

City of Hannibal

OFFICIAL COUNCIL AGENDA

**Tuesday September 21, 2021
Council Chambers
7:00 p.m.**

Meetings are open to the public, however, if you would like to view the meeting, you may do so using the following instructions:

City Council meetings will be videotaped to be shown live on the City of Hannibal YouTube page.

Although the meeting will be shown live, residents will also be able to watch the meeting on the YouTube page after the meeting.

The instructions to watch the meetings online follow:

- 1. Type in www.youtube.com in the web browser*
- 2. Type in City of Hannibal in the "Search" bar and hit Enter and hit the magnifying glass on the right side of the search bar.*
- 3. Click on "City of Hannibal" or the city of Hannibal crest.*
- 4. During the City Council meeting, there will be a red Thumbnail with the word "Live" on it.*
- 5. Click on the Thumbnail to watch the meeting.*
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ROLL CALL

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES

**Closed Session Minutes – July 6, 2021
Regularly Scheduled Council Meeting – September 7, 2021**

APPROVAL OF PAYROLL AND CLAIMS

First Half – September 2021

MARGEE TUCKER, EXECUTIVE DIRECTOR – HANNIBAL NUTRITION CENTER

Re: Annual Report & Funding Request

JAMES LEMON – CITY ATTORNEY

Re: Stormwater Funding Options

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JAMES HARK - MAYOR
Re: Approval of Reappointments

HANNIBAL CONVENTION & VISITORS BUREAU

- **Mary Bowman – reappointment for a term to expire September 2026**
- **Roy Hark – reappointment for a term to expire September 2026**

POLICEMEN & FIREMEN RETIREMENT BOARD

- **Pat Benson – reappointment for a term to expire December 2024**

Re: Recommendation of Reappointments

HANNIBAL TREE BOARD

- **Maxx Vance – reappointment for a term to expire September 2024**

AIRPORT COMMISSION

- **John Ortwerth – reappointment for a term to expire September 2023**

LISA PECK – CITY MANAGER
Re: Emergency Declaration Limb Pickup Policy
(Resolution No. 2371-21, to follow)

RESOLUTION NO. 2371-21

A RESOLUTION OF THE CITY OF HANNIBAL ADOPTING A LIMB PICK UP POLICY, UPON EMERGENCY DECLARATION, FOR THE USE OF CITY RESOURCES BY THE CITY OF HANNIBAL

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BILL NO. 21-027

AN ORDINANCE OF THE CITY OF HANNIBAL REVOKING AND REPLACING CHAPTER 28, *STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES*, ARTICLE VI – *TREE REGULATION*, DIVISION 3 – *PLANTING, MAINTENANCE AND REMOVAL OF TREES*, SECTION 28- 295 *TREE MAINTENANCE* OF THE REVISED ORDINANCES OF THE CITY OF HANNIBAL REGARDING TREE MAINTENANCE

Second & Final Reading

BILL NO. 21-028

AN ORDINANCE OF THE CITY OF HANNIBAL APPROVING AND ACCEPTING THE FINAL PLAT OF THE WILLING SUBDIVISION, A SUBDIVISION BEING PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 57 NORTH, RANGE 5 WEST OF THE FIFTH PRINCIPAL MERIDIAN, MARION COUNTY, MISSOURI

Second & Final Reading

CLOSED SESSION

In Accordance with RSMo. 610.021 (2) (3) (13)

ADJOURNMENT

REPORT ON MEETING REGARDING STORM WATER

To: Hannibal City Council

From: City Attorney

Re: Storm Water Meeting

The storm water failure at North Street, as well as cave ins at various locations around town have caused citizens to be concerned. The fact of the matter is that Hannibal is a very old town. When the initial portions of our sewer system were built, there was little distinction between storm sewers and sanitary sewers. While this would sound like something that is a historical problem, it really is not. As we know from several recent issues the BPW had with the sanitary sewer systems flooding when it rained, it was still common practice in Hannibal into the 1970's and 80s for builders to direct storm water into the sanitary sewer system. This historical basis for our storm water system means there are a lot of problems hidden under the ground just waiting to be found.

Our system of dealing with storm water is further complicated by the fact that historical control of storm water, especially prior to the mid 1900s, was frequently considered the responsibility of the property owner. As a result, in the older parts of town, where storm sewers exist they were often built by landowners with the simple plan of directing the water off of their property and onto someone else. (This was subject to the law of the land at the time regarding water run, which was called the common enemy doctrine. Basically, water is a common enemy and your only duty was to direct it off your property). This resulted in a hodgepodge of different types of storm water conveyances all loosely tied together. On multiple occasions, if a business wanted to use 100% of their ground they simply built some type of storm sewer and paved right over the top of it. In some circumstances they actually built their building on top of it. No easements were given to the City and the City did not accept these systems into City Control despite the fact that they frequently eventually tie into actual City storm sewers.

Our problems are further complicated by the fact that both the EPA and Missouri DNR have multiple requirements and regulations of Cities that no one even considered 50 years ago, let alone over 100 years ago when some of these storm water structures were built. Municipal Separate Storm Sewer Systems or (MS4's) require specific permitting and as a result there is the potential for further unfunded mandates of upgrades and changes that have to be made. If those changes aren't made the City runs the risk of fines and in worst case scenarios, lawsuits by the EPA or DNR where they ask a court to force the City to make changes to the storm water system. As a general rule, little if any consideration is given by the court to whether a city has the money for it or if it would interfere with the ability to provide streets, sidewalks, etc.

Because of the issues with storm sewer collapses, all the state and Federal mandates, etc. the City has had various discussions about a possible storm water utility. The council several years ago specifically directed the board of public works to create a storm water utility which they did. The Board then placed on the ballot a voter initiative to establish approval of a storm water fee. That

initiative failed. The logical question that many have asked is why doesn't the board just figure out a rate, have public meetings to allow public input and get going on all of these problems. The answer to that is primarily a Missouri Supreme Court case called *Zweig v. Metropolitan St. Louis Sewer District*, 412 S.W. 3rd 223 (Mo. 2013) (en banc). In that case, the Metropolitan Sewer district had promulgated a rate structure for a storm water sewer which used impervious surfaces to decide how much each property would pay. They were sued by ratepayers who claimed that this method violated the Hancock Amendment. The Missouri Supreme Court agreed with the ratepayers and struck down the fee. Without going too far into weeds, it basically boiled down to the idea that if you are going to promulgate rates using a standard utility method, you need to be able to reasonably show how much stormwater an individual property is putting into the system. From my research it does not appear that any utility has figured a way to accurately calculate how much water a property puts into they system, and so it appears that everyone is funding these types of repairs in different ways.

I have had people tell me that they know they are paying for their utilities and they should be able to expect the Board to fix problems with the storm water system. The problem is that the BPW cannot spend funds across the different funds they maintain. To put it simply they can't spend electric fees to fix sewer, water fees to fix electric, etc. They can however temporarily borrow from one fund to another provided it is done with an appropriate written agreement. For storm water, the BPW did that, borrowing from the electric fund to make various repairs to the stormwater system. However, as the voters did not support the ballot initiative the Board had, they have been unable to repay those funds. That's not a panic situation, but we do need to move forward with some type of repayment plan.

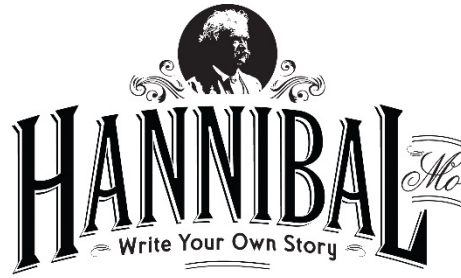
Moving forward the City needs to have a discussion about how the City is going to handle these stormwater issues. The City Manager, City Engineer, Andy and I recently sat down with BPW staff to discuss some of the ongoing storm water problems, and how we could deal with them. It became clear very quickly that without a funding source the necessary repairs can't be made.

Several possible options were discussed:

1. Trying to figure out some way that we could reasonably caculate how much storm water each property puts into the system so that we could promulgate rates in the regular fashion.
2. Allow the Board to put the matter on the Ballot again to request the voters to approve a storm water fee or fee structure.
3. Ask the council to reverse it's prior directive as to Storm water and consider storm water structures to be direct city projects, and of course as a result pay for them from the General Fund.

There are pluses and minus with all of these. However ultimately the decision on a direction to take is one that of course needs to be made by the council. I'm bringing this before you to help staff seek direction and to see what information will be helpful to you in deciding upon a direction.

Jfl



MEMORANDUM

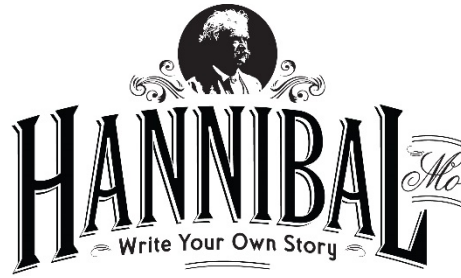
To: Angelica Zerbonia - City Clerk

From: James Hark - Mayor

Re: Tree Board

Date: September 13, 2021

Please submit Maxx Vance's name to the next Council agenda for reappointment to the Tree Board. The term will expire September 2024.



MEMORANDUM

To: Angelica Zerbonia - City Clerk

From: James Hark - Mayor

Re: Airport Commission

Date: September 10, 2021

Please submit John Ortwerth's name to the next Council agenda for reappointment to the Airport Commission. The term will expire September 2023.



CITY OF HANNIBAL

MEMORANDUM

To: Mayor and Members of the City Council

From: Lisa Peck, City Manager

Re: Resolution Memorandum for Limb Pick Up Policy

Date: September 13, 2021

Currently, there is some confusion amongst staff, council and the public as to when city workers will pick up limbs. The policy, which follows, is designed to alleviate that confusion by establishing clear criterion which, if met, permit the city take public action. This criterion is that of an Emergency Declaration due to a storm and during those events, staff may pick up limbs collected and placed by the curb.

Staff recommends adoption of the Stormwater Policy Resolution.