

**MINUTES OF THE WORK SESSION MEETING OF THE
BOARD OF ALDERMEN, CITY OF BRANSON, MISSOURI,
NOVEMBER 2, 2004**

The City of Branson held a work session on Tuesday, November 2, 2004 at 6:00 p.m. in the Council Chambers at Branson City Hall to have a public discussion regarding solicitations, the distribution of handbills, and the management of the Convention Center.

Present were: Mayor Louis Schaefer presiding, and Aldermen Dick Gass, Beverly Martin, Ron Huff, and Dave Edie, with Stan Barker and Jack Purvis absent. Also present were: City Administrator Terry Dody, City Attorney Daniel Wichmer, City Clerk Sandra Williams, Assistant City Administrator Frank Schoneboom, and Planning and Development Director Don Stephens.

Mayor Schaefer opened the work session with the Pledge of Allegiance, and Sandra Williams gave the invocation. Mayor Schaefer stated the first work session item on the agenda is discussion on amending the current City ordinances pertaining to solicitations and the distribution of handbills, and then turned the floor over to City Administrator Terry Dody.

Mr. Dody informed the Board that staff has been looking at some issues regarding solicitations within the City of Branson, and have put together a draft ordinance that has been sent to various organizations for review. Staff has received a response from the Downtown Business Main Street Association (DBMSA), who is present to address some of these issues, particularly concerning handbills. This draft contains some of the handbill legislation that staff worked out with DBMSA. He then explained that Don Stephens would display the draft ordinance on the overhead screen so that the audience as well as the Board can see it and would go through it showing the high points, the actual changes being recommended, some of the issues regarding the three different components of peddler's license, solicitor's license and handbills. Mr. Dody then turned the floor over to Mr. Stephens.

Mr. Stephens explained that the reason staff began researching this was due to receiving quite a few complaints about public solicitation at street corners, at intersections with people going out into the street and soliciting funds in various ways. He clarified that there are three different issues. The first thing is the way that "peddler" is written in the current ordinance as "peddler" and "solicitor" is lumped together and they have the same definition. Therefore, when staff wants to do something about the solicitation issues at intersections of public streets there is no clear guidance in the ordinance. Staff has clarified the difference between the two by defining a "peddler" as someone who has no regular place of business in Branson and is selling their wares for a profit. A "solicitor" is primarily non-profit groups or organizations that are soliciting money or donations for their particular

cause. The third issue is handbills and staff is recommending changes to the present ordinance. Handbills are where there is a regular place of business in Branson, but they go out and hand out coupons or brochures and seek people to either come into their place of business or purchase their product. It covers things such as handbills, advertising material, coupons, brochures, bumper stickers or any other such material. Mr. Stephens then displayed and reviewed a summary sheet showing the recommended changes to the existing ordinances, and how this change will affect everyone.

Attorney Dan Wichmer then addressed some of the legal issues, and constitutional issues the City has to be concerned with, and explained that under the handbills, there is more regulation versus solicitation. One of the problems the City has is when we get complaints about groups coming through that nobody really knows, impeding traffic, and seeking donations. Under the constitution it is a free speech issue. In order to regulate it, you have to regulate all of it in an even manner, or regulate none of it. You cannot pick and choose how you are going to regulate free speech issues, and you can't differentiate between groups. We are left with the problem of how do you go about regulating it in an even manner, yet still permit organizations to go through the proper channels to be able to do it. In commercial speech all that is needed is a rational basis for the regulation. In particular, the complaints in the downtown area regarding people being confronted while getting off of their buses, or standing in front of other businesses, handing out information to seek a competitive advantage, we have regulated that in a rational basis. In essence handbills can be regulated more effectively, because all you need is a rational basis for it. For the solicitation, you have to have a clear reason and it has to be very strict as to how you do it; whereas, handbills can be regulated more extensively than solicitation. By requiring a special event permit to be obtained for solicitation, we are not eliminating the opportunity to solicit, just regulating it.

Gayla Roten, Downtown Branson Main Street Association, 119 West Pacific addressed the Board that these problems have been a large concern in the downtown area for some time, especially as they work to bring more people to downtown. All of us are in the business to create great experiences for the visitors that come to Branson. When you are stopped on the sidewalks numerous times, given coupons, coupon books, information, brochures, and handbills then that is not a great experience. We have merchants that see customers actually walk out into the road and go behind the businesses, or behind vehicles just to get away from the people handing out the handbills. I am here to speak for our Board of Directors and members saying that we are excited about having an ordinance in place where there are barriers and ways to regulate the solicitation and handbills. She then explained the problems the hired "bus greeters" were having in downtown, and had Ron Kristikos, one of the bus greeters also address the Board. She also explained that the portion that limits them having only two events per year of a maximum duration of three days is not final. It was put in the proposed changes as a guideline to begin the process, as they want to make this fair for everyone.

Visitors in the audience addressing the Board were Gary Groman, 230 River Point Road, Hollister; Jim Hall, 399 Airport Road, Branson; Greg Scott, owner of The Shack Café; and Doug Mason, If The Shoe Fits, 104 S. Commercial, Branson. The issues discussed were: (1) if the changes would prohibit any solicitation activity at the junction of Hwy. 65 and Hwy. 76; (2) discussion regarding the “ten foot within doors or within ten feet of a doorway” change that was recommended; (3) whether something could be left on a door stoop of a business; and (4) the problem of the people receiving the handbills then placing them in flower boxes, on the ground, and wherever to get rid of them.

Administrator Dody explained to the Board that if the community and the Board wanted to ban handbills entirely that was an option that was available. Solicitation at intersections was more difficult because of the free speech issues, but commercial handbills actually can be completely banned on public property, and could be something to consider.

Mr. Wichmer explained that staff was trying to regulate commercial speech in the most effective yet strongest constitutional manner, where a flat prohibition gets more difficult because there is a lot of public area in the City of Branson. The basis of a good portion of this proposed ordinance is the public safety aspect, and the issue that it is in such a confined area that you feel intimidated or threatened. In order to avoid getting extremely problematic in terms of commercial versus free speech issues, staff regulated rather than prohibited, explained Mr. Wichmer.

Additional discussion was held by members of the Board regarding (1) the number of events allowed and the time limit of the event; (2) who would be allowed to do solicitation; (3) who would be responsible to have the permit; (4) the “ten foot within doors or within ten feet of a doorway requirement; (5) whether these proposed changes addresses the blockage of doorways into the businesses downtown; (6) the effect the proposed ordinance would have on the whole town; how this would effect parades that are held in Branson; and (7) whether solicitation and handbills could be banned completely.

Alderman Huff then suggested that staff research the possibility of banning handbills entirely, and if not able to ban completely to come up with something as close to that as possible. Administrator Dody explained it has already been established that the City could ban commercial handbills entirely, and suggested another work session be held on this matter. Mayor Schaefer then stated that concludes Item No. 1 on the agenda, and called for a five minute break before proceeding on to Item No. 2.

Mayor Schaefer reconvened the Work Session and stated that this half of the meeting was to discuss the management of the Convention Center, and would begin with a presentation from Larry Welch of Senate Hospitality Group.

Mr. Welch addressed the Board saying that Dave Jones, one of his partners, Glen Malone, and himself have been in the hospitality industry for 30 years. He then gave a summary of their backgrounds and extensive experience. Mr. Welch said their charge from the City was to determine which is the better method, a single operator for the Convention Center and hotel, or a partnership between two different operators, a convention center operator and a hotel operator. The five specific items they were to look at was to evaluate the pros and cons of a single operator or multiple operators of the convention center and hotel; the second was the management fee projections under each scenario; the third was the marketing benefits for each of the scenarios, whether it is a single operator or joint; the fourth was customer benefits of each scenario; and last the executive summary, recommendations, and conclusions. Mr. Welch stated there couldn't be a better entertainment capital than what Branson has right here. There is shopping, dining, transportation, and plenty of entertainment. He indicated that since 9-11 they have seen the drive-in markets are the only ones that stabilized in terms of occupancy and continued business. The economic benefits of their findings tell them that in bringing a Convention Center to any city, will have additional incremental hotel demand, new business for the City which means it is coming from outside the City, and not something that the City is already experiencing. This will result in Incremental Taxes generated for Branson. Mr. Welch indicated they had research trends in the meeting industry such as Meeting Professionals International, conventions and hotels, hotel associations, the National Hotel Association, hotel operators and brands. They spoke to Marriott World, Hilton, Hyatt, InterContinental Hotel Group, Westin Hotel, and StarWard Hotels. The results of that research is that the meeting planners feel they have clout; the decline in meetings leveled out in 2003; the 2004 expenditures are flat to prior year; booking lead times unchanged, service still paramount; technology impacting meeting sector; and meeting attendees bringing guests for leisure. If the service in the convention center does not match your hotel, you will drive business away, and you will not have repeat business. You must have a similar experience when you go from the hotel over to the convention center itself. It has to be one single service point. Often times they find that the operators of convention centers are not geared to hospitality, and are not hospitality people. They have found that more people have come from meetings that are staying longer with family and for Branson that is going to be a wonderful advantage as Branson has so much for the folks to do. The four key opportunities for the meeting planner is location, room rates, security and hotel brand.

Mr. Welch then reviewed the pros and cons of the two operator system versus the single operator. The pros for two separate operators are that it provides perception of independence in booking "overflow" hotel rooms into market; viewed as unbiased in type of business booked into the Convention Center; operators being considered by Branson are well-known in industry; and has a reputation of being cost focused. Some of the cons mentioned for two operator systems were that it is "big facility" oriented (arenas, stadiums, expo centers); inability to cross-utilize

labor with hotel; duplication of services; meeting planners want one point of contact, not two; sales effort dependent on other organizations; politically motivated, noted in recent ethical complaints; and have weakness in ability to market the facility. When a meeting planner comes into town they know their expectations are going to be met because they know who the one person is who is accountable. Every city is vying for more business, and the only way to get it is if you have a unified sales effort and a unified service point, and you don't get that with two operators. Without a sales force dedicated to pushing your marketing, you will not build additional traffic in Branson. Major hotel brands, have network forces across the United States and will continue to push the marketing for Branson. The power of the brand will bring in all of the meeting needs for a city. Mr. Welch then provided the pros of a single operator. One is the accountability from one source, one operator, one voice. Another pro for a single operator is the cross-utilization of the hotel staff, which saves everybody dollars. It saves the City money and it gives the meeting planner, one person to deal with. One of the most important things is that there is one bill and that is what the meeting planners want. To the meeting planner one bill, and one point of contact are critical.

Some of the cons are the perception that the hotel operator is looking out for himself not the city. Unified sales and marketing effort backed by hotel; chain frequency program is desired by meeting planners. Reality is that meeting planners determine where the overflow rooms are booked. The convention center operator's concern is not the hotel. His concern is not to bring rooms to the City but to make sure that he doesn't have too many costs, and that they break even at best, and that the City is satisfied. They earn their fee, and they earn additional incentives by keeping costs down. A combined operator has a more cost effective selling and marketing approach, because the hotel brand has co-op dollars they come to the table with. Whether it is Hilton, Marriott, InterContinental, or whoever, they are going to go the local marketplace, and are going to have that much more exposure with their brand. Additional pros for one operator were that the hotel brand brings additional booking channels to the convention center; hotel brand awareness and distribution with significant locations and large customer data base; strong relationship/network between hotel operators and meeting planners. Another con is the perception that events booked may not be most profitable to the convention center. The reality is that local business often booked by the convention center operators does not drive as much incremental taxes as does the out-of-town convention business.

He then present the Management Fee Projection for two different operators versus one operator; the marketing benefits for both; customer benefits; and an Executive Summary. He closed by recommending that the City hire one operator for the hotel and convention center as they believe that the one hotel operator must have meeting space as a service and to function; it eliminates cost duplications to the City; only one point of contact in negotiating contracts which is a major benefit to meeting planners; higher level of guest satisfaction; cohesive sales and marketing approach; one point of contact servicing the meeting/convention; general manager

strong in sales and meeting arena; annual budget for convention center provided by hotel; and meeting planners control what hotels receive overflow rooms from meetings/conventions. There will not need to be two chief engineers, two sales efforts that don't work together, there will only be one point of contact for the total City, there will be a higher level of guest expectation and guest satisfaction from one operator, there is a cohesive sales and marketing approach, and funding from a brand that works both sides of the equation, hotels and meeting space. The hotel operator is a seamless experience from the door of the hotel to the front door of the convention center, there is a seamless experience based on the standards of the hotel brand. If it is not seamless, the meeting planner will not come back. It is so competitive today that if this is not the path the City chooses, there will be some issues in terms of filling the meeting space up. Mr. Welch closed by saying that approving a combined management of convention center and hotel, it will provide benefits of: save \$3 to \$8 million in capital costs; achieve lower combined operating costs for convention center and hotel possibly \$500-Thousand to \$1-Million per year; achieve lower annual subsidies by the City of Branson of \$500-Thousand or more for convention center operating deficits.

At this time Mayor Schaefer opened the floor for comments and questions from the audience. Addressing the Board with comments, concerns and questions were: Chris Lucchi, 104 Brookside, Branson; Steve Shear, 2325 West Highway 76, Branson; Angie Smith, 2820 West Highway 76, Branson; Tammy Johnson, 228 Antlers Lane, Branson; Ross Summers, President of the Branson Chamber of Commerce; and Gale Myer, 317 River Bluff Drive, Branson. After considerable discussion, comments and questions, Mayor Schaefer stated the Board had accomplished the two work session items and entertained a motion to adjourn.

ADJOURN:

Alderman Huff moved to adjourn, seconded by Alderman Barker. Voting aye: Gass, Barker, Martin, Huff, and Edie. Nays: none. Absent: Purvis. Motion carried. Meeting was adjourned.