

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF ALDERMEN
CITY OF BRANSON, MISSOURI, SEPTEMBER 27, 2004**

The Board of Aldermen of the City of Branson, Missouri met in regular session in the Council Chambers of the City Hall on September 27, 2004 at 7:00 p.m. with the following members present:

Mayor Schaefer presiding, Dick Gass, Stan Barker, Ron Huff, David Edie, and Jack Purvis present. Beverly Martin absent.

Also present from the City were: City Administrator Terry Dody, City Attorney Dan Wichmer, City Clerk Sandra Williams, Assistant City Administrator Frank Schoneboom, Director of Engineering David Miller, Director of Public Works Larry VanGilder, Fire Chief Carl Sparks, Director of Economic Development Mike Rankin, Director of Communications Jerry Adams, Finance Director Deanna Schlegel, Director of Planning and Zoning Don Stephens, Parks Director Cindy Shook, Police Chief Steve Mefford, and Director of Health Linn Smith.

Mayor Schaefer called the meeting to order with the "Pledge of Allegiance" and Larry VanGilder gave the invocation.

Mayor Schaefer asked for any additions or corrections to the Minutes of the Special Meeting on September 9, 2004, and another Special Meeting on September 9, 2004, and a Board of Aldermen meeting and Public Comments meeting of September 13, 2004. Receiving none, Mayor Schaefer entertained a motion to approve the Minutes as presented. Alderman Purvis moved to approve the Minutes as submitted, seconded by Alderman Huff. Voting aye: Gass, Barker, Huff, Edie and Purvis. Nays: none. Martin absent. Motion carried.

**APPROVAL
MINUTES**

CONSENT AGENDA:

Mayor Schaefer then asked City Clerk Williams to read the items being considered on the Consent Agenda. City Clerk Williams read the following Consent Agenda items by title:

Final reading of Bill No. 2913, an ordinance approving a third year agreement between the Missouri Department of Health and Senior Services and the City of Branson for West Nile mosquito surveillance and collection, was approved within the Consent Agenda. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Ordinance No. 2004-128 was duly enacted.

**BILL NO. 2913
AGREEMENT
MO DEPT. OF HEALTH
& SENIOR SERVICES
WEST NILE MOSQUITO
SURVEILLANCE
& COLLECTION
ORD. NO. 2004-128**

Mayor Schaefer asked for any corrections on the Consent Agenda as read. Receiving none, Mayor Schaefer entertained a motion to approve the Consent Agenda as presented. Alderman Gass made the motion, seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

REGULAR AGENDA:

Final reading of Bill No. 2875, an ordinance of the Board of Aldermen of Branson, Missouri, approving, designating, and implementing Redevelopment Project I of the Branson Hills Tax Increment Financing Plan as a Redevelopment Project and adopting tax increment financing for the area described in the Branson Hills Tax Increment Financing Plan as Redevelopment Project Area I; authorizing certain actions by city officials; and containing a severability clause, was read by title by City Clerk Williams. Alderman Huff moved to postpone the Final Reading of Bill No. 2875 not to exceed the January 10, 2005 meeting, seconded by Alderman Barker. Voting aye on the postponement were: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. The final reading of Bill No. 2875 was postponed not to exceed the until January 10, 2005 meeting.

**BILL NO. 2875
BRANSON HILLS
TIF PROJECT I
POSTPONED**

A presentation of the Quarterly Marketing Report by the Branson/Lakes Area Chamber of Commerce was the next item on the Agenda. Ross Summers, Executive Vice President of the Chamber made the presentation. Before beginning Mr. Summers recognized some staff members that were present. Vice President for Marketing Dan Lennon; Kathy Hubert, Vice President of Finance; and Public Relations Director Jennifer McCullough. He also introduced the Chamber Board members that were present of Mark Weisz, Danita Brown, and Dave Kane. Mr. Summers then addressed the Board stating it has been a pretty good summer with somewhere between neutral and one to two percent growth. Consumer confidence is very good, disposable income up slightly, hotel occupancy and travel prices up slightly, and domestic air travel is starting to come back after 9/11. Mr. Summers then presented information regarding the following items: (I) Consumer Confidence Index; (2) Travel Forecast Summary; (3) Year-to-Date Performance Indicators; (4) History of Branson's Tourism Tax Receipts -1998 thru 2003; (5) Sales Tax History; (6) Branson Lodging Statistics; (7) Hotels' Room Demand Variance by month; (8) Sampling of other destinations Room Demand YTD; (9) First Time Visitors Summary; (10) Ratio of Families with Children Report; (II) Ratio of Adult Couples; (12) Ratio of Visitors Under 55 Years Old; (13) Ratio of Visitors Over 55 Years Old; (14) Average Adult Age; (15) Average Household Income; (16) Average Length of Stay; (17) Overall Satisfaction; and (18) Intent-to Return. Discussion was held regarding improving the first-time visitors; visitors under the age of 55; and how Branson is comparing to our immediate competition such as Myrtle Beach and Pigeon Forge.

**PRESENTATION
QUARTERLY MARKETING
REPORT-CHAMBER
OF COMMERCE**

Dan Lennon, Vice President of Marketing discussed the Fall/Christmas marketing planned for this year. Mr. Lennon indicated the first thing was to update the Board on the branding project. Their branding agency Sterling Group returned to Branson recently for an all-day session with an expanded branding task force to discuss their findings and preliminary recommendations. A revised report based on that meeting is currently under consideration by their task force, and they will be presenting the findings to the City of Branson and the community in mid-October. The results of the project should provide very creative, strong and research-based direction for marketing for the next years to come. Mr. Lennon said that in terms of what they are doing for the Fall/Christmas session, they have developed a fall radio campaign based upon the very position experience of some first-time visitors they brought to Branson in July. They did some focus groups in St. Louis, Little Rock and Dallas, and brought eight different family groups to Branson who had never been here before. They then got their impressions on how they enjoyed Branson; why they had not come here before; and what kind of messages the City might give them to bring people like them here. As a result of that, the Chamber developed a radio program in St. Louis and Little Rock in which some of the people that visited Branson did testimonials. From September 13th to October 8th, in St. Louis and Little Rock there will be 60-second commercials running on the radio with these people telling the story of what it was like, what they thought before, and what they think now about Branson. These commercials will be geared for the women's market, 35-plus. In addition DJ's were brought to Branson to do whatever they wanted to do in Branson and they did endorsements of Branson. He indicated the Chamber was presently negotiating with KTXR to sponsor the SMS games, and will have Ned Reynolds on the radio doing some Branson ads, and those will run through all the sports this year on KTXR. The television advertisements for Christmastime will begin the day after the November elections and will run through the first week of December in St. Louis, Little Rock, Tulsa, Fort Smith, Kansas City, and Springfield, as well as on some selected national cable stations, indicated Mr. Lennon. He closed by outlining additional marketing projects the Chambers has going at this time. Mayor Schaefer thanked the Chamber for their report and then entertained a motion accepting the report. Alderman Gass made the motion to accept the report, seconded by Alderman Barker. Voting aye: Gass Barker, Huff, Edie, and Purvis. Nays: none. Absent: Martin. Motion carried.

A presentation regarding Pennel property located at 211 E. Long Street, Branson, Missouri was the next item on the Agenda. Administrator Terry Dody

**PRESENTATION
PENNEL PROPERTY**

stated that in the past year, Chuck Pennel has often approached the Board during public Board meetings to discuss the City's purchase of his property. However, the City informed Mr. Pennel several months ago that his property would not be needed for the Convention Center project. At the September 13th Board meeting, Mr. Pennel approached the Board and asked if the City had changed their mind about purchasing his property, and at that time was advised the City still did not need his property. Also, during that dialogue, Mr. Pennel was reminded that he had been contacted last May regarding some ownership issues concerning his property. After the City decided not to purchase the property, Tri-Lakes Title Company notified the City that there were possibly some significant boundary

issues concerning Mr. Pennel's property. Through considerable research, we have discovered that a significant portion of what we originally believed to be his property was actually located on railroad land. Additionally, we found that the City has a 20-foot roadway easement on the property. I contacted Mr. Pennel immediately in May, after we discovered the ownership issues and suggested he contact the city attorney as soon as he could and get all the information we had so he could review the issue. Mr. Pennel never contacted the city attorney. Mr. Pennel also informed me at that time that he was aware that some of his parking lot was actually on railroad property. At that time, I also informed him that potentially there was some city property involved in that issue. Because of Mr. Pennel's insistence to discuss his property issues in public meetings, according to the city attorney, he has now precluded our ability to discuss any issues related to his property outside of a public meeting. Mr. Dody then asked representatives from HCW, who the City contracted with to assemble the Convention Center property, to present the process they went through in their attempts to reach an agreement with Mr. Pennel.

Bob Huels addressed the Board stating HCW chose, with City approval, to engage a team of local real estate professionals, and he had agreed to spearhead that team which consisted of Mark Weisz a commercial real estate practitioner; Steve Critchfield, a commercial real estate broker with extensive land and development expertise and knowledge; Al Moon, who has extensive knowledge about the workings of the City as well as, an economic develop specialty; Mike Massengale, a residential specialist; and himself, a commercial real estate practitioner. They jointly evaluated the properties and then arranged for assignments for each team member for different properties. Those were chosen based on experience with that type of property, or experiences with neighboring properties. Mr. Huels indicated that Mark Weisz was chosen to handle Mr. Pennel's property, and then turned the floor over to Mr. Weisz.

Mark Weisz said the first face-to-face meeting with Chuck Pennel was on January 8, 2003 for the negotiations for the Pennel property, and at that initial meeting, it was determined that Mr. Pennel would not accept 350 to 400 thousand dollars, the amount that was provided as an earlier opinion of value. Mr. Weisz indicated when saying "the property" it is actually three tracts controlled by the Pennel family, which we understood at the time to be a combined total of 40,642 square feet or 4.93 acres. On January 27, 2003, Mr. Pennel was made a net verbal offer of \$627,500, which was before the four-percent commission amount, the commission to be shared among the assembly team, and totaling \$653,646 including the commission. On March 6, 2003, after it was determined that Mr. Pennel wanted an appraised value, we agreed to give Mr. Pennel a written offer stating that he would be paid the appraised value of his land, full market value, and it called for the buyer and the seller to agree on a list of four local commercial appraisers. From that mutually approved list, Mr. Pennel could choose one, and the buyer would pay that appraiser to determine the market value, and then four-percent would be added for the commission, to come up with the final value of that offer. In February, 2004, in an effort to resolve this issue, Mr. Pennel was offered a net amount of \$827,500 and including the commission would total \$861,980. Mr. Weisz indicated that on February 24, 2004, Chuck Pennel and himself both received a letter from HCW Development Company, instructing them to cease all negotiations with Mr. Pennel and to withdraw all offers, and any further

negotiations desired by Mr. Pennel were to be directed to the City of Branson. Mr. Weisz also said that Mr. Pennel had indicated he wanted a square foot cost of \$35 a square foot on the commercial or the Branson RV tract, and \$25 a square foot on the other tracts. He also stated that it was discovered not long before this that Mr. Pennel extended a lease with one of his two tenants, Re-Mark, while in negotiations to purchase the property.

At this time Mr. Dody informed the Board to summarize and condense the research that has been done, he had a slide presentation to show the General Warranty Deed and Quit Claim Deed they have been working off of, and a lot of background material. There is a General Warranty Deed that was created in 1979, that shows the legal description of the boundaries for the property located somewhere around 114 North Commercial. The legal description clearly defined the 20-foot road easements, and the railroad property, and the Quit Claim Deed that was provided by Chuck Pennel, Sr. to Chuck Pennel, Jr., also states exactly the same language in the legal description. The key point is the legal description, the property boundary is 20-feet from the west edge of the railroad right-of-way, which creates a 20-foot strip between Chuck Pennel's property and the railroad. The conclusion of the research simply states that the buildings and parking serving the property are not wholly within the boundaries of the Pennel property. Mr. Dody then showed a slide indicating where the boundaries of which the legal description shows. He indicated the problem was that the preponderance of Chuck Pennel's parking lot property is engulfed by the railroad right-of-way, which is not just the portion of 50-feet on each side of the railroad track, but also is an additional 50-foot, for a total of 100-feet from the railroad track, and then the road alignment that belongs to the city runs parallel to the railroad property. The importance of looking at both the General Warranty Deed and the Quit Claim Deed is that both of the legal descriptions on those are identical, and they both clearly show the 20-foot. Obviously, the issue is that there is clearly an encroachment on the Pennel property, certainly onto the railroad property and certainly onto the City's road easement that needs to be dealt with. When Mr. Pennel provided information that his tenant was leaving, we are concerned about getting this worked out as quickly as possible regarding the ownership of the property. It impacts his ability to lease it, we need to work out some arrangements, as there are clearly some very significant issues here. At the September 13th Board meeting, I highly recommended that Mr. Pennel contact an attorney so that we could all get together and start ferreting out the issues as we need to resolve this issue. Mr. Dody stated it was his obligation to make the Board aware of the encroachments they had learned about, and certainly Mr. Pennel needs to work on these things and figure out what needs to be done in going forward on this issue. He added, that although the knowledge of this was found as part of the work being done by the title company pursuant to the Convention Center properties, this would have come to the forefront, if we had decided to purchase the property, and would have still had to be addressed. At this point, it is not a waterfront project or a convention center project issue, it is truly a boundary issue that has to be corrected, in spite of what is going on with the waterfront.

After considerable questions, comments, and discussion held by Chuck Pennel, Board members, Mark Weisz, City staff, David Lusby, Rick Graff, and Rick Huffman, Mayor Schaefer entertained a motion regarding the presentation. Alderman Gass moved to accept the presentation and directed staff to meet with Mr. Pennel to try and resolve the

issues relating to the encroachment of the Pennel improvements on City or railroad property. Motion was seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Absent: Martin. Motion carried.

Presentation of Petition for Consent to Annex property owned by LMN Corporation, Branson, Missouri, was read by title by City Clerk Williams, and Don Stephens provided the staff report. Mayor Schaefer entertained a motion to accept the petition for voluntary annexation. Alderman Gass made the motion, seconded by Alderman Purvis. Discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

PETITION
CONSENT TO ANNEX
LMN CORPORATION

Presentation of Petition for Consent to Annex property owned by David R. and Doris J. Woolery, Branson, Missouri, was read by title by City Clerk Williams, and Don Stephens provided the staff report. Mayor Schaefer entertained a motion to accept the petition for voluntary annexation. Alderman Purvis made the motion, seconded by Alderman Huff. Discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

PETITION
CONSENT TO ANNEX
DAVID J. & DORIS J.
WOOLERY

Presentation of Petition for Consent to Annex property owned by Jerry D. & Carolyn P. Lilley, Branson, Missouri, was read by title by City Clerk Williams, and Don Stephens provided the staff report. Mayor Schaefer entertained a motion to accept the petition for voluntary annexation. Alderman Gass made the motion, seconded by Alderman Purvis. No discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

PETITION
CONSENT TO ANNEX
JERRY D. &
CAROLYN P. LILLEY

Public Hearing and first reading of Bill No. 2914 an ordinance annexing property owned by Copelco, L.L.C., identified as Taney County Property ID #18-2.0-10-004-001-003.001, into the City of Branson, Missouri was read by title by City Clerk Williams, and Don Stephens provided the staff report. Mayor Schaefer opened the Public Hearing and after no discussion, closed the Public Hearing. Mayor Schaefer then entertained a motion to approve the first reading of Bill No. 2914. Alderman Gass made the motion, seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

BILL NO. 2914
PUBLIC HEARING
ANNEXATION
COPELCO, L.L.C.

Public Hearing and first reading of Bill No. 2915 an ordinance annexing property owned by David Christian, identified as Taney County Property ID #18-6.0-14-001-001-002.002, into the City of Branson, Missouri was read by title by City Clerk Williams, and Don Stephens provided the staff report. Mayor Schaefer opened the Public Hearing and after no discussion, closed the Public Hearing. Mayor Schaefer then entertained a motion to

BILL NO. 2915
PUBLIC HEARING
ANNEXATION
DAVID CHRISTIAN

approve the first reading of Bill No. 2915. Alderman Barker moved to approve the bill, seconded by Alderman Huff. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

Public Hearing and first reading of Bill No. 2916 an ordinance annexing property owned by GV 248, LLC, identified as Taney County Property ID #08-4.0-19-003-008-013.000, ID #08-4.0-19-003-008-014.000 into the City of Branson, Missouri was read by title by City Clerk Williams, and Don Stephens provided the staff report. Mayor Schaefer opened the Public Hearing and after no discussion, closed the Public Hearing. Mayor Schaefer then entertained a motion to approve the first reading of Bill No. 2916. Alderman Gass made the motion, seconded by Alderman Barker. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

BILL NO. 2916
PUBLIC HEARING
ANNEXATION
GV 248, LLC

Public Hearing and first reading of Bill No. 2917 an ordinance enacting a Final Subdivision Plat of Turtle Crossing, located adjacent to Fall Creek Road, south of Juniper Way was read by title by City Clerk Williams, and Don Stephens provided the staff report. Mayor Schaefer opened the Public Hearing and after no discussion, closed the Public Hearing. Mayor Schaefer then entertained a motion to approve the first reading of Bill No. 2917. Alderman Edie made the motion, seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

BILL NO. 2917
PUBLIC HEARING
FINAL SUBDIVISION PLAT
TURTLE CROSSING

First reading of Bill No. 2918, an ordinance amending the 2003-04 Budget for the City of Branson, Missouri was read by title by City Clerk Williams and Deanna Schlegel provided the staff report. Mrs. Schlegel said the City has accumulated approximately \$250,000 above the currently budgeted amount which is to be utilized exclusively for the marketing program, an additional \$364,624 of Tourism Tax funds that is targeted for approved capital projects, and this amendment will allow the disbursement of those funds. Mayor Schaefer then entertained a motion to approve the first reading of Bill No. 2918. Alderman Gass made the motion, seconded by Alderman Barker. No discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Alderman moved to read Bill No. 2918 a second time by emergency due to the funds needing to be transferred and disbursed in the present budget which ends September 30, 2004. Motion was seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Absent: Martin. Motion carried. City Clerk Williams read Bill No. 2918 by title again. Mayor Schaefer entertained a motion to approve the final reading of Bill No. 2918. Alderman Huff made the motion, seconded by Alderman Barker. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Ordinance No. 2004-129 was duly enacted.

BILL NO. 2918
AMENDING
2003-04 BUDGET
ORD. NO. 2004-129

First reading of Bill No. 2919 an ordinance amending Title IV, *Land Use*, of the Branson Municipal Code, Chapter 445: *Sign Regulations*, by adding language requiring final inspection and approval of outstanding sign permits prior to issuance of any new permits, was read by title by City Clerk Williams, and Don Stephens provided the staff report.

BILL NO. 2919
AMENDING
MUNICIPAL CODE
CHAPTER 445
SIGN REGULATIONS

Mayor Schaefer entertained a motion approving the first reading of Bill No. 2919. Alderman Purvis made the motion, seconded by Alderman Huff. Discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

First Reading of Bill No. 2920, an ordinance reviewing and approving the renewal of the agreement between Rodney D. Gray of Hendren and Andrae, L.L.C. and the City of Branson, was read by title by City Clerk Williams, and Terry Dody provided the staff report. Mayor Schaefer entertained a motion approving the first reading of Bill No. 2920. Alderman Gass made the motion, seconded by Alderman Purvis. No discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

BILL NO. 2920
RENEWAL OF
AGREEMENT
RODNEY D. GRAY
HENDREN & ANDRAE

First Reading of Bill No. 2921, an ordinance authorizing a lease agreement between the City of Branson and Waters and France for a bus parking lot located on Atlantic Street, Branson, Taney County, Missouri, and authorizing the Mayor to sign the agreement, was read by title by City Clerk Williams, and Larry VanGilder provided the staff report.

BILL NO. 2921
AGREEMENT
WATERS & FRANCE
PARKING LOT
ORD. NO. 2004-130

Mayor Schaefer entertained a motion approving the first reading of Bill No. 2921. Alderman Purvis made the motion, seconded by Alderman Barker. Discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Alderman Huff moved to read Bill No. 2921 a second time by emergency due to the immediate need to accommodate the heavy fall bus traffic, motion was seconded by Alderman Barker. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. City Clerk Williams read Bill No. 2921 by title again. Mayor Schaefer entertained a motion to approve the final reading of Bill No. 2921. Alderman Edie made the motion, seconded by Alderman Purvis. No discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Ordinance No. 2004-130 was duly enacted.

First Reading of Bill No. 2922, an ordinance authorizing the Mayor to execute an amendment to the lease agreement between the Empire District Electric Company, and the City of Branson, Missouri, was read by title by City Clerk Williams, and Dan Wichmer provided the staff report.

BILL NO. 2922
AMENDMENT
LEASE AGREEMENT
EMPIRE ELECTRIC
ORD. NO. 2004-131

Mr. Wichmer stated this amendment is being made to extend the termination date of the lease to 2055 so that the termination dates for both the campground lease and North Beach Park lease are identical. It also has a provision which allows the relocation of Scotty's Trout Dock to its permanent location in the campground

area. Mayor Schaefer entertained a motion approving the first reading of Bill No. 2922. Alderman Purvis moved to approve on the first reading, seconded by Alderman Barker. Discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Alderman Barker moved to read Bill No. 2922 a second time by emergency consent in order to allow Scotty's Trout Dock to relocate to the area, motion was seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. City Clerk Williams read Bill No. 2922 by title again. Mayor Schaefer entertained a motion to approve the final reading of Bill No. 2922. Alderman Gass made the motion, seconded by Alderman Huff. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Ordinance No. 2004-131 was duly enacted.

First Reading of Bill No. 2923, an ordinance reviewing and approving the agreement between The Branson/Lakes Area Chamber of Commerce and the City of Branson for the second year of the term, was read by title by City Clerk Williams, and Terry Dody provided the staff report. Mayor Schaefer entertained a motion approving the first reading of Bill No. 2923. Alderman Gass made the motion, seconded by Alderman Purvis. No discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

BILL NO. 2923
RENEWAL OF
AGREEMENT
CHAMBER OF
COMMERCE

First Reading of Bill No. 2924, an ordinance authorizing the Mayor to execute an agreement between the Downtown Main Street Association (DBMA) and the City of Branson, Missouri, was read by title by City Clerk Williams, and Terry Dody provided the staff report stating the agreement was at a cost not to exceed \$66,750 as directed by the Board for specific activities to be undertaken by the DBMA toward the goal of implementing a revitalization plan for downtown Branson. Mayor Schaefer entertained a motion approving the first reading of Bill No. 2924. Alderman Barker moved to approve this bill, seconded by Alderman Purvis. Discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

BILL NO. 2924
AGREEMENT
DOWNTOWN MAIN
STREET ASSOC. (DBMA)

First Reading of Bill No. 2925, an ordinance accepting the proposal of bid award between D&E Plumbing and Heating, Inc. and the City of Branson, and authorizing the Mayor to enter into the agreement pertaining to the Branson Hills Parkway Phase II Project, was read by title by City Clerk Williams, and David Miller provided the staff report. Mayor Schaefer entertained a motion approving the first reading of Bill No. 2925. Alderman Purvis made the motion, seconded by Alderman Barker. Discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Alderman Barker moved to read Bill No. 2925 a second time by emergency so the road can be completed by the required deadlines and before the Recreation Center opening, motion was seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent.

BILL NO. 2925
BID AWARD
D&E PLUMBING
& HEATING
BRANSON HILLS PKWY
PHASE II PROJECT
ORD. NO. 2004-132

Motion carried. City Clerk Williams read Bill No. 2925 by title again. Mayor Schaefer entertained a motion to approve the final reading of Bill No. 2925. Alderman Huff made the motion, seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Ordinance No. 2004-132 was duly enacted.

First Reading of Bill No. 2926, an ordinance accepting the proposal of bid award between Leo Journagan Construction Company, Inc. and the City of Branson, and authorizing the Mayor to enter into the agreement pertaining to the Branson Landing Sewer Project, was read by title by City Clerk Williams, and David Miller provided the staff report.

Mayor Schaefer entertained a motion approving the first reading of Bill No. 2926. Alderman Barker moved to approve the first reading of the bill, seconded by Alderman Purvis. Discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Absent: Martin. Motion carried. Alderman Huff moved to read Bill No. 2926 a second time by emergency so as to avoid liquidated damages penalties, motion was seconded by Alderman Barker. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. City Clerk Williams read Bill No. 2926 by title again. Mayor Schaefer entertained a motion to approve the final reading of Bill No. 2926. Alderman Gass made the motion, seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Ordinance No. 2004-133 was duly enacted.

**BILL NO. 2926
BID AWARD
LEO JOURNAGAN
CONSTRUCTION
BRANSON LANDING
SEWER PROJECT
ORD. NO. 2004-133**

A resolution acknowledging Reimbursement No. 37C to HCW for expenses incurred on the Branson Landing Project pursuant to the Technical Services Contract, was read by title by Clerk Williams, and Frank Schoneboom provided the staff report indicating the reimbursement amount to HCW

is \$192,458.00 for Reimbursement No. 37C. Mayor Schaefer entertained a motion to approve the resolution. Alderman Barker moved to adopt the resolution, seconded by Alderman Huff. No discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Resolution No. 2004-R027 was adopted.

**RESOLUTION
REIMBURSEMENT
TO HCW
NO. 2004-R027**

A presentation of supplemental Actuarial Valuation of Alternate Lagers (Missouri Local Government Employees Retirement System) report was given by Debbie Durler of the Human Resources Department. Ms. Durler said a modification to the City's Missouri Local Government Employees Retirement System requires a presentation of the Actuarial Valuation LAGERS report to

be provided to the Board of Aldermen, and to be placed on file with the City Clerk for a minimum of 45 days before the modification is completed, and this presentation is meeting that requirement. Mayor Schaefer entertained a motion accepting this presentation. Alderman Barker moved to approve this report, seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

**PRESENTATION
ACTUARIAL
VALUATION OF
ALTERNATE LAGERS
REPORT**

DISBURSEMENTS:

Mayor Schaefer stated the next item was review of **DISBURSEMENTS** the disbursements, and asked if there were any questions regarding the disbursements. Receiving none, Mayor Schaefer entertained a motion to approve the disbursements as presented. Alderman Huff moved to approve the disbursements as presented, seconded by Alderman Purvis. No discussion. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

OTHER BUSINESS:

Mayor Schaefer asked if there was any other business that a member of the Board of Aldermen would like to introduce as an official agenda item for discussion and action by the Board. Hearing none, Mayor Schaefer addressed the next item on the agenda.

ALDERMEN/ADMINISTRATOR'S REPORTS

Alderman Gass said he attended the official day of Celebration **GASS** for the Record-Breaking 100 plus shows in Branson which was very impressive, and they did a wonderful job. Mr. Gass said he would like to point out Michael London, Cindy Merry, and Larry Milton as they did a really good thing, and he appreciated all of their work.

Alderman Barker said he would like to commend the Chamber **BARKER** for their good report, with very useful information, and feels that everyone who owns a business in this community should hear these reports because they are very informative.

Alderman Barker asked that everyone continue to remember **BARKER** all of the people located in the southeast part of the United States who have been hit for the fourth time with hurricanes. He also said there were a lot of people from the Midwest working down there now restoring facilities and utilities to them, and they are now getting hit again.

Alderman Purvis said he felt it was so refreshing to see the Celebration **PURVIS** activity they attended that has brought the community together, the enthusiasm, and the spirit of cooperation, in light of some of the events that has taken place in our community the last several years. Mr. Purvis said he was blessed to be able to attend, and see the excitement in the community, and appreciates the work everyone did. It is a pleasure, and a privilege to live in Branson.

Administrator Dody informed the Board he had a prepared statement to read addressing some of the issues regarding the infamous tree being cut down downtown. Mr. Dody then read his statement into the record. (See Exhibit "A" attached). DODY

Administrator Dody said the second issue he had was in regard to the City placing the agendas on the City's website. Staff is presently scanning ALL documents so that anyone can look at the ordinances rather than just the agenda list. However, Donna Kennedy came to the City and was very concerned that either she or some of her membership had not been able to find the agenda on the website. Mr. Dody indicated he was very concerned about this as staff had verified it was there, our Board members have used it, the public continues to use it, so if there is a problem staff needs to address it or look at it. We are very proud of the fact that we have the whole agenda available to the public on the web. Donna Kennedy indicated she did not come to complain but came to pick up a copy of the agenda and it wasn't ready yet, and was told it would be available on the website later. Ms. Kennedy said she explained that several times in the past she had not been able to pull it up and had to call John Logan, Gary Groman, or Bob Warlick because she knew they had it. Mr. Dody said his concern was to make sure that if anyone had difficulties getting it on the website, staff would like to know so they can find out what the problem is in order to make sure that everyone has an opportunity to see the complete agenda. DODY

ADJOURN:

At this time, Mayor Schaefer entertained a motion to adjourn. Alderman Barker made the motion to adjourn, seconded by Alderman Huff. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: None. Martin absent. Motion carried. Meeting was adjourned at 9:40 p.m.

September 27, 2004

Recently, there have been a number of articles and opinion columns regarding the cutting down of a tree in front of a restaurant in downtown Branson.

In two opinion columns written by Gary Groman, Mr. Groman unfortunately tries to sensationalize the issue and to state his opinion and one-sided knowledge of the issue as fact.

I say one-sided because while Mr. Groman was asked by the city's communication director to talk with the City's Planning Department to get correct information, regrettably, Mr. Groman did not.

Unfortunately, it is rather easy to take inflammatory potshots with incorrect or incomplete information and present them as facts to an unsuspecting readership. Readers should be aware that not all information provided in opinion columns is correct. After all, as Mr. Groman has told me on several occasions, his column is only his opinion and he does not have to worry if he has the facts straight.

However, had Mr. Groman been researching information for a real news story instead of his opinion column, this is what he may have discovered about the tree issue.

This past July, the city's forester was contacted by a Ms. Lund, one of the owners of the restaurant where the tree was recently and illegally cut down. In a telephone conversation with Ms. Lund, the city's forester informed her that to remove a tree, a permit is required and that under most circumstances the tree had to be dead, dying or severely diseased. The forester inspected the tree and told Ms. Lund that it was in good health.

Ms. Lund then asked what the consequences would be if the tree were removed without a permit and was told that the tree was on public property, owned by the city and that she would be breaking the law if she removed the tree without a permit.

Then, around the first of August, Ms. Lund came into the Planning Department and wanted to again talk to the forester who at that time was in the field. Ms. Lund was contacted, by phone, that same day as soon as the forester returned to the office. Ms. Lund was again informed that the tree was city property and could not be cut down without a permit.

During another phone conversation in August, the assistant planning director advised Ms. Lund that the city and DBMSA were working on a solution to the tree issue that involved a downtown revitalization plan that would include the removal of the tree and create a whole new streetscape for the downtown.

Conversations between the city and the DBMSA director concluded that the owners of the restaurant and the owners of the property were well aware of the proposed revitalization plan.

The letter to Ms. Lund, sent by the city and discussed with the DBMSA director, was written based on the significant past conversations with Ms. Lund and with the knowledge that she knew it was illegal to remove the tree and that there was work underway, being lead by DBMSA, to establish a downtown revitalization plan that would address the tree problem. The city and the DBMSA director also agreed that the letter should recommend that Ms. Lund again contact DBMSA about the revitalization efforts.

The city has always worked closely with the downtown merchants and property owners to let them have a large influence in deciding what works best for their success. The city has removed parking meters and modified parking ordinances at the downtown's request; the city has constructed parking lots and a garage when downtown felt they were needed; the city has always worked hard to find adequate bus parking, and just recently entered into a lease to provide additional bus parking. And because the downtown argued strongly that they wanted the type of trees that are currently growing downtown, the city allowed them to be planted even after advising that they were not the best trees to use.

What Mr. Stephens, the City's Director of Planning, was conveying in his letter was a reiteration of the above comments, that the city has always worked closely with the downtown and attempts to let them lead in what they believe will work best for them. When Ms. Lund was advised to contact the DBMSA director, it was not because the city was abdicating its authority, but instead recognizing the long and ongoing cooperation that city officials have with the downtown merchants and property owners.

On August 25, Ms. Lund again contacted the city's forester asking who owned the tree. Ms. Lund was again informed that the tree belonged to the city. At that time, Ms. Lund stated that she felt that the ordinance relating to tree removal did not pertain to her. The city's forester then again advised Ms. Lund that the tree was owned by the city and she had no authority to remove it. The tree was apparently cut down on August 29.

The bottom line is that Ms. Lund asked and was told repeatedly that the tree was owned by the city, on city property and could not be legally cut down without a permit. Ms. Lund was aware that efforts were underway by the city and DBMSA to address the tree issue and to find a long-term solution that would benefit Ms. Lund and the entire downtown community. It should also be noted the city properly trims the trees at least annually; that the City placed bird repellent material on the tree; and that Ms. Lund assumed that the birds were creating a health issue but the health department never determined that such a condition existed.

While some may want to minimize this issue by distorting and obscuring the real issue, the fact remains that someone knowing, willfully and illegally destroy city property valued at over \$1,000 and the city is responding as it would when any property owned by the taxpayers is damaged.

Terry Dody
Branson City Administrator

**MINUTES OF THE PUBLIC COMMENT MEETING
OF THE BOARD OF ALDERMEN
CITY OF BRANSON, MISSOURI, SEPTEMBER 27, 2004**

The Board of Aldermen of the City of Branson, Missouri, met in the Public Comments session in the Council Chambers of the City Hall on September 27, 2004 at 9:45 p.m. with the following members present:

Mayor Schaefer presiding, with Dick Gass, Stan Barker, Ron Huff, David Edie, and Jack Purvis present. Beverly Martin absent.

Also in attendance from the City were: Administrator Terry Dody, Assistant Administrator Frank Schoneboom, City Attorney Dan Wichmer, City Clerk Sandra Williams.

Mayor Schaefer called the Public Comments meeting to order and stated the Board would hear citizens that signed up to speak in the order of the first person signing the sheet, and there were no persons signed up to address the Board.

Mayor Schaefer then stated, that concluded the Public Comments section and entertained a motion to adjourn to Executive Session.

EXECUTIVE SESSION:

Alderman Gass moved to go into closed Executive Session pursuant to Section 610.021.1 RSMo for litigation, 610.021.2 for real estate, and 610.021.3 for personnel. The motion was seconded by Alderman Barker. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried.

ADJOURN:

Mayor Schaefer entertained a motion to adjourn. Alderman Huff moved to adjourn, seconded by Alderman Purvis. Voting aye: Gass, Barker, Huff, Edie, and Purvis. Nays: none. Martin absent. Motion carried. Meeting was adjourned at 9:50 p.m.