

**MINUTES OF THE PUBLIC COMMENT MEETING
OF THE BOARD OF ALDERMEN
CITY OF BRANSON, MISSOURI, NOVEMBER 8, 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 November 8, 2004 at 8:10 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, Assistant Administrator Frank Schoneboom, City Attorney Dan Wichmer, City Clerk Sandra Williams, and Assistant City Attorney Russ Dempsey.

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 two persons signed up to address the Board.

City Clerk Williams stated there were two citizens signed up to address the Board and they were John Logan and Chuck Pennel.

John Logan, 2277 Lakeshore Drive, Branson, addressed the Board saying he had a question and a brief comment. Mr. Logan said that recently a questionnaire survey was sent to citizens within the community requesting donations on the new recreation center, and he wondered how that turned out? Administrator Dody replied the survey was done to take a look at whether or not there is any interest in naming rights for the pool, the ball fields, etc., and it is still under process at this time. The survey was done by a company that is assisting the Parks & Recreation Department to see if there is any interest in those naming rights. Mr. Logan then commented that there is very solid feeling that the naming should be reserved for people who has done service rather than dollars and cents. Lots of citizens think that any naming opportunities should be reserved for service to the community rather than financial donations.

Chuck Pennel, 353 Quincy Road, Kirbyville, addressed the Board again regarding his property at 211 East Long, saying he had met with Terry Dody and Dan Wichmer on this issue, and asked if one of them could give the gist of the discussion. Attorney Dan Wichmer said that they had gone back through it and he had explained to Mr. Pennel where he stood legally on the lot issues. Then they had met with Terry Dody and discussed what can be done to resolve it which was pretty much left open at that point, as they were all going to go back and look at the drawing board and see if some way could be thought of to straighten everything out. Mr. Pennel then said the only real resolution he had heard was that if he would contend that the blue boundary line was a City street and therefore City property, then the City could possibly lease it to him to cover the encroachment. Mr.

Wichmer stated that what was discussed was that Mr. Pennel had an abstract that predated the Branson Town Company Deed from back in 1915, but there still existed that 20-foot gap, and Mr. Wichmer indicated there is only two ways to certainly resolve it: (1) to go to court and get a quit title action; or (2) if Mr. Pennel will agree that the City owns it, the 20-foot strip, and you don't have to worry about quieting title back to the original land grant in 1918. Once he agreed the City owns the property, it gives the City the ability to negotiate with him about what to do with the 20-foot strip. Mr. Wichmer then said that if Mr. Pennel contests the ownership of the 20-foot strip then that is saying the City does not own it, and they cannot negotiate with him about it. Mr. Pennel said he had talked with an attorney, and he questioned if it is a City street and if it is City property. He was discussing with his attorney about filing a declaratory judgment, where an impartial judge would decide and at least he would be satisfied that it is either the City's or its is not. Mr. Pennel then indicated that the City has told him they did not need or want his property for the Convention Center, but he can not imagine that the old buildings will be left standing with the Convention Center being built right by them, and his belief is that before the Convention Center is open, those buildings will have to go. Administrator Dody replied that at the times the City talked about the property, it was never said the City would never need the property. It has been said that the City would not need that property unless the Convention Center expands in the future. Had the property been priced at a more reasonable and fair market value instead of the exorbitant price requested, the City may have gone ahead and purchased the property. The City needs those dollars that was the price requested to use in other parts of the project at this time. That piece of property is going to be the last piece of property needed in the event the Convention Center expands five, ten, or fifteen years from now. Mr. Pennel then informed the Board that he had a possible tenant for his building. Administrator Dody informed the Board that this was one of the reasons this issue was brought before the Board, because Mr. Pennel had said he was losing his lessee and was looking for another. We brought this up to make sure Mr. Pennel understands that at this point the City owns part of his property and whatever lease he chooses to enter into, he is doing so with public notice that the City believes that it owns part of that property, and he needs to resolve that issue before he enters into a lease. Alderman Gass then asked for a legal interpretation regarding whether the Board members should discuss this any further as Mr. Pennel had said he was talking with an attorney. Attorney Dan Wichmer indicated that he had told Mr. Pennel he would be happy to sit down with his attorney and talk about these issues, therefore as Mr. Pennel has indicated he is talking with an attorney, it would be his recommendation that as litigation is on the horizon, there should not be any discussion on this issue in public forum in order to protect the attorney client privileges. Administrator Dody informed the Board that if Mr. Pennel chooses to continue talking about his litigation in public comment, there was nothing the Council could do to stop him, it is just that the attorney's recommendation is that they do not discuss it with Mr. Pennel.

City Clerk Williams stated that completed the list of citizens requesting to speak.

Mayor Schaefer then 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, 610.021.3 for personnel, and 610.021.2 for contract negotiations. The motion was seconded by Alderwoman Martin. Voting aye: Gass, Barker, Martin, Huff, Edie, and Purvis. Nays: none. Motion carried.

ADJOURN:

Mayor Schaefer entertained a motion to adjourn. Alderman Barker made the motion, seconded by Alderman Purvis. Voting aye: Gass, Barker, Martin, Huff, Edie, and Purvis. Nays: none. Motion carried. Meeting was adjourned at 8:45 p.m.