

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF ALDERMEN
CITY OF BRANSON, MISSOURI, JUNE 24, 2002**

The Board of Aldermen of the City of Branson, Missouri met in regular session in the Council Chambers of the City Hall on June 24, 2002 at 7:00 p.m. with the following members present:

Mayor Schaefer presiding, Dick Gass, Stan Barker, Larry Taylor, Ron Huff, Eric Farris, and Bob Warlick present.

Also in attendance were: City Administrator Terry Dody, Assistant City Administrator Kevin Faught, City Attorney Deborah Deuster, City Clerk Sandra Williams, Police Chief Steve Mefford, City Engineer David Miller, Communications Director Jerry Adams, Health Director Linn Smith, Director of Planning Don Stephens, Director of Economic Development Mike Rankin, Fire Chief Carl Sparks, Public Works Director Larry VanGilder Dick Hall, Bruce W. Bowlin, C. B. Konkowski, Harry Styron, Dick Hall, John Brimes, John Logan, Chuck Pennel, Kent Williams, Ricky Renfro, David Battle, David Cobb, Chuck Puckett, Larry Frazier, Steve Vogel, Herold Wilson, Bill Hagler, Bill Brooks, Randy Renger, Stephen R. Hensley, Bill Yung, Mark Weisz, Gayle Rotten, and Cliff Sain.

Mayor Schaefer called the meeting to order with the “Pledge of Allegiance,” and Pastor Chuck Puckett from the Covenant Life Church gave the invocation.

Mayor Schaefer asked for any additions or corrections to the Minutes of the June 10, 2002 regular meeting, and the June 18, 2002 special meeting . Alderman Huff moved to approve the Minutes of the June 10, 2002 regular meeting, and the June 18, 2002 special meeting, as presented. Motion was seconded by Alderman Barker. Voting aye: Gass, Taylor, Barker, Huff, Farris, and Warlick. Nays: None. Motion carried.

**APPROVAL
OF MINUTES**

REGULAR AGENDA:

Mayor Schaefer entertained a motion acknowledging receipt of the Minutes of the Planning and Zoning meeting of May 7, 2002, and the Capital Improvements meeting of June 12, 2002. Alderman Warlick made the motion, seconded by Alderman Farris. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried.

**ACKNOWLEDGE
RECEIPT OF
MINUTES**

First reading of Bill No. 2405, an ordinance amending the Land Use Regulations for Planned Development PD-99-03, Starlite Theatre, was read by title by City Clerk Williams, and Don Stephens provided the staff report. Mayor Schaefer entertained a motion to approve the first reading of Bill No. 2405. Alderman Huff made the motion, seconded by Alderman Taylor. After Randy Renger addressed the Board regarding this item, Mayor Schaefer called for a vote on the bill. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried. Alderman Warlick then moved to read the bill a second time

**BILL NO. 2405
LAND USE
REGULATIONS
STARLITE THEATRE
ORD. NO. 2002-076**

as a zoning issue, seconded by Alderman Barker. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried unanimously. City Clerk Williams read Bill No. 2405 by title again. Mayor Schaefer entertained a motion approving the final reading of Bill No. 2405. Alderman Farris made the motion, seconded by Alderman Huff. No discussion. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Ordinance No. 2002-076 was duly enacted.

First reading of Bill No. 2406, an ordinance enacting a Final Plat for Phase 2 of Black Oak Estates Subdivision, was read by title by City Clerk Williams, and Don Stephens provided the staff report. Mayor Schaefer entertained a motion to approve the first reading of Bill No. 2406. Alderman Gass made the motion, seconded by Alderman Barker. Discussion. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried. Alderman Barker then moved to read the bill a second time by unanimous consent, seconded by Alderman Huff. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried. City Clerk Williams read Bill No. 2406 by title again. Mayor Schaefer entertained a motion to approve Bill No. 2406 on its final reading. Alderman Warlick made the motion, seconded by Alderman Barker. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Ordinance No. 2002-077 was duly enacted.

**BILL NO. 2406
FINAL PLAT
PHASE 2
BLACK OAK
ESTATES
ORD. NO. 2002-077**

First reading of Bill No. 2407, an ordinance approving a zoning change from "R-1" Single-Family Residential to "PD" Planned Development and approving Land Use Regulations for Planned Development PD-2002-002 for property located at 199 Buccaneer Boulevard, Branson, Missouri, was read by title by City Clerk Williams, and Don Stephens provided the staff report. Mayor Schaefer entertained a motion to approve the first reading of Bill No. 2407. Alderman Gass made the motion, seconded by Alderman Barker. David Battle, 11880 Edgemont Circle, Oklahoma City, Oklahoma and David Cobb, 205 Hamlet Road, Branson, Missouri addressed the Board indicating they owned lots behind this property and although they were not against the project their concern was that they have adequate access and adequate utilities that can be extended in the future. Bill Yung of Yung's Design Group also addressed the Board representing the developer. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried. Alderman Warlick moved to read the bill a second time, by unanimous consent, seconded by Alderman Huff. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion was unanimously approved. City Clerk Williams read Bill No. 2407 by title again. Mayor Schaefer entertained a motion to approve the final reading of Bill No. 2407. Alderman Huff made the motion, seconded by Alderman Barker. No discussion. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Ordinance No. 2002-078 was duly enacted.

**BILL NO. 2407
ZONING CHANGE
TO PLANNED DEV.
BUCCANEER BLVD.
ORD. NO. 2002-078**

First reading of Bill No. 2408, an ordinance approving an agreement for the Long Street Railroad Crossing between the Missouri and Northern Arkansas Railroad Company and

**BILL NO. 2408
AGREEMENT
RAILROAD CROSSING**

the City of Branson, and authorizing the Mayor to enter into the agreement, was read by title by City Clerk Williams, and David Miller provided the staff report. Mayor Schaefer

entertained a motion to approve Bill No. 2408 on its first reading. Alderman Gass made the motion, seconded by Alderman Barker. After Chuck Pennel addressed the Board with some questions, Mayor Schaefer called for a vote on the bill. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried. Alderman Gass moved to read the bill a second time by emergency consent due to the railroad's deadline. Motion was seconded by Alderman Barker. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried. City Clerk Williams read Bill No. 2408 by title again. Mayor Schaefer entertained a motion to approve Bill No. 2408 on its final reading. Alderman Warlick make the motion, seconded by Alderman Farris. Chuck Pennel addressed the Board regarding this issue. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Ordinance No. 2002-079 was duly enacted.

**LONG STREET
ORD. NO. 2002-079**

First reading of Bill No. 2409, an ordinance approving an agreement between the City of Branson and the Missouri Highways and Transportation Commission, pertaining to the Intersection of Route 76 and Green Mountain Drive/Forsythe Street, and authorizing the Mayor to execute the Cost Sharing Agreement, was read by title by City Clerk Williams, and David Miller provided the staff report. Mayor Schaefer entertained a motion to approve Bill No. 2409 on its first reading. Alderman Barker moved to approve the bill on first reading, seconded by Alderman Warlick. No discussion. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried.

**BILL NO. 2409
AGREEMENT
MO. HIGHWAYS &
TRANSPORTATION
INTERSECTIONS
COST SHARING
GREEN MTN./FORSYTHE**

First reading of Bill No. 2410, an ordinance approving an agreement between the City of Branson and the Missouri Highways and Transportation Commission, pertaining to the Intersection of Route 76 and Route 65 Interchange Intersections and the Route 76 and Roark Valley Road Intersection, and authorizing the Mayor to execute the Cost Sharing Agreement, was read by title by City Clerk Williams, and David Miller provided the staff report. Mayor Schaefer entertained a motion to approve Bill No. 2410 on its first reading. Alderman Gass made the motion, seconded by Alderman Farris. No discussion. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried.

**BILL NO. 2410
AGREEMENT
MO. HIGHWAYS &
TRANSPORTATION
INTERSECTIONS
COST SHARING
ROARK VALLEY RD.**

First reading of Bill No. 2411, an ordinance approving an agreement between the City of Branson and the Missouri Highways and Transportation Commission, pertaining to the Intersection of Route 76 and Fall Creek Road, and authorizing the Mayor to execute the Cost Sharing Agreement, was read by title by City Clerk Williams, and David Miller provided the staff report. Mayor Schaefer entertained a motion to approve Bill No. 2411 on its first reading. Alderman Barker moved

**BILL NO. 2411
AGREEMENT
MO. HIGHWAYS &
TRANSPORTATION
INTERSECTIONS
COST SHARING
FALL CREEK RD.**

to approve the bill on first reading, seconded by Alderman Warlick. No discussion. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried.

First reading of Bill No. 2412, an ordinance amending Section 215.020 of the Branson Municipal Code to extend hours of operation at City Parks as posted at each park, was read by title by City Clerk Williams, and Cindy Shook provided the staff report. Mayor Schaefer entertained a motion to approve Bill No, 2412 on its first reading. Alderman Gass made the motion, seconded by Alderman Taylor. Discussion. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried. **BILL NO. 2412**

First reading of Bill No. 2413, an ordinance approving an agreement between the Missouri Department of Health and Senior Services and the City of Branson for West Nile Mosquito surveillance and collection, and authorizing the Mayor to enter into the agreement, was read by title by City Clerk Williams, and Kevin Faught provided the staff report. Mayor Schaefer entertained a motion to approve Bill No. 2413 on its first reading. Alderman Huff made the motion, seconded by Alderman Farris. Discussion. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried. Alderman Barker moved to read the bill a second time by emergency due to the critical timeline of the state, seconded by Alderman Farris. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried. City Clerk Williams read Bill No. 2413 by title again. Mayor Schaefer entertained a motion to approve Bill No. 2413 for its final reading. Alderman Farris made the motion, seconded by Alderman Warlick. No discussion. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Ordinance No. 2002-080 was duly enacted. **BILL NO. 2413
APPROVING
AGREEMENT
WEST NILE
MOSQUITO
ORD. NO. 2002-080**

DISBURSEMENTS:

Mayor Schaefer entertained a motion approving the disbursements as presented. Alderman Gass made the motion, seconded by Alderman Barker. No discussion. Voting aye: Gass, Barker, Huff, and Farris. Nay: Taylor. Abstain: Warlick. Motion carried. **DISBURSEMENTS**

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.

Alderman Huff spoke on behalf of the Mayor and Board stating he had responded to an article that appeared in both the Branson Daily News and the Branson Daily Independent. The article was submitted by an organization called the "BEST" which stands for "Branson Economics Security Taskforce", and Jim Thomas was listed as Secretary. The article viciously attacked our **HUFF**

City Administrator Terry Dody, it contained untruths about his work experience, his qualifications and his ability to provide leadership to our community. Alderman Huff stated he corrected those allegations, and the Branson Daily News graciously printed a correction. Recently there has been another article submitted as a “Letter to the Editor” in the Springfield News-Leader and at this time he would like to respond to that article.

On behalf of the Mayor Lou Schaefer, Alderman Stan Barker, Alderman Bob Warlick, Alderman Dick Gass, Alderman Eric Farris, and Alderman Ron Huff.

To the citizens of Branson, a recent letter to the Springfield News-Leader by Jim Thomas, attacking City of Branson leadership in our opinion highlights, Thomas’s own personal Branson agenda to stop the Branson Landing Project. Perhaps better because the Jacobson Group turned down property for a Convention Center that Thomas supported or had an interest in. And clearly in his own self-interest he has repeatedly voiced and printed misinformation and untruths in the attempt to stop the Landing Project. His most recent letter clearly shows his “will stop at nothing mentality”, which Thomas has reduced himself to. Even more important, Thomas’s letter in which he demands the termination of Branson’s City Administrator Terry Dody, illustrates Thomas’s incredible misunderstanding about how local government, or even worse Thomas may know how things really works but believes he can successfully mislead some Branson’s

What Thomas may not understand or chooses to conveniently distort, is that the City Administrator works directly for the Board of Aldermen and is responsible for providing organizational leadership, and to carry out the directions and policy created and adopted by the Branson Board of Aldermen. Our City Administrator has done and continues successfully to do just exactly that.

Regarding the Branson Landing Project, for this City to establish debt to purchase the waterfront properties, create a Tax Increment Finance District, entering into agreements with Branson Landing LLC, to provide specific services and other decisions that are progressively moving Branson forward, have been accomplished by our City Administrator, after the Board of Aldermen directed him to do so.

What our City Administrator has done is successfully provide the leadership and the expertise to organize the process, acquire the data, and assemble a battery of professional advisors, to help guide the Board of Aldermen decision making process. The decision to purchase the waterfront property was an unanimous decision by this Board of Aldermen. Also, as has been pointed out many times, the Australians did not take \$5 million to Australia. They received part of the five million dollars fees that were owed and determined by contracts approved by the Board of Aldermen. The bulk of the cost was paid to Missouri firms for architectural, engineering, legal, and other costs that would have been incurred by the city regardless of the developer or location.

Additionally Mr. Thomas apparently ignored the parts of the waterfront that were in a blighted condition before the redevelopment efforts even began. And yes, the waterfront does look exactly like a redevelopment project is underway and that is never a

pretty sight. However every aspect of demolition is on track, is financed and will be completed when the State Historical Preservation office has completed its work.

It is correct that the City of Branson debt service is now \$100 million dollars, after Bond Anticipation Notes to purchase the lakefront property, after completion of the demolition, and after site preparation. That brings Branson's debt to about where it was in 1997.

In our City, it is all about leadership. Community leadership, that is. We combine the efforts of elected and appointed officials, residents and even citizens who work in, or have businesses in Branson, even though they do not live in Branson. However, in a representative form of government, which in Branson is comprised of a seven-member Board of elected officials, the final decision is always the Board of Aldermen. Our City Administrator works directly for the Branson Board of Aldermen and carries out our policies and decisions, as directed. The Branson Board of Aldermen and the Mayor of Branson as an elected body support and have full confidence in our City Administrator Terry Dody, stated Alderman Huff.

At this time, Alderman Barker moved that the City Board of Aldermen take a "Vote of Confidence" for the City Administrator Terry Dody. Motion was seconded by Alderman Warlick. Voting aye: Gass, Barker, Huff, Farris, and Warlick. Nay: Taylor. Motion carried.

Alderman Warlick stated he would like to respond to Ray Wilson's "Letter to the Editor" in the June 14, 2002 Branson Daily Independent. Mr. Warlick indicated that certain allegations were made concerning City operations as well as the waterfront development, and he would like to respond to those points.

Allegation #1 was that Executive Sessions are being violated and used for the discussion of City business.

Executive Session's are only used for City business that qualifies and when I read the little blurb about adjourning to "Executive Session, sections 1, 2. and 3", what that says is that they have to be specifically "Personnel, Legal or acquisition of property".

We have both our City Attorney and our City Administrator monitoring our discussions in that room to make sure that they stay within the confines of the State Law. If we try to vary from that, they are not at all reluctant to bring us back on course.

Allegation #2. Secrecy, lack of information and no respect for the law.

Well, as many of you know, there is no secrecy. We've had a number of Public Meetings where things have been discussed, and discussed and discussed. However, some issues must be discussed in Executive Session, and is allowed and as mentioned before.

The Board of Aldermen and the Administrator provide Public Meetings, Public Work Session, Monthly and Quarterly Reports, News Releases and we even speak at numerous functions within the City to allow discussion of these items and answer questions.

I think it is a safe statement to say that this Board has the highest respect for the law.

Allegation #3. Citizens are not being served by having rehearsal meetings before the regular Council Meetings.

There are not now or have ever been rehearsal meetings before the regular Council Meetings. The Board does meet at a published pre-meeting just prior to the regular meeting to address any particular points that might need to be clarified. To address any business meeting procedures, changes that may have occurred and to be made aware of any item that may need to be added to the Agenda, or any item that may need to be removed.

Such pre-meetings are an accepted procedure that adds clarity and expediency to the business meetings. They are attended by the citizens and the News media and they are used by other Boards and Commissions within the City.

Allegation #4. Purchasing lakefront property for 2 or 3 times for what it was worth.

Now we've hashed this one over, over and over. And one final time, I want to say that the City contracted with Integra Realty Resources of Kansas City to appraise the property before the purchase. The lakefront development property appraised at over \$5 million dollars, more than what the City purchased it for. I don't know why this keeps coming up.

Allegation #5. The City should not be in real estate developing business.

City's are always in the real estate development business. Every time the City builds a road, creates industrial parks, builds a new treatment facility, approves various development tools allowed by the law like SIDS and TIFS, etc. They are economic stimulus efforts that create new jobs, and economic growth and therefore puts the City in the economic development business.

Allegation #6. Will the City be fined another \$5,000 for violating the Sunshine Law?

The City did not violate the Sunshine Law and was not fined \$5,000 dollars. While the suit was brought against the City, it was without merit. The City determined it was financially prudent to settle the payment of attorney fees rather than proceed at a trial, as many of you know what the cost of attorneys are, it would have far exceeded \$5,000 dollars. This settlement was in the best interest of Branson.

Allegation #7. A tax increase or a cut in services will likely result from the \$30 Million dollar debt.

There is no planned tax increase, nor cut in services that will be required to service the debt of the \$30 million dollar Bond Anticipation Notes. To put it real simple. If you've got money on interest drawing a higher rate than what you can borrow it for, it only makes good sense to borrow the money rather than to cash in your CD's, which is what the City did.

Allegation #8. The only way a developer will build a Convention Center and retail is with a large City subsidy.

We've been saying that for a long time. It's like "Duh". The Board and the Administration have stated publicly that any Convention Center will have to be subsidized with public tax dollars. However, such a project will stimulate new tax dollars and those will be used for the project. The overall economic benefits can easily out weigh the subsidies, stated Alderman Warlick.

Mayor Schaefer stated he wanted to take this opportunity to thank both of these gentlemen for the work they put into these reports in order to reply to some of these public letters that have been put out including Springfield, and just wanted to say that he thought they did a very good job in answering every one of them.

At this time, Alderman Taylor stated he wanted to make it clear that he did not sign the letter of reply to Mr. Thomas that Alderman Huff read.

ALDERMEN/ADMINISTRATOR'S REPORTS

Alderman Taylor stated he had been in contact with several of his TAYLOR constituents over the last week and months since his election as Alderman, Ward III. His constituency is concerned about City government and the insurances and other safeguards in place to avoid exposing the City's financial resources to risk, and he shares their concerns. The City has recently issued RFP's (Request for Proposals) for the Convention Center, the Arena, and Lakefront Development. As we go through this process again, the City should thoroughly evaluate the downside risks and take adequate steps to protect the City's interest and financial resources. To insure proposed projects are financially feasible and to limit the City's financial exposure in such developments, the City should insure that future plans are thoroughly reviewed and information contained in them verified, prior to the City's committing itself to such projects. Other questions from my constituency are by and large, concerns with the transactions over the past year that

involved the Branson Landing Project. Questions of costs and proper procedures continue to be the focal point. Therefore, in my opinion and in the best interests of the citizens of Branson, I plan to have circulated a "Petition Requesting Audit" to include the current fiscal year and specifically the transactions and procedures surrounding the Branson Landing Project. If the petition is successful the audit will be scheduled and conducted by the Missouri State Auditor's Office. My hope is that questions and concerns will be answered, and that the City of Branson can move forward, with sound economic development for our citizens and our business community, stated Alderman Taylor.

Alderman Farris stated that the Branson North Subdivision Property Owners Association hold a picnic annually, and this year it was a big success. Mr. Farris indicated on behalf of the constituents in Branson North, he would especially like to give thanks to the City staff and those of the City that helped put it together. Particularly, the Parks Department, as the park in Branson North is much improved than a year ago, and the staff worked hard these past weeks to get it up to speed. It looks great, and he would like to thank everyone for the work they did, and the Fire and Police Departments for their involvement. It was great! FARRIS

Alderman Farris also asked staff to be vigilant while coming up to the election, to ensure that political signs are where they should be and not in the City right-of-way in the City limits. FARRIS

PUBLIC COMMENT:

Chuck Pennel, 353 Quincy Road, Kirbyville, Missouri addressed the Board and requested approval for an extra five minutes. Mr. Pennel presented a sketch drawn up of improvements and changes to the lakefront property. The sketch included a gazebo to be placed down on the lakefront by the rock steps in the same area where the dances were held. There is a need for something good to happen down on the lakefront and this would be a benefit for the downtown area and boat docks. Mr. Pennel indicated he had talked with music show managers who had some positive comments. Alderman Warlick moved to grant Mr. Pennel another five minutes, seconded by Alderman Gass. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried. Mr. Pennel indicated he had talked with Joe Sullivan who is in the entertainment business, and Mr. Sullivan had stated, "Nashville used to do this at the noon hour and it was successful, but didn't know if they still did". While all of this other stuff is going on, it could be done for an estimated \$10,000 and later it could be moved someplace else, indicated Mr. Pennel. Mayor Schaefer indicated they would discuss the idea. PENNEL

EXECUTIVE SESSION:

Alderman Warlick moved to go into Closed Executive Session pursuant to Section 610.021 RSMo., subsections 1, 2, and 3. Seconded by Alderman Gass. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried.

ADJOURN:

Alderman Huff moved to adjourn. Motion was seconded by Alderman Farris. Voting aye were: Gass, Barker, Taylor, Huff, Farris and Warlick. Nays: None. Motion carried. Meeting was adjourned at 8:20 p.m.