reports to the City Building Inspector's office, they may order the structure closed and require the property owner to hire a qualified EPA contractor to check meth levels. The Building Inspector's office may also order that electrical service to the structure be disconnected to assure no-occupancy during that time. If the structure tests negative, the building may be reopened; however, if it tests positive, the owner must hire a

qualified contractor to clear the dwelling and file a de-contamination report with the Building Inspector for final clearance. LaGarce advised that the intent of this ordinance was to insure that any structure where methamphetamine has been stored, used or manufactured is tested and proved to be safe for the next occupant.

Mayor Hark commented that he had no problem with taking steps to eliminate the drug dealers; however, he is opposed to placing undue stress on the landlords. He did agree that they had a responsibility to know who their tenants were.

Council Member Lionberger questioned the procedures to be followed in the event that a multi-unit, such as a 10-plex or even a duplex was deemed unfit. City Manager LaGarce responded that only the unit in question would be closed and Lieutenant John Zerbonia agreed; however, Lionberger requested that it be stated thus in the ordinance.

Police Chief Davis indicated that, according to the research they had completed, the Police Department was only the reporting agency; the rest of the process is a function of the Building Inspector's office. Lieutenant Zerbonia commented that, when he contacted St. Charles County, he was advised that this procedure had been utilized a number of times over the years with very positive feedback.

The City Manager stated that he would work with City Attorney Lemon to change the wording in the ordinance from "structure" to "unit". Then Council Member Locke asked that Mr. Taylor be recognized and given the floor.

Mr. Brent Taylor, of Taylor Properties, came to the podium to speak. He indicated that he liked what he was hearing and commented that the ordinance was very pro-active. He added that if an individual had been arrested three times in the past twenty-four months, they should be looking for a cellmate, not a rental property. A concern of his and also from other landlords was that many times the original person on the lease and renting the property, is not the actual tenant who moves into the rental property and is arrested for drugs. In some of these cases, a civil matter exists where a person who moves into a property is considered a resident of that property after a certain length of time, and eviction is difficult. Lemon responded by indicating that, according to this statute, he could evict the resident, as well as the original person on the lease, if he was given their information, then both could be added to the eviction list.

Taylor commented that there will probably be a few chronic landlord problems discovered through this process and these could be addressed, as well. His final concern regarding units vs. structures that he believed should be examined was the number of raids at motels/hotels operating as rental units. Lieutenant Zerbonia expressed the necessity of the cleanup process at these locations and the process that occurs. He, then, addressed Taylor's concerns, stating that both ordinances would apply in the case of motels/hotels the same as other rental properties. Drug activities would trigger the enactment of both ordinances, regardless of the property type. He added that there is a Missouri Statute, Chapter 441 that requires landlords, owners and sellers to disclose any methamphetamine use, production or storage by previous occupants.

City Attorney Lemon added that in light of the proposed ordinance, during the disclosure process the landlord will now be able to attest that the rental property has been cleaned by an abatement contractor and signed-off by City officials, setting the potential owner/renter at ease. A big issue, according to Lemon, will be locating appropriate abatement contractors and testing personnel; and, the City is currently working on that. Lieutenant Zerbonia

indicated that he has a list of qualified contractors and offered to contact and work with them. He would also comprise a list of those contractors who are willing travel to Hannibal and complete the cleanup and testing procedures.

An audience member questioned whether the eviction list would be posted on the City's website. City Attorney Lemon responded that he would check to insure there is no case law that would prohibit this, but agreed this would be a possibility.

Mayor Pro Tem Knickerbocker commented that Mr. Taylor had voiced a valid concern in questioning whether procedures in this ordinance would capture the long term rentals, such as the motels/hotels that are renting for 30-60+ days. LaGarce admitted that there had been no consideration for these types of structures when the ordinance was developed but agreed to review this. Knickerbocker stated that these dwellings are real problem areas and advised that staff may need to research how these could be captured in this ordinance or consider developing a specific separate ordinance to address the hotel/motel long-term rentals.

After a short discussion with regard to hotel/motel inspections and management's procedures in the event of a meth-related incident, City Manager LaGarce admitted that the City would not even be notified unless there was an arrest. Council Member Hark indicated that there are some hotels that do not care, as long as they are getting beds filled; however, Tourism Director Bryant countered that most hotels in Hannibal are good hotels and that staying in Hannibal is a great experience. Hark and other Council Members agreed that only a very small number of hotels were offenders.

#### **ANGELICA VANCE – CITY CLERK**

##### **Re: Approval, 4<sup>th</sup> Ward Council Vacancy Process**

City Clerk Angelica Vance presented the next item on the agenda, relating to the Fourth Ward Council vacancy. She explained that she had slated the procedure for filling the vacancy, as well as the proposed timeline. She added that this is the same timeline that had been used in the past to fill Council vacancies. She asked for Council approval of the documents and their consideration of the timeline. Mayor Pro Tem Knickerbocker suggested that the final process, the Candidate Forum/Selection, scheduled for December 2<sup>nd</sup>, be rescheduled for December 16<sup>th</sup> since he would not be in attendance at the December 2<sup>nd</sup> meeting. Motion was made by Council Member Lionberger to approve the amended timeline and the documents related to the Fourth Ward Selection Process. Motion was seconded by Council Member Locke.

Motion carried.

#### **ANDY DORIAN – DIRECTOR, PARKS & RECREATION**

##### **Re: Purchase, 803 South Main – Contract for the Sale of Real Estate**

*Tony McReynolds*

*(Resolution No. 1976-14, to follow)*

Andy Dorian, Parks & Recreation Director, made a request for Council approval of Resolution No. 1976-14, to follow, regarding the purchase of property located at 803 South Main and the contract. Recently, Tony McReynolds, owner of the property located at 803 South Main, came to City Hall expressing his desire to sell.

During Closed Session, Council approved a \$3,200 offer for this property, which was done. As a result, Mr. McReynolds and his wife agreed; therefore, City Attorney Lemon drafted a contract for sale. This would be approved with the approval of Resolution No. 1976-14, to follow. Dorian advised that the Parks Department recommended authorization for the Mayor to execute this real estate contract between the City of Hannibal and Anthony & Mara McReynolds for the purchase of property known as 803 South Main Street at a price of \$3,200 plus closing costs.

**BRIAN CHAPLIN – DPW SUPERINTENDENT**

**Re: Mark Twain Avenue Sidewalk Grant Application – Engineering Service Agreement**

*Poepping, Stone, Bach & Associates*

*(Resolution No. 1977-14, to follow)*

DPW Superintendent Brian Chaplin asked Council approval of Resolution No. 1977-14, to follow. Chaplin explained that He had recently begun a grant application for the Mark Twain Avenue Sidewalk project, at the request of City Manager LaGarce. He has progressed to the point that a licensed engineer is needed to complete the grant process; therefore, Chaplin requested Council approval of the resolution that would authorize Mayor Hark to enter into an engineering service agreement with Poepping, Stone, Bach & Associates (PSBA) to accept their proposal for this project in the amount of \$1,500.00.

**RESOLUTION NO. 1976-14**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR THE SALE OF REAL ESTATE BETWEEN THE CITY OF HANNIBAL PARKS AND RECREATION DEPARTMENT AND ANTHONY AND MARA MCREYNOLDS FOR THE PURCHASE OF PROPERTY KNOWN AS 803 SOUTH MAIN STREET, IN THE AMOUNT OF \$3,200 PLUS UNKNOWN CLOSING COSTS**

Motion was made by Council Member Dobson to have the City Clerk read Resolution No. 1976-14 and call the roll for adoption. Motion was seconded by Council Member Locke.

Motion carried.

**Roll Call**

**Yes:** Council Members Hark, Locke, Mayor Pro Tem Knickerbocker, Council Members Dobson, Lionberger and Mayor Hark – 6

**No:** -0-

**Absent:** -0-

Mayor Hark declared Resolution No. 1976-14 duly approved and adopted on this date.

**RESOLUTION NO. 1977-14**

**A RESOLUTION ACCEPTING THE PROPOSAL WITH POEPPING, STONE, BACH AND ASSOCIATES THE AMOUNT OF \$1,500 TO CONDUCT A MoDOT**

**GRANT TO IMPROVE THE SIDEWALKS ON MARK TWAIN AVE  
AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SAME**

Motion was made by Council Member Lionberger to have the City Clerk read Resolution No. 1977-14 and call the roll for adoption. Motion was seconded by Council Member Locke.

Motion carried.

**Roll Call**

**Yes:** Council Members Hark, Locke, Mayor Pro Tem Knickerbocker,  
Council Members Dobson, Lionberger and Mayor Hark – 6

**No:** -0-

**Absent:** -0-

Mayor Hark declared Resolution No. 1977-14 duly approved and adopted on this date.

**BILL NO. 14-023**

**AN ORDINANCE AMENDING CHAPTER 16, SECTION 170 OF THE HANNIBAL  
CITY CODE RELATIVE TO HABITABLE STRUCTURES USED FOR THE  
ILLEGAL SALE OR USE OF CONTROLLED SUBSTANCES**

**FIRST READING**

Motion was made by Council Member Dobson to give Bill No. 14-023 a first reading.  
Motion was seconded by Council Member Hark.

Motion carried.

**BILL NO. 14-024**

*(As amended)*

**AN ORDINANCE REVISING CHAPTER 7, ARTICLE III, DIVISION 4 OF THE  
ORDINANCES OF THE CITY OF HANNIBAL, BY ADDING SECTION 7-246,  
REGARDING LEVELS OF CONTAMINATION DUE TO PRODUCTION OF  
METHAMPHETAMINE AND PROTOCOLS FOR ABATING SUCH  
CONTAMINATION**

**FIRST READING**

Motion was made by Mayor Pro Tem Knickerbocker to give Bill No. 14-024 a first reading,  
as amended. Motion was seconded by Council Member Dobson.

Motion carried.

## **ADJOURNMENT**

Motion was made by Mayor Pro Tem Knickerbocker to adjourn the meeting. Motion was seconded by Council Member Lionberger.

Motion carried.