

**PUBLIC COMMENTS MEETING  
OF THE BOARD OF ALDERMEN  
CITY OF BRANSON, MISSOURI, MARCH 22, 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 October 27, 2003 at 8:00 p.m. with the following members present:

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

Also in attendance from the City were: Administrator Terry Dody, City Attorney Dan Wichmer, Assistant City Attorney Russ Dempsey and Deputy City Clerk Lisa Westfall.

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 three people signed up to address the Board.

Ricky Renfro, 108 Fern Street, Branson, Missouri discussed liquor in the theaters. His concern dealt with Section 311.080 RSMo, which prohibits the sale of liquor near schools and churches and that some of the theaters have churches in them. He stated he was against liquor in the City especially in the theaters and that we did need a resolution.

Chuck Pennel, 353 Quincy Road, Kirbyville, Missouri was the next speaker. He asked for the consideration of passing a resolution or going to the State Legislatures and asking them to sponsor a bill that will give the City the power to regulate liquor in the theaters, the movie theaters and music theaters.

John Logan, 2277 Lakeshore Drive, Branson, Missouri was the last speaker. He discussed a quote from the Springfield paper concerning family values in Branson. In addition he requested the Board to pass a resolution against the expansion of alcohol in the theaters.

Alderman Huff asked Mr. Logan, "Has anyone ever asked the Theaters' Association what their position is on this issue? Mr. Huff stated that the theater industry has been pretty silent on this issue, and I just wonder what their feeling is about it."

Mr. Logan responded, "You are absolutely correct. They have been very silent, and they are very silent on a lot of subjects, and I find that to be quite prevalent in Branson, Missouri. There is a lot of silence and so those that speak up, you know sometimes we carry the burden but there is concern out in that industry. I have talked to them."

**Mr. Dody said that at the last meeting on March 8<sup>th</sup>, the issue again came up regarding what the City Attorney said or didn't say concerning the constitutionality of a resolution, and at the last meeting it was discussed that we would try to clear that up. It is important to clarify what was actually said by the City Attorney as opposed to what is sometimes mistakenly heard. Tonight just for clarification purposes, Dan Wichmer, the City Attorney will review the transcriptions from past meetings and go through them so all of us understand exactly what was really said as oppose to what might have been perceived to have been said, so that we can clear up that issue perhaps once and for all.**

**Mr. Logan stated if Mr. Wichmer is going to talk about the constitutionality of an ordinance, it's irrelevant because we are not talking about an ordinance. We are strictly talking about a resolution, so I don't even care if an ordinance is unconstitutional; all I would like is a resolution.**

**Mr. Dody turned it over to Mr. Wichmer to review what was actually stated.**

**Mr. Wichmer reviewed excerpts from transcripts of past meetings. He stated, "I am not saying that a resolution in and of itself, causes you to take any action, however your resolution encourages the different treatment of similarly situated establishments, and in my opinion I didn't think that would be the proper course for a resolution, especially since federal and state law is very clear as to how those categories of establishments are to be treated. I have stated from day one that a resolution is a resolution is a resolution, you can put whatever you want in it but when you come down to the content of the resolution, which is encouraging the unconstitutional treatment of an establishment from a legal point of view – I could not recommend that course of action."**

**Mr. Wichmer proceeded and addressed Mr. Renfro's question concerning alcohol in theaters that also have church services, "The City of Branson currently has on its books a regulation that says that 'absent consent from the Church itself, that there can not be liquor served within 300-feet of the Church'. The exception is that if the church consents to allowing the establishment to be closer than 100-feet or 300-feet, they are perfectly well within their right to waive that barrier."**

**Mr. Dody said, "The problem that we have with this issue in regards to the Council passing a resolution is, that on an issue that if in fact, it was couched as an ordinance, it would be a violation of the Constitution of the United States. As a governing body you have a responsibility first to the Constitution of the United States, second to the Constitution of the State of Missouri and then to the laws of State of Missouri then the Code of the City of Branson and what our concern is, is while there is nothing illegal or unconstitutional for you to pass a resolution in the matter that is being asked; the fact is that as a governing body in a public arena you would be passing a resolution whose substance is illegal or unconstitutional to the United States of America."**

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

**EXECUTIVE SESSION:**

**Alderman Huff 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. Motion was seconded by Alderman Barker. Voting aye: Gass, Barker, Martin, Huff, Edie, and Purvis. Nays: none. Motion carried.**

**ADJOURN:**

**Mayor Schaefer entertained a motion to adjourn. Alderman Huff made the motion, seconded by Alderman Barker. Voting aye: Gass, Barker, Martin, Huff, Edie, and Purvis. Nays: none. Motion carried. Meeting was adjourned at 8:20 p.m.**