

December 18, 2012 * RECORD OF PROCEEDINGS

**CITY OF PACIFIC
REGULAR MEETING OF THE BOARD OF ALDERMEN
300 HOVEN
PACIFIC, MISSOURI 63069**

The meeting was called to order at 7:00 p.m. by Mayor Adams. The meeting is held at the Government Center, 300 Hoven Drive, Pacific, MO.

A roll call was taken with the following results:

Present at Roll Call: Mayor Adams
Alderman Arnette
Alderman Eversmeyer
Alderman Bates
Alderman Gass
Alderman Reed
Alderman Pigg

A quorum was present:

Also present:
City Administrator Selby
Attorney Vogel
Chief Mansell
Collector Kelley
Engineer Rahn
City Clerk Barfield
Public Works Commissioner Boedges

The Pledge of Allegiance was given.

APPROVAL OF MINUTES

A. Amended Minutes from – November 20, 2012

Motion made by Alderman Pigg, seconded by Alderman Reed to approve the amended minutes of the regular meeting held on November 20, 2012. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

B. Regular Minutes – December 4, 2012

Motion made by Alderman Arnette, seconded by Alderman Pigg to approve the minutes of the regular meeting held on December 4, 2012. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

EXECUTIVE SESSION 610.021 (2)(1)

Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys...

Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor....

Mayor Adams stated he would like to go into executive session under RSMO 610.021 (1)(2).

Motion made by Alderman Pigg, seconded by Alderman Gass to go into executive session under RSMO. 610.021 (1)(2). A roll call vote was taken with the following results: Ayes: Alderman Eversmeyer, Alderman Bates, Alderman Gass, Alderman Reed, Alderman Pigg, Alderman Arnette. Nays: None. Whereupon, Mayor Adams declared the motion approved 6-0.

The Board went into executive session at 7:03 p.m.

The Board reconvened at 7:50 p.m.

A roll call vote was taken: Present at roll call was Alderman Bates, Alderman Gass, Alderman Reed, Alderman Pigg, Alderman Arnette, Alderman Eversmeyer.

Mayor Adams stated the Hoven house was for sale by owner as it previously was, there was a bidding process and a deadline, and no one met the deadline. The Board of Aldermen is keeping their options open, and for the record intends to remain in the Museum business.

PUBLIC HEARING

None

PUBLIC PARTICIPATION-SPEAKER CARDS

Mayor Adams reminded everyone that they would have five minutes to address the board.

Reverend Michael Gardner, Ministerial Alliance, Villa Ridge, MO stated he would like to offer prayer this evening. Prayer was given.

Dave Husereau, 1409 Sugar Tree Lane, Pacific, MO wanted to discuss the sewer backup that happened on April 4, 2012. He is still asking the board for reimbursement of \$ 2,000 for his deductible. Administrator Selby stated the main was videoed and there were roots in the line, one of the reasons the claim was denied was because there was rags in the line, and the rags were caught on the roots. He continued that he hand delivered this claim to the adjuster; they said that the roots were coming out of the lateral. We asked the insurance to reconsider the claim, and they denied it and agreed with the adjuster, and that was not to pay the claim. Staff has concluded that there are going to be times when we disagree with the insurance company, and we have before, the picture shows the main was blocked. The insurance

company stated that if the city paid the \$ 2,000 that Mr. Husereau sign a release. Motion made by Alderman Pigg, seconded by Alderman Gass to change the "Y" at the connection. Attorney Vogel stated the claim would only be through Mr. Husereau, if approved, but the lateral line is not the city's so he would need to look if any other authority is needed. Engineer Rahn stated the roots are further up the lateral and grew down to the "Y". Attorney Vogel stated unless the city has an insurance program, which now is only available in St. Louis County and has to go to a vote of the voters, then it is not easy for the property owners. Alderman Bates does not think anybody should go through this, but questioned the city's responsibility. Attorney Vogel stated he understood he was asking only for the \$ 2,000 for his deductible, but in Missouri the taxpayers don't pay if it is not the taxpayers fault, just because there's tree roots in our main, doesn't make the city liable. Alderman Reed understood that even if it started in the main, it still does not make the city liable. Alderman Pigg thought if it was rags in there and roots in the main, then we would take care of it, but now he is confused. Attorney Vogel stated we have insurance so they pay to fix something, that is different than if a taxpayer is liable, we were originally trying to get the insurance to pay the claim. Alderman Pigg withdrew his motion. Alderman Bates asked if it was legal to reimburse Mr. Husereau the \$ 2,000, Attorney Vogel stated we can make the settlement legal, but what is the scenario and how is it different than other cases? Alderman Eversmeyer stated this is not the only sewer line issue being discussed; we had another one on a different road. Attorney Vogel stated that was exactly why he would need to know the difference between Mr. Husereau's situation, compared to others. Mayor Adams asked three times if there were any other motions. Motion made by Alderman Gass, seconded by Alderman Bates to dig up the "Y" connection at the stoppage, so this does not happen again. A voice vote was taken with an affirmative result.

Genetta Tomnitz, 109 Judy Brook, Pacific, Mo stated her sewer backed up on November 8, 2012, and she is asking the city to cover her deductible, as her claim was denied. Three weeks prior to that she had somebody come out and clean hers, and it was cleaned four times, and they said the lines were clear and it was the cities. She called Alderman Eversmeyer and told him about it, and three weeks later she had a foot of sewage in her basement. It was a dry night with no rain. She was told that grease was blocking the line, but if the main was augured the city would of found the problem, but the adjuster denied the claim because of no prior problems. She is asking tonight to resubmit to Mirma and the name of who it will be submitted to or the city pay the cleaning costs. Administrator Selby stated he has asked them to reconsider, and Alderman Reed was there and saw the grease that night. McDonalds is further down the line, the city requires documentation for them to show that it was cleaned and he told Mirma all of this. D & S said they clean it every four months, but we have no proof of that yet. Mrs. Tomnitz asked if McDonalds is the fault, then why the claim is denied. Administrator Selby stated he also asked Mirma that, and their response was "the city doesn't put the grease down there". Alderman Pigg asked if we checked the line when it was first reported, three weeks prior to the back-up, but Administrator Selby stated this was the first time he heard about the three weeks. Alderman Eversmeyer stated he was told they cleaned the line, and Public Works Commissioner Boedges stated the line was cleaned the week he called. Engineer Rahn stated we needed to check the cleaning schedule. Alderman Bates asked if the city could pay this and the look to McDonalds to reimburse the city. Mrs. Tomnitz stated she felt the city should pay it because she warned them of the problem. Mayor Adams asked for staff to look into this further, and put this on the next agenda as a follow-up.

Administrator Selby stated in 2012 there were 10 sewer back-ups and 7 were paid by Mirma.

Austin Meyers, 1121 Oak Ridge Road, Robertsville, Mo stated he was still confused about discriminated on the no parking signs and asked if it was the city's policy to discriminate? Alderman Pigg stated he coached softball for 12 years, and so the residents were inconvenienced during ball time, the signs were put up. There have never been any other complaints. Alderman Bates stated this was on the agenda tonight, so he would probably get his answer when he heard the outcome of the vote. Mr. Meyers asked again, if the board discriminates? Alderman Bates stated he wanted to be abundantly clear and his answer

was NO. He continued that he finds this very offensive, but go ahead and state your opinion. Mr. Meyers asked how this would be enforced. Chief Mansell stated the best possible way; if somebody parks there and the owner files a complaint then they can both come before the judge. Mr. Meyers asked if anybody was above the law. Chief Mansell stated nobody was above the law. Mr. Meyers passed out a copy of Schedule IV Parking Limited or Restricted and on that page he highlighted Ord. 1425 & 1426 and stated that Mr. Eversmeyer breaks the law every day, he parks on St. Louis Street, and this says there is no parking for more than two hours between 8:00 a.m. and 5:00 p.m. Alderman Eversmeyer stated there was no sign on that block, but when the sign was up he parked on the video store lot. Mr. Meyers stated his point was that it was a silly sign and so is the ballpark parking sign. Mayor Adams instructed Public Works Commissioner Boedges to put the signs back up on St. Louis St. Alderman Gass thought it was an oversight after construction was complete, as the signs were there before that.

Jeff Palmore, 709 W. Union, Pacific, MO stated that Alderman Arnette has not seen any of this, but he is talking about the city cemetery, and we are not in litigation about the city cemetery. He continued that August Bruns sold lots, three of the four spaces, and the mayor and city clerk signed a deed to a fictitious person. The mayor was not the mayor and the clerk not the clerk in 2001. This deed is for Dora Kemper, and there is no such person, whoever did the review of the city records can see it says Hazel Kemper. The original people were Mr. Shepard, he has the details of his death, then John Moore died, the question is how is Brian May who doesn't have access to them, because some of these records are his, going to do the work, as he will be confused. Space five is Dora Kemper, and then further down the whole ½ was given to her for zero dollars. He continued that the city cannot go to a third party and try to find the truth. He asked why the board was opposed to straightening out the cemetery records, the deeds that August Bruns owns, has anybody looked at them. He asked if Kim Barfield was the keeper of the records, and she replied "yes". He then asked if she made this deed, Mayor Adams instructed her not to answer the question. Alderman Gass thought Mr. Palmore should write down the problems he sees with the cemetery, and come up with a solution and submit a plan on how to correct it by the next meeting, since he was the expert. Mr. Palmore stated he was not the expert, but I have exposed a tremendous amount of theft. Mayor Adams reminded the board that Netti put together the map and laid it out and explained to the board, the map was made part of the record; the work is done and accepted by the board. Alderman Gass stated if it was incorrect, then it needed to be corrected. Mayor Adams stated we don't know that the records are wrong, now Mr. Palmore has lost to the city 3-4 times in court, why should the city do anything? Mr. Palmore stated the city lied in court, and these lies have to be fixed. Mayor Adams reminded everyone that he sets the agenda, so Mr. Palmore can submit anything to the clerk, but she takes instructions from the mayor as far as what is on the agenda. Mayor Adams suggested to Mr. Palmore to leave his arguments in the court. Mr. Palmore stated he would not be satisfied until he wins, and he has not had his opportunity to say all of this in court, but he will.

CITY ADMINISTRATOR/CITY ATTORNEY REPORT

Water Efficiency Study – Administrator Selby stated the city is losing 20-30% of their water, and would like to do a water efficiency study. Alderman Gass stated the fire department is responsible for some of it. Administrator Selby stated he has been contacted by several companies to look at our system, and it started out with a cost of \$ 90,000. Since then he has spoken to three different companies and they all agreed that there will be no charge, the catch is if we relied on them to look at it that we would ask them to fix it also, if we decide to do it. Tim Heger, Noresco stated they look at the efficiency of the entire system, including meters, evaluating the fire department, well and pumps, leakage. Their money comes from the repairs, but the study is needed to know what to do. Alderman Bates stated he believed in city staff and thought the staff could do this. Engineer Rahn stated they use the state statute and when it comes down to it they show us how to save money, as this program pays for itself. Mr. Heger stated city employees can be used, and they just oversee it. Motion made by Alderman Gass to move forward with obtaining Request for Qualifications for the study, but to get in writing that there is no cost to the city if

we do not move forward, seconded by Alderman Pigg. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

Cemetery – Administrator Selby stated he spoke to Brian May, and Mr. May looked at the city records and the sexton's records, and he said they are all good records. He stated that Mr. May told him that there is no law that says cemeteries have to have deeds, and he thinks that is what happened here, as this has happened all over. The person, who purchased the grave site, may be the guy who owns it until the family would pay for it, then a deed would be generated for that person, but a lot of people never paid for it. He continued that Mr. May said that appears to be what happened here, as it happened everywhere. Administrator Selby stated Mr. May was not going to do any more work, and was not going to charge anything, but he wasn't going to become anymore involved.

Boat of Lagoon – Administrator Selby stated the city needed a new job boat for the lagoon; the cost is about \$ 2,000. Alderman Gass thought a pontoon would be good for the lagoon.

Sound system – Administrator Selby stated it was almost ready today, but it will be tomorrow. The contract for the video at city hall would be coming to the next meeting, and he would be ordering the video, cameras, audio and elevator equipment along with the ham radio. ET Security is going to provide and run the coax for the ham radio at no charge. Engineer Rahn stated the phones are not ordered yet, they are working out the cost, and the computers hook to the video equipment. Bays are taking care of this.

COMMITTEE REPORTS/REPORTS OF CITY OFFICIALS

Planning & Zoning – the next meeting is January 8, 2013

Park Board – Met last Monday.

Tourism report – Alderman Arnette stated they would be meeting next month.

Emergency Management –Alderman Arnette is working with Dian Becker regarding the warning signs at Eagles View. Alderman Arnette thought that if a developer comes in the cost should be required of the developer.

Chief Mansell – stated the radios have been switched over to narrow band. This can be heard on the scanners that have not switched over, the volume is just lower. There were some mistakes found at Blackburn tower, they will approach the company and bring back to the board when they find out more information.

Administrator Selby – stated he attended a meeting over the summer for St. Louis County Emergency Commission, and they passed a sales tax for radio equipment. This program covers Public Works and every entity in St. Louis County is being supplied the greatest communication devices out there, and then they maintain them. The fire district is one frequency, ambulance district is a frequency, but the City of Pacific is not getting them. The mayor and the chief put together a letter to try to have this same equipment for the city, as they are required to work with all the entities. They said it would give us 800 megahertz, but we still need the radio's when we are on the scene. Administrator Selby stated he would like a resolution at the next board meeting to take to St. Louis County. Motion made by Alderman Gass, seconded by Alderman Reed to request additional equipment. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved.

Public Works Commissioner Boedges – stated the seams on the pool are fixed, but the pool is still leaking.

City Clerk Barfield – stated the agenda was amended to include accepting the audit. This report was sent out in the packets, but was not on the agenda because the Federal Clearing House did not accept it until late Friday night.

Alderman Pigg – asked about the cleanup from the fire at Millstone and who was responsible for this, as he has had a few complaints. Administrator Selby will check into this.

Alderman Reed – stated the storm drains at the Post Office and Fourth Street were full.

Alderman Gass – asked about the status of Handle Bars Tavern. Engineer Rahn stated he thought they were going to file a PUD as this is part of the requirement. The problem is the parking and no off street parking. Mayor Adams stated staff was going to present a proposal amendment to Planning & Zoning regarding the parking in the old part of town. Attorney Vogel stated only the board can waive it, because the code says they have to have it, but they have to apply. Alderman Gass thought the fee should be waived, and Alderman Reed agreed if it was legal. Attorney Vogel stated it could not be waived tonight; it has to come through as a PUD, and then waived. Attorney Vogel stated staff cannot assume you are going to waive the law, if the stub street is stripped that would be an additional 8 parking spots, and then they said they could enter the agreement. This is what the code requires, an agreement or have the parking.

Alderman Gass stepped out of the room.

Mayor Adams stated staff will contact the applicant and let her know of the discussion tonight, but staff is looking at that part of town as an historical district.

Motion made by Alderman Pigg, seconded by Alderman Reed for the Board of Alderman to sponsor a PUD and waive all the fees, and not subject the applicant of Handle Bars to fees for zoning compliance. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 5-0. Alderman Gass was out of the room.

Administrator Selby stated we have the same issue with the Pacific Brew House.

Alderman Gass returned to the room, Mayor Adams restated the motion for Alderman Gass, and all were in favor. Mayor Adams declared the motion approved 6-0.

MAYORS REPORT

A. Accept resignation of Matt Agee from Planning & Zoning.

Motion made by Alderman Gass, seconded by Alderman Pigg to accept the resignation of Matt Agee from Planning & Zoning. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

B. Approve appointment of Steve Myers to Planning & Zoning Commission.

Motion made by Alderman Arnette, seconded by Alderman Gass to approve the appointment of Steve Myers to Planning & Zoning Commission. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

INTRODUCTION OF NEW BILLS

CONSIDERATION OF BILLS PREVIOUSLY INTRODUCED

BILL NO. 2870 **AN ORDINANCE AMENDING CHAPTER 365 AND SCHEDULE IV OF CHAPTER 365 OF THE MUNICIPAL CODE OF THE CITY OF PACIFIC TO ADD NO BALLPARK PARKING AS A RESTRICTION TO SCHEDULE IV. (2nd reading)**

Motion made by Alderman Gass, seconded by Alderman Bates for the second reading of Bill No. 2870. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 5-1. Nays: Alderman Reed.

As posted pursuant to the Ordinance, City Clerk Barfield read Bill No. 2870 by title only for the second reading. There being no objections or corrections, Mayor Adams called for a roll call vote with the following results: Ayes: Alderman Arnette, Alderman Eversmeyer, Alderman Bates, Alderman Gass, Alderman Pigg. Nays: Alderman Reed. Whereupon, Mayor Adams declared Bill No. 2870 passed 5-1, approved it and it became **Ordinance No. 2850**.

BILL NO. 2871 **AN ORDINANCE AMENDING SECTIONS 600.020 AND 600.040 OF THE MUNICIPAL CODE OF THE CITY OF PACIFIC TO AMEND THE WINE TASTING PERMIT ORDINANCE TO INCLUDE MALT BEVERAGE AND DISTILLED SPIRIT TASTINGS. (2nd reading)**

Motion made by Alderman Pigg, seconded by Alderman Reed for the second reading of Bill No. 2871. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

As posted pursuant to the Ordinance, City Clerk Barfield read Bill No. 2871 by title only for the second reading. There being no objections or corrections, Mayor Adams called for a roll call vote with the following results: Ayes: Alderman Eversmeyer, Alderman Bates, Alderman Gass, Alderman Reed, Alderman Pigg, Alderman Arnette. Whereupon, Mayor Adams declared Bill No. 2871 passed, 6-0 approved it and it became Ordinance No. 2851.

MISCELLANEOUS

A. Approve the list of bills.

Motion made by Alderman Reed, seconded by Alderman Gass to approve the list of bills. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

B. Approve invoices from Straatmann Feed in the amount of \$ 31.90 and \$ 143.55 to be paid from Heritage Farms Escrow Fund.

Motion made by Alderman Reed, seconded by Alderman Gass to approve the invoices from Straatmann Feed in the amount of \$ 31.90 & \$ 143.55 to be paid from Heritage Farms Escrow Fund. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

C. Approve Liquor License Application for Steve Larance, Pacific Brew Haus, 220 S. First St., Pacific, MO for 6 day Liquor License, and Sunday Liquor License.

Motion made by Alderman Pigg, seconded by Alderman Reed to approve the Liquor License Application for Steve Larance, Pacific Brew Haus, 220 S. First St., for 6 day Liquor License, and Sunday Liquor License. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

D. Approve use of the council room on Tuesday, January 15, 2012 from 11:30 a.m. to 1:00 p.m. for Missouri Employers Committee.

Motion made by Alderman Reed, seconded by Alderman Pigg to approve use of the council room on Tuesday, January 15, 2012 from 11:30 a.m. to 1:00 p.m. for Missouri Employers Committee. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

E. Accept Fiscal year 6-30-12 year end audit.

Motion made by Alderman Arnette, seconded by Alderman Pigg to accept the fiscal year 6-30-12 year end audit. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

F. Approve use of the council room to Compassionate Friends at 7:00 p.m. on Monday, January 28, 2012, February 25, 2013, March 25, 2013, April 29, 2013, May 27, 2012, June 30, 2013.

Motion made by Alderman Gass, seconded by Alderman Pigg to approve the use of the council room to Compassionate Friends at 7:00 p.m. on Monday, January 28, 2013, February 25, 2013, March 25, 2013, April 29, 2013, May 27, 2013, June 30, 2013. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

UNFINISHED BUSINESS

NEW BUSINESS

RESOLUTION NO. 2012-59 A RESOLUTION APPROVING AN AGREEMENT WITH TRI-COUNTY COMMUNITY SENIOR CENTER (PACIFIC SENIOR CENTER) FOR SERVICES TO BE PROVIDED TO THE CITY OF PACIFIC.

As posted pursuant to the ordinance, City Clerk Barfield read Resolution No. 2012-59 by title only. Motion made by Alderman Pigg, seconded by Alderman Arnette, to approve Resolution No. 2012-59. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

RESOLUTION NO. 2012-60 A RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS FROM THE CAPITAL IMPROVEMENT SALES TAX FUND TO THE GENERAL FUND. (*Hwy N Turn Lane*)

As posted pursuant to the ordinance, City Clerk Barfield read Resolution No. 2012-60 by title only. Motion made by Alderman Pigg, seconded by Alderman Eversmeyer to approve Resolution No. 2012-60. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

RESOLUTION NO. 2012-61 A RESOLUTION AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES CONTRACT WITH HKR MISSOURI ENGINEERING COMPANY LLC D/B/A

**MISSOURI ENGINEERING COMPANY RELATED TO
PROFESSIONAL SERVICES FOR DESIGN SERVICES.**

As posted pursuant to the ordinance, City Clerk Barfield read Resolution No. 2012-61 by title only. Motion made by Alderman Reed, seconded by Alderman Pigg to approve Resolution No. 2012-61. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 5-1. Nays: Alderman Gass. Alderman Gass stated he was opposed to the location of the entrance. Engineer Rahn stated the entrance is 150 feet south of the railroad tracks. Alderman Gass stated he felt it was not a good place for the entrance. Administrator Selby stated Modot has issued the permit already.

TOURISM EXPENDITURES

A. Approve invoice from Sign Experts in the amount of \$ 48.00 to be paid from tourism funds.

Motion made by Alderman Pigg, seconded by Alderman Bates to approve the invoice from Sign Experts in the amount of \$ 48.00 to be paid from the Tourism Funds. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

B. Approve invoice from Office Emporium in the amount of \$ 379.98 to be paid from tourism funds.

Motion made by Alderman Eversmeyer, seconded by Alderman Reed to approve invoice from Office Emporium in the amount of \$ 379.98 to be paid from the Tourism Funds. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

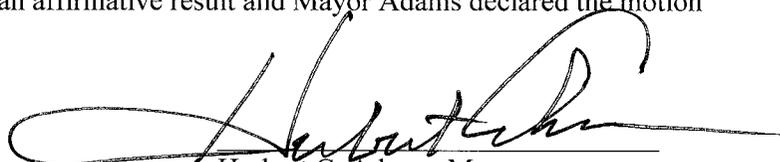
C. Approve invoice from Sign Experts in the amount of \$ 6,000 to be paid from tourism funds.

Motion made by Alderman Pigg, seconded by Alderman Reed to approve the invoice from Sign Experts in the amount of \$ 6,000 to be paid from tourism funds. A voice vote was taken with an affirmative result, and Mayor Adams declared the motion approved 6-0.

RECEIVED AND FILED

ADJOURNMENT

There being no further business, motion made by Alderman Pigg, seconded by Alderman Reed to adjourn. A voice vote was taken with an affirmative result and Mayor Adams declared the motion approved 6-0.


Herbert C. Adams, Mayor

ATTEST:


City Clerk