

# MINUTES

## THE REGULAR MEETING OF THE BOARD OF ALDERMEN CITY OF BRANSON, MISSOURI August 11, 2008

### INTRODUCTORY

The Board of Aldermen of the City of Branson, Missouri met in regular session in the Council Chambers of the City Hall on August 11, 2008 at 7:00 p.m. with the following members present:

Mayor Presley presiding, Stan Barker, Sandra Williams, Stephen Marshall, Cris Bohinc and Bob McDowell present. Absent: Rick Davis.

Also present from the City were: City Administrator Dean Kruithof, Assistant City Administrator Frank Schoneboom, City Attorney Paul Link, City Clerk Lisa Westfall, Director of Communications Jerry Adams, Director of Computer Information Services D.J. Cline, Director of Engineering David Miller, Director of Public Works Larry VanGilder, Director of Planning and Zoning Don Stephens and Police Chief Carol McCullough.

Mayor Presley called the meeting to order with the "Pledge of Allegiance" and Larry VanGilder gave the invocation.

### PUBLIC COMMENT

Mayor Presley began the Public Comments section of the Board of Aldermen meeting by stating that the Board would hear citizens that signed up to speak in the order of the first person signing the sheet.

Darin Codon, 202 ½ South Commercial Street, Branson, Missouri, spoke about the employment of illegal aliens in town and asked Carol McCullough how long it takes for a police officer to find out if someone is an illegal alien. He said only legal residents are able to obtain driver's licenses. He commented there have been several arrests of illegal aliens in town. He stated his concern over employment practices of the hotel and restaurant industry.

Jimmy Nicholas, 530 Parnell Drive, Branson, Missouri see attached copy of comments.

Debbie Nicholas, 530 Parnell Drive, Branson, Missouri see attached copy of comments. (Continued Jimmy Nicholas comments).

Jim Lekander, 602 Kingsway, Branson, Missouri said the American Presidents Museum will receive the Picturing America Grant for an art exhibit and will also be receiving teaching material. He said all 40 works of art exhibited will be on permanent display at the museum.

Ron Key, 109 Shiloh, Branson, Missouri stated he is honored to be part of the Liquor Task Force and feels it is a well balanced group. He expressed he is pleased and wants to show his support.

Dr. Berl H. Best, 13 A Maple Court, Branson, Missouri said he is a licensed professional counselor and has witnessed the detrimental affects of alcohol. He has difficulty with Article 6 (G) (4) and (5) and recommended deleting Section 10-55 regulating semi-nude dancing stating it is not compatible with Branson family values.

Renee Johnson, 755 Gretna Road, Branson, Missouri said she is the General Manager of the White House Theater and has small concerns on page 28, Item M allowing entertainment unless written application is filed with the Director and written approval is issued. She expressed concern with the clearance and submission time frames.

## CONSENT AGENDA

Mayor Presley asked if there were any citizens that had any items they wished to have removed from the Consent Agenda for further discussion. Hearing none, Mayor Presley asked if any member of the Board had any items they wished to have removed from the Consent Agenda for further discussion. Alderwoman Williams asked that Item #2 be removed from the Consent Agenda and placed as the first item on the Regular Agenda. Mayor Presley asked City Clerk Westfall to read the items on the Consent Agenda as amended. City Clerk Westfall read the following Consent Agenda items by title.

Approval of the Board of Aldermen Minutes:

July 28, 2008 regular meeting  
August 5, 2008 special meeting

**Bill No. 3569**

**Ord. No. 2008-076**      **Approving a Planned Development amendment to the Club Welk Branson Villas Land Use Regulations PD-2006-006 for properties located at 270 Welk Resort Circle.**

Final reading of Bill No. 3569, an ordinance approving a Planned Development amendment to the Club Welk Branson Villas Land Use Regulations PD-2006-006 for properties located at 270 Welk Resort Circle, Branson, Missouri was read by title by City Clerk Westfall. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried. Ordinance No. 2008-076 was duly enacted.

**Bill No. 3570**

**Ord. No. 2008-077**      **Accepting the proposal of HTE/SunGard to provide for the City's financial software applications for a term of one-year and authorizing the Mayor to enter into the agreement.**

Final reading of Bill No. 3570, an ordinance accepting the proposal of HTE/SunGard to provide for the City's financial software applications for a term of one-year and authorizing the Mayor to enter into the agreement was read by title by City Clerk Westfall. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried. Ordinance No. 2008-077 was duly enacted.

**Bill No. 3571**

**Ord. No. 2008-078**      **Approving an agreement between the City of Branson and Crawford, Murphy & Tilly, Inc. for the preliminary design of the Lift Station 30 Capacity Upgrade and Force Main Project and authorizing the Mayor to enter into the agreement.**

Final reading of Bill No. 3571, an ordinance approving an agreement between the City of Branson and Crawford, Murphy & Tilly, Inc. for the preliminary design of the Lift Station 30 Capacity Board of Aldermen  
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Upgrade and Force Main Project and authorizing the Mayor to enter into the agreement was read by title by City Clerk Westfall. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried. Ordinance No. 2008-078 was duly enacted.

**Bill No. 3572**

**Ord. No. 2008-079**     **Approving the placement of a construction trailer to be placed on property located in the Commerce Park Subdivision West on Buena Vista Road.**

Final reading of Bill No. 3572 a special ordinance approving the placement of a construction trailer to be placed on property located in the Commerce Park Subdivision West on Buena Vista Road, Branson, Missouri was read by title by City Clerk Westfall. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried. Ordinance No. 2008-079 was duly enacted.

**Bill No. 3573**

**Ord. No. 2008-080**     **Accepting the proposal of The TanStone Group, LLC., pertaining to the sale of real estate related to the right-of-way of Forsythe Road and authorizing the Mayor to sign the deed in accordance with the terms of the proposal for bids.**

Final reading of Bill No. 3573 an ordinance accepting the proposal of The TanStone Group, LLC., pertaining to the sale of real estate related to the right-of-way of Forsythe Road and authorizing the Mayor to sign the deed in accordance with the terms of the proposal for bids was read by title by City Clerk Westfall. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried. Ordinance No. 2008-080 was duly enacted.

Mayor Presley opened the floor for a motion to approve all items on the Consent Agenda as amended. Alderman Marshall so moved, seconded by Alderman Barker. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried.

## **REGULAR AGENDA**

**Bill No. 3564**     **Approving a Municipal Code amendment by deleting Chapter 10 and enacting a new Chapter 10 of the Branson Municipal Code pertaining to alcoholic beverages.**

Final reading of Bill No. 3564, an ordinance approving a Municipal Code amendment by deleting Chapter 10 and enacting a new Chapter 10 of the Branson Municipal Code pertaining to alcoholic beverages was read by title by City Clerk Westfall and the staff report was presented by Mayor Presley. Mayor Presley stated this bill was postponed from the July 28, 2008 meeting and asked for a motion approving the final reading of Bill No. 3564. Alderwoman Williams moved to put Bill No. 3564 up for final reading, seconded by Alderman Marshall. Mayor Presley introduced Dick Bryant, Attorney from Kansas City working on the alcohol ordinance amendment. He stated the proposed ordinance came down to a couple of things such as does Branson want to have local control or let the state do it. He said it does not have to be word for word of statutes and cities are allowed to have more restrictive code, but can't do something that is prohibitive by state statutes. He stated no new license would be needed when a show changed at a theater that served alcohol. In sections, 10-51 and 10-55 semi-nude dancers are allowed because of Supreme Court rulings but can be regulated through zoning. Other issues addressed in the ordinance by the Task Force included annexations and the addition of new licenses along with the density of liquor licenses. He stated a lot time was spent on the proposed ordinance. Mayor Presley asked Administrator Kruihof to address the implementation of Board of Aldermen

staffing. Mr. Kruihoff said he didn't anticipate the position being a department head position. The Finance Department has an accounting specialist, which currently does auditing and could also handle the requirements of this liquor ordinance. Mr. Presley asked Chief McCullough to address enforcement. Chief McCullough stated he concurs with Administrative Kruihof about the position and added that someone with a law enforcement background would be helpful. He commented on the weekend car show and expressed the new drinking in public ordinance was an added tool for the officers to use. He said the new position would not require additional police officers, and anticipates the current investigation division would be able to handle the needed enforcement. Mayor Presley asked for comments from the Board. Hearing none, Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Darin Codon, 202 ½ S. Commercial Street, Branson, Missouri thanked the people in the community for participation on the Task Force. He asked the Board to consider the economic impact before this ordinance. Mr. Codon asked Dick Bryant to give a brief background of Kansas City ordinances. Mr. Bryant stated they are derived from state statutes and regulations. He said Kansas City has an ongoing ad-hoc task force that meets on a month by month basis to discuss the formation, addition or deletion of city ordinances that relate to alcohol. He stated the Task Force talked about licensing servers but because of the seasonal nature of this area, it was determined it would be a hardship on servers. Codon stated he received a license in Kansas City and thinks they are a good thing. He asked about the mafia history of liquor in Kansas City. Mr. Bryant said there was nothing unique in the Kansas City ordinance. Mr. Codon asked Mr. Bryant to elaborate on the rules of alcohol Power Light Districts. Mr. Bryant said state statute gives Kansas City an entertainment district that doesn't apply anywhere else. John Freed, 220 Eagle Point Drive, Branson, Missouri stated family values are vital to our community and he appreciates the work done by the Task Force to generate a enforceable ordinance. He read a statement from Skyline Baptist Church (see attached copy). Bill Skains, 1335 W. Hwy 76, Engler Block, Branson, Missouri stated he has had problems with people on their property having parties, and asked how this will help. Chief McCullough stated the drinking in public ordinance gives the police the opportunity for better enforcement that the city has not had before. He said businesses can write a letter asking for people to be removed from their property after hours. Jory Rolf, 1392 Skyview Drive, Branson, Missouri stated Branson needs local control so it is not thought that Branson is only watched when the state is in town. He shared some comments from the underage drinking coalition meeting. He said all community stakeholders must send a message that underage drinking is not an option in Branson. Eric Farris. 1015 Hwy., 248, Branson, Missouri thanked the Board for slowing down and passing what the Police Department needed most. He stated there was no need to throw out the entire proposed ordinance because there are some very important parts. He said what is needed is to identify what the problems are in the community. He said he assumed by looking at the document it appears the application process must be a problem because the proposed ordinance deals with a lot of the application process. He said it is a nice thing to say the City wants local control but it appears we do have local control with the City of Branson Police Department enforcing ordinances and statutes. Mr. Farris questioned if because of understaffing the State Liquor Control Division is having problems with reviewing, processing and approving applications and if that is why the City of Branson wants to step in and take over what would otherwise be a state law function. He asked if the laws we currently have are inadequate or can they be enforced in a different or better way by law enforcement. He said additional laws don't necessarily assist the problem and asked if the current laws could be amended or adopted to solve the problems without unnecessarily growing government. He asked the Board to consider the philosophy of local government and where they fit in. The City of Branson Police Department has local control even without city ordinances to prohibit things and all state statutes can be enforced by our Police Department. He questioned if it is necessary or even helpful to duplicate the state law for city law. He asked if the Task Force did a line by line review of the proposed ordinance with Mr. Bryant because a Task Force member stated they were not aware there were certain restrictions, requirements and burdens that will be put on licensees in the final draft. Mr. Farris asked that a budgetary priority be given to the Police Department to get the necessary officers needed to enforce current laws. He suggested having underage volunteers assist police with undercover work. He questioned the appointment of the director by the Mayor. He asked what other cities in Missouri have their own liquor control department or director. He noted the City of Columbia's ordinance is not as stringent as Branson's proposed ordinance. He said at the last Board meeting he was told the application process is nearly identical to state law but after review there are many things required under the proposed ordinance that are not required by the State. He commented that fingerprinting is an option at the state level. He suggested having the applicant turn in a copy of their state application. He said the proposed application process is overbroad and it is the State's job to handle this. He stated his

concern of investigatory powers of the person appointed to do the job. This person can revoke licenses and he asked if it is a good practice to give a lower level employee this power. He questioned what problem is solved to require the applicant to provide information on loans. He requested an underlined proposed ordinance of what is required in state law already. Mr. Farris said he was also concerned with the following Chapters: 10-35 b – liquor licenses revocation and family members thereafter can not operate the business, a family is forever barred to have the business; 10-37 – appears to allow the director to declare marshal law by shutting down a business for violence; 10-51 f – doesn't make sense, appears to be circular; 10-55 – is inconsistent with requirements of a stage and 10-80 – doesn't allow fermenting of beer. Jimmy Nicholas, 350 Parnell, Branson, Missouri said the reason he and other people in business are reacting to this proposed ordinance is because they weren't involved like the Task Force members were. He said in order to have a fine restaurant you need to have liquor. Mark Weisz, 386 Dalton Drive, Branson, Missouri requested a redline of State Law vs. the proposed ordinance so everyone can see the changes that are being made. He also asked for a redline of changes concerning the comments. He asked these be made available prior to a study session and any final documents. He said this wasn't handled line by line by the Task Force. He has heard many good suggestions and a lot needs to be looked at. He suggested two study sessions, one to listen and then the other the results. Chuck Pennel, 353 Quincy, Kirbyville, Missouri said he appreciates what the Board is trying to get accomplished and they are being good listeners. He said if there are errors you can go back later and adjust or address them. Jay Scrivner, 488 River Drive, Branson, Missouri thanked the Board for what they have done and for being good listeners. He said this proposed ordinance has to do with the character of our city, environment, spirit and history of our City. He said this ordinance has to do with our appeal to millions of our visitors, what has made Branson appealing, along with the proactive prevention of social issues, concerns of underage abuse of alcohol and other addictions. He said Mr. Bryant has said these sections are meant to be consistent with zoning laws. He questioned if they are and if they are tough enough. Mayor Presley asked Dick Bryant to address some general issues previously brought up. Mr. Bryant addressed the application process. He stated the submitted application will meet the state requirements and the City will have the ability and staff to review the application. The state currently does not have the work force to do this. Why does it have more specific requirements than state statute? The ordinance was more restrictive to help keep the family friendly environment of Branson. What is the difference between city and state laws? The local police department can make the arrests with local discretion, and they will be handled through the municipal court rather than state court. Why do loans have to be stated on the application? State law prohibits loans from retailers and manufacturers. He also stated that each line of the ordinance was reviewed and addressed by the Task Force. As for the revocation process, Mr. Bryant stated discretion for revocation is better dealt with on the local level rather than the state level. The revocation appeals process goes to the Board of Aldermen then to the Circuit Court. Christine Tsacharidis, 115 Briarcliff, Branson, Missouri said people ask where they can go for a nice dinner and have a drink. She said she was against government getting into her life more and the state regulations are enough. She commented if a business is closed for a minor infraction a family member can't step in and operate it. She said she is against this. Mayor Presley then asked for comments from the Board. Discussion. Alderwoman Williams moved to postpone Bill No. 3564 to a date no later than September 30, 2008 and refer to a Study Session of the Board of Aldermen for further review, seconded by Alderman Baker. Mayor Presley asked for anyone in the audience wishing to speak regarding the motion to postpone and refer. Hearing none, Mayor Presley asked for comments from the Board. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried.

The meeting recessed at 9:03 and reconvened at 9:16

**Bill No. 3574**

**Annexing property petitioned by Richard Huffman located at 1725 Branson Hills Parkway.**

Public Hearing and first reading of Bill No. 3574, an ordinance annexing property petitioned by Richard Huffman located at 1725 Branson Hills Parkway, Branson, Missouri was read by title by City Clerk Westfall and the staff report was presented by Don Stephens. Mayor Presley opened the public hearing and asked for anyone wishing to speak in favor or opposition of this matter. Hearing none,

Mayor Presley closed the public hearing and asked for a motion approving the first reading of Bill No. 3574. Alderman Barker moved to approve, seconded by Alderwoman Bohinc. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried.

**Bill No. 3575**                    **Annexing property petitioned by Daniel Ruda located at 1725 South Highway 165.**

Public Hearing and first reading of Bill No. 3575, an ordinance annexing property petitioned by Daniel Ruda located at 1725 South Highway 165, Branson, Missouri was read by title by City Clerk Westfall with comments from Dean Kruithof and the staff report was presented by Don Stephens. Mayor Presley opened the public hearing and asked for anyone wishing to speak in favor or opposition of this matter. Darin Codon, 202 ½ South Commercial Street, Branson, Missouri asked why it was being rejected. [Note: a letter was received from Mr. Ruda asking for the withdrawal of the petition.] Discussion. Mayor Presley closed the public hearing and asked for a motion approving the first reading of Bill No. 3575. Alderman Barker moved to approve, seconded by Alderwoman Williams. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: none. Nays: Barker, Williams, Marshall, Bohinc and McDowell. Absent: Davis. Motion failed.

**Bill No. 3576**                    **Establishing an ICMA Retirement Corporation Governmental Money Purchase Plan & Trust and authorizing the Mayor to execute the same.**

First reading of Bill No. 3576, an ordinance establishing an ICMA Retirement Corporation Governmental Money Purchase Plan & Trust and authorizing the Mayor to execute the same was read by title by City Clerk Westfall and the staff report was presented by Mayor Presley. Mayor Presley asked for a motion approving the first reading of Bill No. 3576. Alderwoman Bohinc moved to approve the bill, seconded by Alderman Barker. Mayor Presley then asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried.

**Bill No. 3577**                    **Approving the renewal of the contract with Ozark Mountain Bank for banking and investment services and authorizing the Mayor to execute the letter of engagement.**

First reading of Bill No. 3577, an ordinance approving the renewal of the contract with Ozark Mountain Bank for banking and investment services and authorizing the Mayor to execute the letter of engagement was read by title by City Clerk Westfall and the staff report was presented by Frank Schoneboom. Mayor Presley asked for a motion approving the first reading of Bill No. 3577. Alderman Marshall so moved, seconded by Alderwoman Williams. Mayor Presley then asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried.

**Bill No. 3578**                    **Accepting the proposal of Alliance Pump and Mechanical Services, Inc. to rebuild and install submersible pump at Lift Station #17 and authorizing the Mayor to execute a contract.**

First reading of Bill No. 3578, an ordinance accepting the proposal of Alliance Pump and Mechanical Services, Inc. to rebuild and install submersible pump at Lift Station #17 and authorizing the

Mayor to execute a contract was read by title by City Clerk Westfall and the staff report was presented by Larry VanGilder. Mayor Presley asked for a motion approving the first reading of Bill No. 3578. Alderman Barker moved to approve, seconded by Alderman Marshall. Mayor Presley then asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried.

## **APPOINTMENTS**

Mayor Presley made the following Board appointment:

Stan Barker appointment to the Taney County Airport Board with a term expiring April 2009.

Mayor Presley asked for a motion approving this appointment. Alderman McDowell moved the Board appoint Stan Barker to the Taney County Airport Board for a term of one year expiring April, 2009, seconded by Alderwoman Williams. Mayor Presley asked for questions or comments. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried.

## **DISBURSEMENTS**

Mayor Presley stated the next item was review of disbursements for June 26, 2008 through July 24, 2008 and Request #'s 115-CC-R, 117 MI-SS, 113 CC-R, 116 CC-R and asked if there were any questions regarding the disbursements. [See Master File for copies of disbursements.] Mayor Presley asked for a motion acknowledging the receipt of disbursements. Alderwoman Williams moved to recognize the disbursements, seconded by Alderman Marshall. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried.

## **MAYOR/ALDERMEN/ADMINISTRATOR'S REPORTS**

Alderman McDowell thanked everyone for their input on the liquor ordinance and said he hoped for continuing input. He requested prayers for Mayor Meadows.

Alderman Barker asked everyone to keep Mayor Schaefer in their thoughts. He said he appreciates the Liquor Task Force and the comments from the public, adding that many things might be a misunderstanding.

Alderman Marshall stated he enjoyed Jerry's report.

Alderwoman Bohinc said there were comments on the liquor ordinance that were not made public.

Dean Kruithof said the Liquor Ordinance would need to go on the August 21<sup>st</sup> Study Session as well as the Commerce Park NID.

Mayor Presley stated she received a call from a gentleman wanting to start the Eagles. She said it was announced that a Veterans Administration Clinic will be located on Gretna Road by the end of September.

## **EXECUTIVE SESSION**

Mayor Presley stated, that concluded the Regular Agenda and entertained a motion to adjourn to a closed Executive Session. Alderman Barker moved to go into Closed Executive Session pursuant to 610.021.3 for RSMo for personnel, seconded by Alderman Marshall. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried.

## **ADJOURN**

At this time Mayor Presley asked for a motion to adjourn. Alderman Marshall so moved, seconded by Alderwoman Bohinc. Meeting adjourned at 9:50 p.m. Voting aye: Barker, Williams, Marshall, Bohinc and McDowell. Nays: none. Absent: Davis. Motion carried.

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Raeanne Presley  
Mayor

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Lisa K Westfall  
City Clerk