

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF ALDERMEN
CITY OF BRANSON, MISSOURI, OCTOBER 25, 2004**

The Board of Aldermen of the City of Branson, Missouri met in regular session in the Council Chambers of the City Hall on October 25, 2004 at 7:00 p.m. with the following members present:

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

Also present from the City were: City Administrator Terry Dody, Assistant City Administrator Frank Schoneboom, City Attorney Dan Wichmer, City Clerk Sandra Williams, 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 Board of Aldermen meeting and Public Comments meeting of October 11, 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 Alderwoman Martin. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

**APPROVAL
MINUTES**

Alderman Huff moved to have Item No. 6 removed from the Consent Agenda and placed as Item No. 6 on the Regular Agenda for discussion, seconded by Alderman Purvis. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

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. 2927, an ordinance annexing property owned by LMN Corporation, located south of Fall Creek Road and east of Hunter Avenue, identified as Taney County ID#18-1.0-12-003-001-027.003, into the City of Branson, Missouri, was approved within the Consent Agenda. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried. Ordinance No. 2004-144 was duly enacted.

**BILL NO. 2927
ANNEXATION
LMN CORPORATION
ORD. NO. 2004-144**

Final reading of Bill No. 2928, an ordinance annexing property owned by David R. and Doris J. Woolery, located at 101 River Lane, identified as Taney County ID#17-3.0-07-000-000-025.000, into the City of Branson, Missouri, was approved within the Consent Agenda. Voting aye: Gass, Barker Martin, Huff, Edie and Purvis. Nays: none. Motion carried. Ordinance No. 2004-145 was duly enacted.

**BILL NO. 2928
ANNEXATION
DAVID R. & DORIS J.
WOOLERY
ORD. NO. 2004-145**

Final reading of Bill No. 2929, an ordinance annexing property owned by Jerry D. and Carolyn P. Lilley located at 135 River Lane, identified as Taney County property ID#17-3.0-07-000-000-025.003, into the City of Branson, Missouri, was approved within the Consent Agenda. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried. Ordinance No. 2004-146 was duly enacted.

**BILL NO. 2929
ANNEXATION
JERRY D. & CAROLYN P.
LILLEY
ORD. NO. 2004-146**

Final reading of Bill No. 2931, an ordinance approving an agreement for Professional Engineering Services between Walter P. Moore and Associates, Inc. and the City of Branson, and authorizing the Mayor to enter into the agreement pertaining to engineering design services on the Sycamore Street Improvement Project, was approved within the Consent Agenda. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried. Ordinance No. 2004-147 was duly enacted.

**BILL NO. 2931
AGREEMENT
ENGINEERING
SERVICES
WALTER P. MOORE
ORD. NO. 2004-147**

Final reading of Bill No. 2933, an ordinance approving an agreement for Professional Services between Micro-Comm, Inc. and the City of Branson, and authorizing the preparation of a contract in accordance with the terms of the proposal, and authorizing the Mayor to enter into the agreement pertaining to the Radio Path Study Project for the Public Works Department, was approved within the Consent Agenda. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried. Ordinance No. 2004-148 was duly enacted.

**BILL NO. 2933
AGREEMENT
MICRO-COMM, INC.
RADIO PATH STUDY
ORD. NO. 2004-148**

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 Purvis made the motion, seconded by Alderman Huff. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

REGULAR AGENDA:

Final Reading of Bill No. 2874, an ordinance of the Board of Aldermen of Branson, Missouri approving an agreement for implementation of the Branson Hills Tax Increment Financing Plan and authorizing the Mayor to

**BILL NO. 2874
AGREEMENT FOR
IMPLEMENTATION
BRANSON HILLS**

execute the same, was read by title by City Clerk Williams and Terry Dody provided the staff report. At this time Mayor Schaefer opened the floor for comments from the audience. John Logan, 2277 Lakeshore Drive addressed the

**TAX INCREMENT
FINANCING PLAN
ORD. NO. 2004-149**

Board stating this TIF was not correct for this community. He then went on stating why he was against this TIF, ending by asking the Board to vote against approval of this bill. Mike Booth, 95 Westwood Drive, addressed the Board stating he was the president of the school board, and thanked Terry Dody and Alderman Huff for attending their school board meeting as it was very informative. Mr. Booth said that as most of the school's income comes from property tax. When there is a taxing entity, such as the City, state that the school can't have taxes from this TIF area, it causes some concerns. He also said that some of their concerns are that it costs over \$6,400 dollars to educate one student and the average taxes collected on a house in our area is somewhere between \$800 to \$1,200 dollars, so it is hard to make up that revenue. He went on to ask that if it passes, that not all of the funds be captured, so that the other taxing districts could receive part of them. Mr. Booth said the school board was against it, and they are concerned about the income, and asked that the Board consider the kids of the district when making their decision. Alderman Huff commented saying that this has been a very difficult and trying process, but we have to be real about this because we are competing with Hollister for this project, and the stakes are high. It is pure economics. We are talking about a thousand plus new jobs; about millions of dollars in tax revenue. We say we are not going to play this game because we are concerned about the impact it will have on our schools, and the impact on our existing businesses. Well, if it is in Hollister the impact on our schools and existing businesses is going to be the same with one big exception. The City of Branson is not going to get any benefit from this, no tax dollars flowing into Branson. We are going to have the problem of impacting our existing businesses, and how we deal with additional students whether it goes in Hollister or Branson. He indicated he did not see that we have a lot of choice, either be pro-active and go for it as best we can so that we can have the benefit, or we can just ignore the facts and let the chips fall where they may. Mr. Huff said he did not want to take that risk, and was going to support it happening in the Branson city limits. David Queen, Bond Counsel again explained the statutory definition of what constitutes a blighted condition or area. After no further discussion or questions, Mayor Schaefer called for a vote on the second reading of Bill No. 2874. Voting aye: Gass, Barker, Martin, Huff, Edie, and Purvis. Nays: none. Motion carried. Ordinance No. 2004-149 was duly enacted.

The next item on the regular agenda was a status report on Branson Landing and Convention Center Projects.

**STATUS REPORT
BRANSON LANDING &
CONVENTION CENTER
PROJECTS**

Harold Allen of Benham Company provided an update on the reimbursements to HCW for various site expenses. Mr. Allen said that one of his responsibilities as the City's construction representative is to review the disbursement applications that come to the City. He then went over six various disbursement requests that have come in and were reviewed by him. Mr. Allen indicated their process was to categorize the reimbursements in two manners. They are numbered consecutively and then are assign a suffix of either a "C" or an "R". The "C" deals directly with construction related expenses, and the "R" deals more with non-construction, or reimbursable type items. On the construction side

there are requests #38C in the amount of \$25,213.53 that is for professional services with BDY, some Palmerton and Parris soil analysis, and some civil engineering services by Walter P. Moore. The #39C in the amount of \$430,931.70 which is essentially the first 30% of the imported grading and rock, soil and rock fill that went to the site; #40C in the amount of \$664,708.19 is for some Palmerton and Parrish services, and is the large amount of the grading, rock imported fill, soil imported fill that takes it up to about 65% of the work. Under the "R" disbursement requests we have #37R, #38R, and #40R. The #37R request in the amount of \$5,446.45, is some reimbursable expenses to TVS and for Senate Hospitality Group. #38R in the amount of \$12,500.00 is a combination of Senate Hospitality Group and HCW professional services. There is no #39R. And the last one #40R in the amount of \$2,354.84 reimbursable costs for the consultant Illuminating Concepts. Mr. Allen explained there were four different legal documents that govern the work and the reimbursements. Therefore his first step was to go to those documents to make sure that the expense is a legitimate expense. Some of them are split in various ways, 80%-20%, or 50%-50%, and he determines if the split was done properly. The next step is to check to see if there is an authorization on file for that expenditure for that particular amount. Next he checks with HCW to verify that there is a signed contract between HCW and the vendor who has done the work, and make sure the contract is correct with the expenditure. Then Mr. Allen goes to the site to inspect the work that has been done and verifies that it is done per plans and specifications. Finally he checks through all of the invoices presented, mathematically, to make sure they all add up before presenting to the City. They are checked twice by the City, by David Miller and Deanna Schlegel. Mr. Allen ended this portion of his report by saying he felt there was a good system in place and everything is being looked at with multiple pairs of eyes and very thoroughly.

Mr. Allen then gave a quick update on what work is taking place on the site, and what work will be done over the next few weeks. He said the filling operation is substantially complete, and the dirt fill has been brought in, and it is now being capped with a protective layer of rock that will allow vehicles to travel over the site even after it has been raining. It also helps control any possible runoff. The trucks that are going out there are rock for that cap layer, and for the stabilization mat that is going under the retaining wall. The major work that is going on now is the large retaining wall structure that will be major construction and will be very noticeable. The wall is placed on this soil stabilization mat, so there are many truckloads of rock coming in every day to form that. On top of that there will be a concrete footing, and then on top of that will be a concrete retaining wall. The total retaining wall length along the lakefront side totals about 1,800 lineal feet, a third of a mile. About half of the stabilization mat is in place, and probably 30% of the foundation, the footing is in place. Doe Coe Construction out of Springfield is doing the wall which has just been started, and they are purchasing the concrete through Table Rock Asphalt. The wall will be covered with various other materials, such as stone veneer, or stucco, or brick to match the same type materials used on the buildings above it. There are seven restaurant sites along there, and the theme and finishes of the restaurant above will be wrapped around the lower part of the wall to create a unified look, so the wall will be broken into many different types of finishes and will not be left as exposed concrete. Mr. Allen said he reviews with the architects to make very certain they understood the importance of not just the look of the project from the interior promenade, but the look of this project from the lake. This project has to present a very world class appearance from

the lake side, and the engineers committed to him they will do that. He then commented that some large holes are being dug in the site for the basement excavations for two of the buildings that will have some underground parking. The rest of the site will be up on slab on grade, but those two buildings will be excavated a story lower. Mr. Allen closed by saying that some trenching was being done around the north end of the site for the underground conduit bank that will carry the Empire Electric service and the telephone service to replace the lines that are currently going across the lake.

Mayor Schaefer opened the floor for questions by the Board.

Alderman Huff inquired what the status was on the 404 authorization permit, and if that is affecting us in our ability to move this project forward. Mr. Allen replied, that it was not preventing the construction of the retaining wall, because the retaining wall is not in the floodway, and the Corps, in essence, does not have jurisdiction over work outside of the floodway. However, the very next steps the developer wants to accomplish, is to put in the sea wall, which is the low, meandering wall that will be right along the lakefront that will have the boardwalk on it, and that is in the floodway. That cannot be put in until the 404 is received, so very soon it will be impacting them, and it is impacting the construction of the Roark Creek Bridge which cannot proceed across without the 404.

Alderman Huff inquired when they anticipated any buildings starting to go up. Mr. Huffman said the buildings, and the parking structure, will probably start in December. They met with the pre-casters on the large parking structure, and the piers for the buildings. There will be 300 piers that will have to be drilled 30 feet deep in a five-foot rock socket, and 42 to 48 inch diameters all over the site to support the building due to the soil conditions, before any buildings can start coming out of the ground. He then said the hydrology portion of the 404 has passed, and it has been moved on to DNR at the state level in Jefferson City, and DNR has a site visit scheduled for Thursday, so we anticipate it being signed off by DNR soon and it will go back to Little Rock for the colonel's signature.

Alderman Barker indicated he had thought there would not be any buildings built on the retaining wall. Mr. Allen replied, most of the buildings sit back from the retaining wall but there are a couple of occasions where they are out closer to the retaining wall, and it is anticipated that whatever finishes is on the front and rear of those buildings will be carried down the wall to make a more unified appearance. There are additional interior footings used to support the buildings, and are not supported by the wall. The retaining wall is a pure retaining wall to retain the tremendous amount of soil behind it, and to raise the site up.

Alderman Huff inquired what will happen if the project goes over the "not to exceed" amount in the project. Mr. Allen replied, there is a "not to exceed" amount in the contract and HCW will pay for any work that needs to be done if that cap is reached before the completion of the project.

Rick Huffman, CEO of HCW Development Company addressed the Board stating they were here to present the Schematic design for the Convention Center and the Convention Center Hotel as authorized by the Redevelopment Contract executed between HCW and the City of Branson in March of 2003. He explained they would need to have approval of the schematic design in order to move into the phase of Design Development which will allow them to work with the contractor on a pre-construction services contract to determine the costing, to determine that they are within the budget originally outlined in the RFP, and to get the City in a position to issue the bonds at the time needed to start construction this next summer in July. Mr. Huffman then introduced Mike Ezell with TVS, David Murphy with Crawford, Dewey Newt with Turner Construction, and Rick Alling with Killian Construction, and indicated they were all present to answer any questions about the schematic design. He then turned the floor over to Mike Ezell to present the design.

Mike Ezell, Senior Principal with TVS in Atlanta, Georgia, and David Murphy of Crawford Architects addressed the Board at this time. Mr. Ezell provided some background information by saying the CS&L Marketing Study report identified a number of program components for the Convention Center being built around a 50-thousand square foot exhibit hall, a 20-thousand square foot ballroom, and a range of meeting rooms, the target of which was about 15-thousand square feet of additional meeting space. There was the earlier phase, and a programming and master planning phase which developed a program of approximately a 210-thousand gross square foot Convention facility that was exclusive of the space for the adjacent hotel. Mr. Ezell then explained that the schematic design they were presenting was within less than one and a half percent of that target, and they had exceeded each of those program areas, and feel confident that they are right on target with the schematic design from a programmatic standpoint. The challenge they had on the site was not just to place a Convention Center there, but to place one in such a way that it could work with Branson Landing, with the flow of the City, work hand in hand with an adjacent convention quality hotel, still be a piece of architecture that stands up and shouts out its claim in the industry, and something the folks in Branson would be proud of. He then presented a computer model of the Convention Center, the Convention Center hotel, and a parking garage which doesn't impact the existing city parking garage, and showed the site parameters and the schematic design of the project which fronts on Branson Landing Boulevard, the former Boxcar Willie Drive, and extends all the way down to Long Street. It is very important to the overall concept of Branson Landing, this Convention Center, and Hotel that a sense of connectivity to the rest of the City is provided. This is accomplished by placing the first level on grade with Sycamore Street so that it is very easy to get in and out for both pedestrians and vehicles. Also the third level of the deck is at the same elevation as Commercial Street, so people can come from Commercial Street. There are three major ways into the site; one on Long Street which is at the south end of the site; a couple of different locations along Sycamore Street; and there is a combined drop off, both from Main Street, as well as, Sycamore Street into the hotel. Mr. Ezell said there is the anticipation of a future pedestrian bridge that could be built across the Branson Landing Boulevard, from the intersection of the Convention Center and the Convention Center Hotel, right to the water front complex, and so this had been incorporated in the planning of both facilities and shows on the computer model and

the schematics. Utilizing the computer model, he then displayed a view of the Convention Hotel and the Convention Center entrance; the 172-foot high hotel tower with 275 rooms, a foreground of the Convention Center and the Hotel; the schematic of how they will create a generous sort of resort-like landscape off of Sycamore Street; the parking garage with a nice landscape buffer in front; and the 10-thousand square foot of outdoor entertainment area that is in front of the ballroom. Mr. Ezell said the overall organization of this Convention facility is on two levels, the ballroom and the exhibit hall that are at grade. There is a clear span that goes across the exhibit hall that is a columnless 50-thousand plus square foot space. All of the circulation area, the meeting space, and the primary access into the exhibit hall is on the second level, so you are above the railroad tracks, and you have wonderful views of the bluffs across from Taneycomo, and can see the curve of the lake because the second level is about 22 feet in the air. Mr. Ezell completed his presentation by showing the computer model of the ground floor plan; where the support activities will be located; a the mini food court; concession stands, and said he would be glad to answer any questions anyone had.

At this time discussion was held by members of the Board regarding the following: (1) the view from the Convention Center; (2) when the Convention Center and Hotel management would be brought into the process; (3) what provisions has been planned for the vibration from the trains adjacent to the building and the location of the tracks to the Convention Center; (4) the method planned to move people from the Convention Center to the Branson Landing area; (5) the status of the marina lease; and (6) the timeline and whether the project was on schedule. Alderman Huff also discussed the following commitments and promises that were made to the community in early public meetings. (1) to make this a world-class development; (2) to obtain a goal of creating a “must visit” destination; (3) develop something the citizens of Branson would be proud of, and have more access to the water; (4) to protect North Beach Park; (5) have a seamless tie-in with the historic downtown district; (6) create something that is unique, with different entertainment and shopping options, not just another shopping mall; and (7) make it economically feasible, must generate enough revenue to be self sustaining and pay for itself.

Mayor Schaefer entertained a motion to approve the status report as presented. Alderwoman Martin moved to accept the presentation of HCW and specifically approved the schematic design of the Convention Center as presented tonight. Motion was seconded by Alderman Huff. Voting aye: Gass, Barker, Martin, Huff, Edie, and Purvis. Nays: none. Motion carried.

Public Hearing and first reading of Bill No. 2934 an ordinance approving “PD” Planned Development zoning and approving Land Use Regulations for Planned Development PD-2004-002 for property owned by Dr. Gerald Blue and known as Blue Mountain Estates, 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 some discussion by Engineer Mel Akins for Dr. Blue, closed the Public Hearing. Mayor Schaefer then entertained a motion to approve the first reading of Bill No. 2934. Alderman Purvis made the motion, seconded by Alderman Gass. Voting

**BILL NO. 2934
PUBLIC HEARING
“PD” ZONING &
LAND USE
REGULATIONS
BLUE MOUNTAIN
ESTATES
DR. GERALD BLUE**

aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

Public Hearing and first reading of Bill No. 2935 an ordinance amending the Land Use Regulations for Planned Development PD-2001-01, known as The Woods, 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 some discussion by Allen Johnson of General Design, closed the Public Hearing. Mayor Schaefer then entertained a motion to approve the first reading of Bill No. 2935. Alderman Barker moved to approve the bill, seconded by Alderman Purvis. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

**BILL NO. 2935
PUBLIC HEARING
AMENDING LAND
USE REGULATIONS
THE WOODS**

First reading of Bill No. 2936, an ordinance repealing all previous adopted Building Codes and adopting the International Building Code 2003, the International Residential Code 2003, the National Electrical Code 2002, the International Electrical Code Administrative Provisions 2003, the International Property Maintenance Code 2003, the International Mechanical Code 2003, the International Plumbing Code 2003, the International Existing Building Code 2003, and the International Fuel Gas Code 2003, with certain additions, insertions, and changes, 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. 2936. Alderwoman Martin made the motion, seconded by Alderman Barker. Discussion. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

**BILL NO. 2936
REPEALING
ADOPTED BUILDING
CODES & REPLACING
WITH UPDATED**

First reading of Bill No. 2937 an ordinance repealing Chapter 235 of the Branson Municipal Code, *Fire Prevention Code* and enacting a new Chapter 235 adopting the International Fire Code, 2003, with amendments, was read by title by City Clerk Williams, and Carl Sparks provided the staff report. Mayor Schaefer entertained a motion approving the first reading of Bill No. 2937. Alderman Barker moved to approve the bill, seconded by Alderman Purvis. Discussion. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

**BILL NO. 2937
REPEALING
CHAPTER 235
FIRE PREVENTION
BRANSON MUNICIPAL
CODE & ADOPTING
NEW CHAPTER 235**

First reading of Bill No. 2938, an ordinance vacating a sewer easement to the Lezah Stenger Foundation in the southeast corner of the southwest quarter of Section 3, Township 22 North, Range 22 West, Taney County, Missouri, 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. 2938. Alderman Gass made the motion, seconded by Alderman Purvis. Discussion. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

**BILL NO. 2938
VACATING
SEWER EASEMENT
LEZAH STENGER
FOUNDATION**

First reading of Bill No. 2939, an ordinance vacating a sewer easement to Myron J. & Lorita A. Curtis in the southeast corner of Lot 1 the northwest quarter of Section 2, Township 22 North, Range 22 West, Taney County, Missouri, 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. 2939. Alderman Barker moved to approve the bill, seconded by Alderman Purvis. No discussion. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

**BILL NO. 2939
VACATING
SEWER EASEMENT
MYRON J. & LORITA A.
CURTIS**

First reading of Bill No. 2940, an ordinance accepting the proposal of bid award between Freesen, Inc. and the City of Branson, and authorizing the Mayor to enter into the agreement pertaining to the Phase I Fall Creek Road Extension 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. 2940. Alderman Huff made the motion, seconded by Alderman Purvis. Discussion. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

**BILL NO. 2940
BID AWARD
FREESSEN, INC.
PHASE I FALL CREEK
EXTENSION PROJECT**

First reading of Bill No. 2941, an ordinance authorizing the purchase of a street sweeper from Key Equipment & Supply Company for the City of Branson in accordance with the State of Missouri Cooperative Procurement Program, 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. 2941. Alderman Barker moved to approve, seconded by Alderman Purvis. Discussion. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

**BILL NO. 2941
BID AWARD
KEY EQUIPMENT
& SUPPLY COMPANY
STREET SWEEPER**

First reading of Bill No. 2942, an ordinance accepting the proposal of bid award to CenturyTel for a telephone system for the City of Branson's new Recreation Center Complex, and authorizing the Mayor to execute the agreement, was read by title by City Clerk Williams, and Cindy Shook provided the staff report. Mayor Schaefer entertained a motion approving the first reading of Bill No. 2942. Alderwoman Martin made the motion, seconded by Alderman Barker. No discussion. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

**BILL NO. 2942
BID AWARD
CENTURYTEL
TELEPHONE SYSTEM
RECREATION CTR.
COMPLEX**

First reading of Bill No. 2943, an ordinance accepting the proposal of bid award to Ozarks Coca-Cola / Dr. Pepper Bottling Company for vending for the new Recreation Center Complex of the City of Branson, and authorizing the Mayor to execute the agreement, was read by title by

**BILL NO. 2943
BID AWARD
OZARKS COCA-COLA/
DR. PEPPER BOTTLING CO.
VENDING-RECREATION**

City Clerk Williams, and David Miller provided the staff report. Mayor Schaefer entertained a motion approving the first reading of Bill No. 2943. Alderman Gass made the motion, seconded by Alderman Purvis. No discussion. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried.

CENTER COMPLEX

A resolution approving assignment of commercial ground lease from Lodge of the Ozarks, Inc. to Hughes Entertainment, Inc. of a portion of City property more commonly known as Old Branson Airport, was read by title by Clerk Williams, and Dan Wichmer provided the staff report. Mr. Wichmer informed the Board this assignment is required so that Hughes Entertainment can demonstrate it has a Lease Term with the City. He also indicated an amendment was needed showing that only 1.9 acres of the property is being assigned. Mayor Schaefer entertained a motion to approve the resolution. Alderman Gass moved to adopt the resolution, seconded by Alderman Barker. City Clerk Williams read into the record the recommended amendment as follows: "On the fourth paragraph after the words 'requested assignment' the words 'of following described property as on "Exhibit A", be added. Then Exhibit "A" was read into the record (See Exhibit 1 of the Minutes). Alderman Barker moved to amend the resolution, including the new language read and the land description, with the understanding that this encompasses the 1.9 acre portion of property known as Lodge of the Ozarks Theater. Motion was seconded by Alderman Huff. Voting aye: Gass, Barker, Martin, Huff, Edie, and Purvis. Nays: none. Motion carried amending the resolution. Mayor Schaefer then called for the vote on the resolution as amended. Voting aye: Gass, Barker, Martin, Huff, Edie, and Purvis. Nays: none. Motion carried. Resolution No. 2004-R028 was adopted.

**RESOLUTION
ASSIGNMENT
COMMERCIAL GROUND
LEASE - HUGHES
ENTERTAINMENT
RESOL. NO. 2004-R028**

A request by Chuck Pennel to discuss his property located at 211 E. Long Street, Branson, Missouri was the next item on the Agenda. City Attorney Dan Wichmer stated that due to his absence at the last meeting, there are probably several questions that were raised that could be addressed if he could walk the Board through the documents provided to Mr. Pennel and explain his conclusions. Mr. Wichmer then gave his presentation concerning the property located at 211 E. Long Street (Pennel property) from when the Branson Town Company was formed and began selling the property, to the present owner of record. He also discussed the 1906 Warranty Deed to the railroad from the Branson Town Company showing the 100-foot right-of-way on either side of the track, starting from the centerline of the track. Mr. Wichmer then reviewed all of the deeds conveyed on the Pennel property, and discussed the survey done in 1980 by Chuck Pennel's parents which contains a couple of items that do not follow the legal. Mr. Wichmer indicated he brought this forward before to summarize for the Board, over 100-years worth of deeds because 1) every deed has a 20-foot gap in it; 2) the railroad survey, as well as, the railroad deed indicate the severity of the building encroachment located on the Pennel property. Mr. Wichmer closed by saying that between the City, HCW doing their

**REQUEST BY
CHUCK PENNEL
PROPERTY AT
211 E. LONG ST.**

title work, and Rozell Engineering checking into this, this is the status of the deed on that property.

Chuck Pennel, 353 Quincy Road, Kirbyville, Missouri, discussed the 1947 Survey and whether it was a plot or a plat of the property. After additional discussion, Mr. Pennel indicated he had spoken to Christian Earhorn from the railroad and asked him about purchasing the right-of-way, and Mr. Earhorn said that since the City is in negotiations to purchase that right-of-way joining the property, and the City has immanent domain power to buy it, and Mr. Pennel was out of the loop. Mr. Pennel then requested that the Council make a decision to withdraw their negotiation to buy that right-of-way, thereby allowing him the opportunity to buy it from the railroad so he could resolve the major building encroachment issue. If the City would back off on buying the railroad right-of-way he would have a possibility of not having to demolish his building and could go forward with something in it. Administrator Dody suggested to the Board this was probably not a decision they would want to make tonight. When discussing the railroad property that does qualify for an Executive Session, and I believe that would be the appropriate place to have this dialog regarding Mr. Pennel's request. After additional discussion, Alderman Purvis moved to accept the presentation, seconded by Alderman Barker. Voting aye: Gass, Barker, Martin, Huff, Edie, and Purvis. Nays: none. Motion carried.

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 Barker moved to approve the disbursements as presented, seconded by Alderman Purvis. No discussion. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. 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 opened the floor for Aldermen and Administrator's Reports.

ALDERMEN/ADMINISTRATOR'S REPORTS

Alderman Gass said that he is starting to see the colored Alternate **GASS** Route signs that are being put up around town and feels that they are very good, and would like to let the personnel that are putting them up know that they are doing a great job as he feels that it is something that was needed.

Alderman Gass reminded everyone of the Branson Branding Study **GASS** meeting that the Chamber of Commerce has scheduled for Tuesday, October 26, 2004 at 6:00 p.m. in the Council Chambers and encouraged everyone to attend.

Alderman Purvis reminded everyone there was just eight days to go before the election and encouraged everyone to get out and vote. MARTIN

ADJOURN:

At this time, Mayor Schaefer entertained a motion to adjourn. Alderman Purvis made the motion to adjourn, seconded by Alderman Martin. Voting aye: Gass, Barker, Martin, Huff, Edie and Purvis. Nays: none. Motion carried. Meeting was adjourned at 10:30 p.m.

EXHIBIT "1"

Legal Description

Section 2, Township 22 North, Range 22 West, Taney County, State of Missouri

A parcel of land situated in the West half of the NE¹/₄ and the East half of the NW¹/₄, all in Section 2, Township 22 North, Range 22 West, Taney County, Missouri, and being described as follows: Commencing at the Southwest Corner of the NW¹/₄ of the NE¹/₄ of said Section 2, thence N 89°26'31" W, 26.56 feet to the point of beginning, said point lying on the east R/W Line of Missouri State Highway #76 West, thence N 3°35'35" W along said R/W Line 21.68 feet, thence N 86°35'48" E, 138.08 feet, thence N 3°24'12" W, 31.66 feet, thence N 86°35'48" E, 373.27 feet, thence S 0°34'01" E., 209.00 feet to an existing rebar, thence N 86°11'30" W, 504.62 feet to a point on the east R/W Line of said MSHD #76 West, thence N 3°35'35" W along R/W Line 91.12 feet to the point of beginning, containing 1.96 acres more or less and being subject to all existing easements and restrictions of record.