



March 1, 2016 * 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 Palmore.

A roll call was taken with the following results:

Present at Roll Call: Mayor Palmore
Alderman Filley
Alderman Myers
Alderman Bates
Alderman Johnson
Alderman Gass
Alderman Pigg

A quorum was present.

Also present: Attorney Todd Hamby
Chief Mansell
Collector Kelley
City Clerk Barfield

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was given.

PRAYER

Reverend William Gardner, 561 Coventry Farm Road, Villa Ridge, MO was present this evening to offer prayer.

PUBLIC PARTICIPATION

Jim Nantz, 509 S. Second St., Pacific, MO asked how the water meter was read in gallons. Alderman Gass stated it is read in ten gallon. Mr. Nantz stated his bill was for 250 gallons of water and the sewer was for 4,450, and showed his water bill. City Clerk Barfield viewed the bill and stated the 4,450 on the "sewer" line is what the average was for the first three months of the year, this is printed on the bill so everyone knows that is what their average is based off of. Mr. Nantz stated he felt like he was being charged for all that sewer that he did not use. Mayor Palmore stated the 250 gallons of water is a minimum water usage, and the sewer is his own average. City Clerk Barfield stated she would print his

history for the last year, and we could go over it in the morning. Mr. Nantz stated he did not want to go into the back office to discuss this. Mayor Palmore stated we could do it in open session. Alderman Bates stated the primary reason the Board did it this way was not to penalize anyone who was watering their lawn and filling their swimming pool.

Stephen Flannery Jr., 305 W. Pacific, Pacific, MO thanked Carol Johnson and Steve Myers for all their work during the flood. He asked what the plan was for the next flood. There are still houses from 2008 that haven't been addressed, now it is 2016 and nothing has changed in the flood plain. He asked if the City had a street sweeper to clean up all the nails. Mayor Palmore stated we don't have a street sweeper. Mr. Flannery suggested leasing one, because the grass clippings and leaves also need to be taken out of the storm drains. He noticed in the foyer there is a pamphlet for different things and he suggested one for the flood area, something that says what is going to happen when the flood comes up at different levels. This flood the water came from a different direction. He asked about the letter that is supposed to be mailed out. He has not seen it and he would be in favor of a buyout. He had 5' of the city's sewer in his basement, which he believes that elevating the City's pump would help with. Mayor Palmore stated that the City has been having documented floods since 1915. To speak about buyouts right now is pre-mature. Mr. Flannery continued that Steve Myers attended a flood plain meeting recently and he has information from DNR and how the State is addressing the problem. Mayor Palmore stated that he has some changes he is considering making to the letter, since the first draft he has also spoken with a FEMA representative. Alderman Pigg stated that the Board did discuss putting a plan together. Alderman Myers agreed and continued that they also talked about an educational flyer and how to build an effective sand wall. Alderman Myers stated the City of Fenton filled ^{sand bags out of a cement truck} cement bags. Alderman Johnson stated that the flood did not only effect the south side this time, but the sewer water that came up everywhere is just as contaminated as the flood waters and we need the publics input.

Adam Leimeister, 11422 Emerson Road, Apple Creek OH, on behalf of Smith Foods, Pacific, Mo stated that he appreciated the Mayor and Board of behalf of Smith Foods. He is an Environmental Director for Smith Foods and has been in this industry for 32 years. He has consulted and operated private and public facilities, dealing with the rules and regulations of at least five cities. Including the DNR of Pennsylvania, Missouri and Ohio, and has a Class 3 license from the Ohio EPA. I am here tonight to address this Board in matters of the wastewater facility of Smith Foods. He has spoken to most of them individually, but tonight he would like to address the entire body of the city officials working towards a mutual benefit for their issues. He believes there has been limited progress and that is largely due to a lack of construction collaboration within our entities. They are not trying to hide their issue or ignore them, and when there are problems it is their goal to find a solution. Over the past two years they have been turned way. They have written emails, and left voice mails that were often ignored. They inquire on a weekly basis on the performance of the City's plant, and steps that need to be taken and how to work together with the joint study. They have received very little feedback, or been ignored and told to wait. Now he has to talk to Mr. Hamby and he justifiably said in our first conversation that he didn't know anything about wastewater. This impedes the progress. He also tried to talk to Terris Cates and he told me I had to talk to the attorney. No meeting has been established and I cannot communicate directly with Mr. Cates. Most of correspondence comes as a surprise and most end with a threat to cut city services. We have recently received bills for fees and surcharges, but when we ask about them we are given copies of invoices with little explanation. We were never told the surcharges were going to be discussed at a recent meeting, and have not been asked to attend a meeting. He did not think they should have to come to these meetings, and they would rather have open communication. Last week he was e-mailed an article in the paper that makes Smith Foods out to be uncooperative business and that we do not care, and that is not true. The article quoted the Mayor stating "our surcharges are fine for violating the EPA". For the record we have not violated the EPA, but we have exceeded the City's standards that have been set forth. Over the past 18 months Smith Foods has repeatedly asked that the City begin to collect the charges so that we can pay our fair share of the treatment costs. This is the point he wanted to make.

We want to resolve this issue. He feels like he has practically begged for a collaborative meeting for the last two years. Every time they think they are making progress, they get blind sided. They have asked the City to engage in work sessions so we can discuss a potential solution. They don't know if a joint solution is possible. Smith Foods bought the Dairy in 2010 because it was in forbearance. We invested time, money and energy to re-build it. They see great possibilities in the future and are willing to make more investments to this plant. They need clear guidelines from this body, and they are asking the leaders to send the right people to the table to work with them and not be combative.

Mayor Palmore stated he would like to address some of the comments. With regards to a collaborative approach we hope for that also. What we have found was we couldn't do it effectively and couldn't find the money to do that. In the original meetings this comment was made. We were unable to do that. The concern about a wastewater treatment cooperative is, and the reason for the delay is, we have two studies going on now. We are concerned about the solids, BOD and ammonia levels. We drifted from our EPA requirements to re-solving the PVD milk issues and that's not what we want to do. Mayor Palmore stated that from the beginning we were not able to find the funds for this. Please don't think we are not trying to be cooperative, but our hands are tied. If the paper quoted me as saying EPA violations, and it was a correct quote then I misspoke, those are ordinance violations. When we exceed them it is an EPA violation. He apologized if he mis-spoke.

Attorney Hamby stated his instructions were to always work with Smith Foods to resolve these problems, and we have spoken before being lawyered up. I told you exactly that. I also did say I know nothing about wastewater, and I don't. As far as being ignored, I have not ignored one call and I called your lawyer last week and asked for them to call me back and that hasn't happened yet. When you ask for an explanation of these charges I sent you the backup which is attached to your petition. So you did get it. This is also not a hearing and we don't give notices that we are going to talk about Smith Foods. You will never get a notice about these things. The Board is here to make decisions based on the information from staff. I have never heard anything from the Board but to get this resolved and make this happen.

Alderman Johnson asked Smith Foods if they worked on this bill with the attorney and had input. Mr. Leimiester stated no he has never seen the bill until today. Terris Cates will not return his call and everything goes through Mr. Hamby which is ineffective. Alderman Johnson stated that she knew that she asked before it was approved, if this bill was agreeable with Smith Foods. The response was that Smith Foods was right about the error, Mayor Palmore stated there was exchange of information, absolutely. It is stated that we wrote the document and Public Works Commissioner Brueggemann and Attorney Hamby stated this is the way it is written because that is how it is presented, only if approved. Alderman Johnson stated she thought Robert and the Attorney were in agreement with Smith Foods before the bill was sent. She had doubts about this.

Attorney Hamby stated that attached to the petition that was filed Friday is a letter from him on January 16th – he read the letter. To say they never got the information ahead of time is not accurate. What happened last week, to correct the record, you don't send a bill to them and ask them to approve it. That is not the process. We sent this bill and we got a letter back stating that's not correct and Terris agreed. We corrected it That bill was approved. If they dispute it, then they file a petition. Mayor Palmore stated they were credited the disputed amount. They are also disputing legal fees, and any other costs that is associated to it. Attorney Hamby stated his opinion was that the ordinance calls for that.

Mr. Leimeister stated he did receive that letter, but what we want is to sit down with someone other than a lawyer. Somebody who knows wastewater. He asked why Terris wouldn't talk to him. Attorney Hamby stated he will have Terris call him tomorrow. Mayor Palmore stated he did not know why Terris wouldn't talk to them, this is the first he heard of that. Mr. Leimeister stated that if this is the first you have heard of it then you have not been listening. We have been trying to talk to you. This is a very

expensive way to do business. Alderman Gass suggested having Terris talk to him. Mr. Leimeister continued that they are begging for a work session. Mayor Palmore stated we have had several work sessions, we tried to get resolution. The largest work session was in your building, Robert Bruggemann was there, Jeremy Lay, and Dan Rahn. The study is not finished. You assured us the BOD and TSS were going to go down, and they have not. They went down briefly in the winter months but your production exceeds our standards. The City does not correct your problem. Mr. Leimeister continued that other cities and professionals sit down and we work to come to agreements. In other cities we have specific permits that say what we can and can't do and we work together. I don't want to talk to the Aldermen, lawyers, Mayors, I talk to wastewater professionals.

Alderman Johnson asked if we could set a meeting with all of us at the table. We have an Operation Committee so this full Board can listen.

Alderman Myers asked the number of employees Smith Foods employees. Mr. Leimeister stated they have 52 employees. Alderman Myers stated we don't want to lose the jobs we have and thought we should be as cooperative as we can. Can we step back from the legal point and work out the difference.

Alderman Gass thought that Terris Cates should be at an Operations meeting with the whole Board.

Alderman Pigg stated the study is not done yet and he is trying to hit a moving target.

Mayor Palmore stated to keep focused on the problem, and that is the excessive pollutants into the system. At times we exceed our city level. An Operations Committee meeting is fine, but we have been addressing the problem for most of the two years he has been in office. It is not a problem the City has to undertake, the polluter has to get in control.

Mr. Leimeister stated he understood the permit levels and the rules. In that understanding we have showed you all our homework, the \$ 2 million dollar facility is tough for us to swallow. We are hoping we can work together and May of last year we asked that. You said we are in the middle of the study, when we finish that we would meet. Mayor Palmore stated the study is still not complete. Mr. Leimeister stated that you told us to wait until the study is complete. He continued that they are still waiting, and we made no implications that we could get under the numbers. Mayor Palmore stated that he was skirting the truth. You tweaked your D.A.F. and right after the meeting your BOD came down and a month or so later it came back up.

Mr. Leimeister asked if he was calling him a liar. Mayor Palmore stated no, but you're are skirting the truth. Mr. Leimeister asked if there was a difference in that. Mayor Palmore stated the numbers came down and it was documented and then back up. Mr. Leimeister stated that the BOD numbers from January are far lower, they are doing something better. I came out here to make more improvements to the D.A.F., we continue to work on that and make it better. We are trying to make improvements to keep us in business.

Alderman Gass suggested we get the meeting set. Mr. Leimeister stated if this gets set then they will feel successful. He suggested that they will call them to set the date.

Alderman Bates reviewed the minutes from the prior meeting and the process of this letter. One of the things we have to think about is the code is set up to defend our residents not our business. We had a presentation from Jeremy Lay and it scared him because he talked about a \$ 20 million dollar project. They repeatedly stated that part of the plan was set up to address the problem of the Dairy. That means we go back to the residents to pay a higher bills and partially because of this plant. Mr. Leimeister stated they could build their own treatment plant for \$ 2 million that is why we work together with engineers,

we don't have lawyers in the room. Alderman Myers thought that was the high side, it started out less than that. There was a range, and even the low range is scary, but in the end there are funding sources. He has been proactive to try to find these possibilities. He has information compiled, but he is not ready to bring in yet. One of the avenues was a cooperative approach with this company. In the end the system we end up with could possibly treat their waste project. Mayor Palmore stated when he looked into entering into this type of agreement, what if Smith Foods moves, that becomes City property and they are moved out. Mayor Palmore thought it was a good idea, but it has restrictions.

Alderman Johnson stated we would have a meeting. Mr. Leimesiter stated he would be in contact with a mutual date.

Steve Jeffery, Attorney with Jeffery Law Firm in Chesterfield, wanted to introduce himself. He represents Smith Foods. Based on this conversation, if they can meet without him and Mr. Hamby that would be beneficial for everyone.

MAYOR'S REPORT

A. Appointment of Capes, Sokol Law Firm, Todd Hamby as City Attorney

Mayor Palmore wanted to make a correction. In the last meeting it was reported that Capes, Sokol was the most expensive law firm we ever had. He thought that information was gleaned from a Sunshine Request, which he had with him. It requested the detailed billing for Hamby, Schroeder and Vogel as City Attorney. It was reported that Mr. Hamby was most expensive. Alderman Pigg stated he made that comment, and he said by contract for board meetings. Matt Schroeder charged \$ 110 per hour for the Board meeting and Dan Vogel charged \$ 125 per hour per Board meeting. Mr. Hamby charges \$ 280 per hour Board meeting. Mayor Palmore had the invoices here, and Hamby's billing was significantly discounted as he indicated in the beginning. This bill was \$ 8940, the billing period requested for Matt Schroeder's firm was \$ 4,748.00, and Vogel's billing was \$22,820.75 and another for \$ 1,012.50. An average is a yearly billing from Mr. Hamby that is not much different than Mr. Schroeder. Not much over 1/3 of Mr. Vogel's firm. He don't think it is fair to take one segment of the billing. The bottom line is the City paid over \$ 23,000 for this billing period. To be biased by an incorrect representation of Mr. Hamby's billing is wrong. Alderman Pigg asked to speak, but Mayor Palmore stated he did not have the floor and he spoke last time. Alderman Pigg continued that the invoice was \$ 1,694.50 for just Brush Creek. Attorney Hamby asked where he was at so he could follow, but Alderman Johnson stated these comments were to the Mayor. Alderman Johnson asked the Mayor to "check" the attorney, but Mayor Palmore stated he did not need her help. He is running the meeting. Alderman Johnson stated that if he was running then meeting then call the attorney in check. Mayor Palmore stated he was running the meeting. Mayor Palmore stated he would decide who to call in check. Alderman Pigg stated \$ 16,498 on the invoice, underneath that is Invoice 88042 for \$ 1,000 and underneath that is E. Osage CID which is reimbursable for \$ 460 and Economic Development for \$ 192 reimbursable and Pilot for \$ 630 and W. Osage for \$ 157, Zoning & Dev reimbursable for \$ 1,539. Mayor Palmore asked if we were reimbursed those amounts. Alderman Pigg stated that's what it says. Mayor Palmore asked if we were through. Alderman Pigg stated without looking he wouldn't know. The Board at that time approved Vogel as the City Attorney, this Board has not approved Hamby for the City Attorney. Mayor Palmore stated he is not the City Attorney, he is the interim. Alderman Pigg stated he did not understand the interim part of this. Attorney Hamby stated his opinion was based off of an Attorney General's opinion. Alderman Pigg stated that Attorney General's opinion of 1963, this is the only one he could find speaking of an interim attorney on the second page it says "while the mayor may appoint a temporary official, one that has been rejected may not be resubmitted as a permanent appointee". Mayor Palmore asked if he read the 1972 opinion. Pigg stated that it says that "anyone that has been rejected cannot be permanently used". It also says the Mayor must submit a new name and cannot continue to submit the same rejected name. Mayor Palmore

stated that is an Attorney General opinion, and that is the oldest one of the two. Mayor Palmore asked him to bring the 72 opinion next week. Alderman Pigg stated these are just opinions. Attorney Hamby said this wasn't legal, when I tried to table his fees he said he doesn't work for free. Mr. Hamby wasn't approved by the Board and there was no contract that we knew about until last week. The important part of that is Hamby's contract wasn't approved by the Board. As the Mayor you don't have the right to enter into a contract without the Board. Mayor Palmore stated he thought he did. Alderman Pigg continued that on your own agenda, "we authorize the Mayor to enter into a contract with Gullet and Sons for the lagoon". These contracts are presented to the Board for approval, you do not have the right to enter into a contract. Mayor Palmore stated they were different situations and he does have the right to appoint and he has the right to do it every two weeks. Alderman Pigg asked where this was. Alderman Pigg asked where is it that he can find it, prove to me you have the right. Alderman Pigg stated that Under the Fundamentals of Law, Mayor Palmore interrupted and said that is a Dan Vogel. Alderman Pigg stated this is what they use to teach lawyers but Mayor Palmore disagreed and stated this is what they use to teach City Clerks. He has a copy of that. Alderman Pigg stated it's the Missouri Attorney Association, City Law 101, and Fundamental of Municipal Contract Law. Mayor Palmore stated it was written by Dan Vogel. Alderman Pigg agreed that it was. Mayor Palmore stated he was going to reappoint. Alderman Pigg stated that Chapter 432.070 –it's there and 432.070. reads *No county, city, town, village, school township, school district or other municipal corporation shall make any contract, unless the same shall be within the scope of its powers or be expressly authorized by law, nor unless such contract be made upon a consideration wholly to be performed and shall be in writing and dated when made, and shall be subscribed by in writing.* Mayor Palmore stated we were going to move on. Alderman Pigg stated that you keep saying you have the power to do this. Mayor Palmore stated we went through the same thing when it was Matt Schroeder and Mr. Vogel arguing unsuccessfully against Attorney John Downard. Alderman Pigg stated this was not the same thing. Mayor Palmore disagreed and stated the same two pieces of case law were brought forward. Alderman Pigg stated if what you are doing is above board why is it we did not know about this contract until the last Board meeting. Mayor Palmore stated he did not know. If Todd Hamby is such a great lawyer, he had a contract, he knows that it has to be done by the records clerk. She didn't have a copy of this. Hamby stated we talked about this last time and it's my opinion. There is no question the Mayor has the power to appoint and contract with an interim attorney. Alderman Pigg asked where the authority is to be paid. The contract does not have an ordinance backing it, we are the checks and balances of this City. Alderman Myers asked Mr. Hamby who he represents. Mr. Hamby stated he represents the City of Pacific. Alderman Myers stated that you have a Board that has repeatedly denied your appointment, how can you say that you represent the City of Pacific. Attorney Hamby stated "because the Mayor has appointed me as the interim City Attorney". Alderman Myers asked "that process can be repeated over and over again", he did not understand that. Attorney Hamby apologized. Alderman Myers stated he was always told the law was written for a prudent man. This is not funny. It's about what a right thinking person does in all situations, this does not make sense. Mayor Palmore stated that it does make sense. What you have to take into consideration is something called balance of power. Alderman Myers asked "where is it". Mayor Palmore stated there are checks and balances to make sure a Board don't run over a Mayor and a Mayor don't run over a Board. It is not always 100% effective, but it is always 100% there. So we are proceeding to the best of our ability. I didn't spawn this situation, it was a knee jerk reaction over something that never happened. I shouldn't have been subjected to at a moment's notice to find another attorney, but I was subjected to it and the best I have come up with is Capes Sokol and Todd Hamby. I have a meeting scheduled with another attorney to discuss representation, but his rate is a little higher. I am going to ask for a nomination of Todd Hamby as City Attorney. He then asked for a motion. **Motion made by Alderman Bates. He then asked three times for a second. There being no second, motion fails.**

Mayor Palmore stated he would appoint Mr. Hamby as interim City Attorney for the next two weeks.

Alderman Gass stated here is the section that Mike is talking about. Tell us what it really says. Alderman Pigg stated he just wanted to see where it is he can do this. Alderman Gass stated that the Board has to approve the contract before the Mayor can sign it. Is this contract not a good legal contract if there is no

ordinance? Todd stated it is common and the way it works. In his opinion, any interim official not appointed by the Mayor can enter into a contract to employ that person. Alderman Filley stated that State Statute 79.230 says *"if deemed for the best interests of the City, the Mayor and Board of Aldermen may, not shall, by ordinance, employ special counsel to represent the City, either in a case of a vacancy in the office of City Attorney or to assist the City Attorney, and pay reasonable compensation therefore"*. She continued that the way she interrupts that and I think a lot of our laws is open for interpretation, I think the Mayor may have the right to employ special council. Alderman Pigg stated that is for special counsel. Alderman Filley stated right now we have a vacancy in City Attorney. We do not have a permanent one. She feels the Mayor is allowed to enter into the agreement and fill that.

Alderman Johnson stated that is says with Board approval. Alderman Filley stated that is says "may" not "shall" and that is the key word. Alderman Pigg stated under State Statute it is done this way so we are the checks and balances. Also in the code book under the Purchasing Policy. All of our appointed officials take the oath into office, nothing with this attorney has been above board. I have talked to five attorneys, four of which were municipal attorneys, all at the \$ 125 mark. They all said it has to be backed by Ordinance which is the resolution, and we cannot pay backwards. It is generally known that they work for the first two weeks for free, until the Board approves it. I keep bringing up Statutes, but in return you haven't showed us anything that says we are wrong, just your opinion. Attorney Hamby stated that there was concerns about his bill. He wanted to make the point that what was being read was the full amount, but he discounted the 20% and he wrote off \$ 1,360.04 on top of that discount. Some of it was getting up to speed, and he thought it was the right thing to do. He don't think his bill is that much different than the last attorney in fruitatily and he does want the Board to know he is trying to keep the bill down. He is righting off time for travel also. I am trying to call it like I see it, no matter if it is pro Mayor or pro Alderman. Alderman Johnson stated she tries to understand and we just read your bill and we haven't approved you for five two week periods. This time we didn't get a second. To me, as a person, I would have stepped back, enough is enough. To spend the tax payer's money to argue about paying him, there should be no bills to ask for a discount. There should be a full time attorney to represent us. There is no reason we spend 30-40 minutes of these meetings over paying bills.

B. Discuss special legal counsel for cemetery issues.

Mayor Palmore stated the City is currently in litigation over the cemetery records. That litigation is for the records, and we don't have them and we voted to give them away. We need those records. Mrs. Barfield and I have repeatedly tried to locate graves in the cemetery and we can't do it. We have sold graves that have been sold, we have dug graves that have already been purchased, and we do not have adequate records. We went to court a few weeks ago, we were shown four ledgers, two of which we had copies of but are incomplete. We just found another instance of a recent burial we don't have the records, we don't even know which order they are in. We need to turn up the heat to get our records returned. The four ledger books are not the City Cemetery records in Toto, they are partial records. We need the maps. Kim and I don't have a single document that tells who is buried in a single eight grave lot. We have no idea who is buried where. Alderman Myers asked if this was a legal issue that needed to be discussed in closed session. Mayor Palmore stated we were not talking about that. Alderman Myers thought this was an open court case. Mayor Palmore stated there is no law against this. Attorney Hamby stated the law is if the Board votes to go into a closed meeting to talk about an issue they can, whether it's appropriate or not is up to them. Mayor Palmore stated it is public documents. Alderman Myers stated these records were turned over to Judge Wood. Mayor Palmore stated we have seen the four books. Alderman Myers stated we never voted to give anything away, we voted to have Judge Wood take possession of the City records. Mayor Palmore asked to pull the records of October 21st. Alderman Johnson asked why we weren't conducting city business, but Mayor Palmore stated we were. Alderman Myers stated this is an ongoing court case against the City. Alderman Johnson asked if we had copies of

all the records from Judge Wood. Mayor Palmore stated we did not. He has four ledger books, we have copies of two of the four. When we went that day the fourth book was provided. The judge ordered that all records be turned over. Alderman Johnson didn't think we should be discussing this. Mayor Palmore stated he had the floor and didn't think she understood the situation. Mrs. Barfield will verify the fact that we do not have records of graves within grave lots, we don't know who is buried there and some names are in the wrong place. If you would like to see, we can meet at the cemetery tomorrow. Alderman Myers asked if we were represented by MIIRMA, Mayor Palmore stated to protect us against a lawsuit to produce those records. The MIRMA representation we have is because we don't have the records, he is not trying to get our records. Item B is to seek legal counsel to seek those records. We need to file charges to get these records back. The attorney is representing to defend us because we don't have them. Getting them back is quite another. Alderman Myers asked if he was suggesting we get into another law suit, in addition to the one that is already in place. Mayor Palmore stated that "yes" he was. Alderman Myers stated we don't have the outcome of the one pending. Mayor Palmore stated we asked for the documents and they have not been produced as was required by the judge. I suggest we seek counsel to seek some kind of contempt charge because they were already supposed to be produced. We went in the courtroom and we saw four ledger books that were incomplete, 50% and it don't contain grave information. Alderman Myers should know because his family has been affected. He has a letter from Mr. Bruns to Mr. Selby that says "tell the Mayor I have information that nobody else knows", you can't take city records and hide them and expect not to have legal retribution". Alderman Pigg stated that is exactly what you did with the contract between you and Todd. You had this contract since before Christmas. Mayor Palmore stated it has been available. Alderman Pigg stated it has not, and you have to know something is there to know it is available. Mayor Palmore asked if we were going to allow this to go on and how are we going to get our records and operate the cemetery. Does anybody mind if we unearth the grave of one of their loved ones. If it happens to one of his there is going to be more problems than this. Alderman Pigg stated half the problems going on is because you're not filling out the paperwork either, where are your Interment Orders. Mayor Palmore stated that was another Sunshine Request he filled out and he has every single Interment Order with detail. Alderman Pigg stated they were not turned into City Hall. Mayor Palmore stated that absolutely they were, but Alderman Pigg asked why they weren't with his Sunshine Request. City Clerk Barfield stated that at the time it was filled out, and she didn't remember when that was, but she gave Mr. Pigg everything she had. Mayor Palmore stated that he got everything then. Alderman Pigg stated he doesn't because he don't have any Interment Order on the deal with Mr. Myers. Mayor Palmore stated that Mr. Pigg is talking about Interment Orders, and there is no requirement for this. Alderman Pigg stated why would you do them, and then all the sudden quit, that's what I want to know. Mayor Palmore stated that wasn't true. He wants to keep order. I can produce the documents, Interment Orders are not a requirement. Alderman Pigg stated it has been a policy for years. Mayor Palmore stated it was a policy that started when they stopped his funeral procession. Alderman Pigg asked if he had been doing them. Mayor Palmore stated he has been doing it. He continued if the Board wants to make another vote to give the records away, then there will be a record of it, and when we go to court that record will be produced from tonight, just like the October 21st minutes, when it was voted to give it to him. It doesn't look good on the City to the Judge, when you give away a vital record and we have an obligation to retrieve those records. We will be penalized for not having those records. Alderman Johnson asked why this attorney wouldn't handle it, but Mayor Palmore stated it is because you guys think there is a conflict of interest, so special counsel is how to get around that. He has not produced all the records. Alderman Myers stated this was a pending court case that needs to play out, before we spend more of the tax payer's money. Mayor Palmore asked then why don't we ask the Judge to force him to produce the records. Alderman Myers asked if he talked to MIRMA's attorney. Mayor Palmore stated he had, and we have done Interrogatories. Alderman Myers still thought this court case should play out first. Alderman Filley stated according to case net, the next hearing is April 18, 2016 in Judge Hovens office for a setting. She questioned the hearing on January 22nd and another book was produced, Mayor Palmore stated that was the 4th book, and we have copies of both of them but they are not complete. Alderman Pigg stated that Alan found that book during the flood, as soon

as he had it he turned it in. Mayor Palmore asked about the maps. Alderman Pigg stated that Ed even knows that, Alan got copies of the map from Ed and JoAnn, it originated at City Hall. Mayor Palmore stated he is asking for the Board to approve Special Counsel to retrieve the records. Alderman Pigg stated Alan offered what he had and we didn't follow through, he stated it was offered to Matt Schroeder. Mayor Palmore asked for a motion to approve Special Counsel. **Alderman Pigg made a motion to table this until the current case is over.** Mayor Palmore stated he is not going to wait until the case is over, he is going to do like he did last time when you gave away the records. I am going to pursue them. He continued he wanted excellent records kept tonight on who made the motions. Mayor Palmore then asked for a second. He asked again for a second. **Alderman Johnson made the motion to second this.** Mayor Palmore stated there was a second by Ms. Johnson to table this until the current case is over. Keep in mind my thought is to hire Special Counsel to retrieve our records, and the motion is not to retrieve the records. He asked for any further discussion. Alderman Johnson stated "yes" there is discussion. Alderman Gass suggested we have the attorney get a hold of the other attorney in reference to these other records, Mr. Bruns attorney. See what he can find out and get back to us. Alderman Pigg stated we can do that through MIRMA for free. Alderman Johnson suggested reaching out to Judge Woods. Mayor Palmore stated this is now in Judge Hovens court. Alderman Johnson asked if we were allowed to reach out to Judge Hoven about these books. Mayor Palmore stated we have to do that through legal counsel. Mayor Palmore stated the books don't contain the maps. Alderman Pigg asked where the City Hall maps are. Mayor Palmore asked Alderman Gass if he remembers the copies, he stated they used to be at City Hall. Alderman Pigg stated that we lose our copies and blame somebody else. Mayor Palmore stated the City adopted someone else's maps. Alderman Pigg stated that he was a part of that also, but Mayor Palmore stated he was not a part of that. Alderman Pigg stated he was asked to be part of that committee and you said you would, but Mayor Palmore stated he was not part of that. Alderman Gass thought Todd should talk to the other attorney and see about maps and report back at next meeting. Alderman Myers suggested we use the MIRMA attorney who is already involved in the case. Mayor Palmore stated that was not his charter, that's not what he was hired to do. Mayor Palmore stated he would talk to him. Mayor Palmore stated there was a motion and a second. This is for Special Counsel. Alderman Pigg stated no, the motion and second was to table this. Mayor Palmore apologized. **City Clerk Barfield read the motion "to table until the current case is over"**. Alderman Myers suggested Mike amend his motion so the Mayor can talk to MIRMA's attorney. Alderman Pigg thought that Kim or Jeff could do that. It has nothing to do with this vote, this is to keep going on over the stuff Jeff already went to court over. The judge says he has the files that Alan has, we are waiting to get this done, let's wait until we get this done and not spend any more money until we know. The judge is up for election. **Mayor Palmore asked for a roll call vote. Ayes: None. Nays: Alderman Filley, Alderman Myers, Alderman Bates, Alderman Gass, Alderman Johnson, Alderman Pigg. Alderman Filley stated she is voting no not to table it in this interest of another motion. Mayor Palmore declared the motion failed.**

Motion made by Alderman Filley, seconded by Alderman Myers to contact MIRMA's appointed attorney to find out their recommendation and if their attorney can handle this or do they advise us to seek special council.

Alderman Bates stated that he don't think anyone wants to see damage come to Alan but the law is clear and they need to be at City Hall. He will support this motion tonight, and thinks it is clear that obligation is to have them at City Hall. Mayor Palmore stated the records should be returned. He will ask the attorney for something on the individual grave spaces, we have nothing now. That would be a good starting point as a temporary measure.

A roll call vote was taken with the following results: Ayes: Alderman Myers, Alderman Bates, Alderman Gass, Alderman Johnson, Alderman Pigg, Alderman Filley. Nays: none. Whereupon, Mayor Palmore declared the motion carried.

Mayor Palmore stated he would contact Attorney Dudley McCarter. Alderman Pigg suggested this be done by e-mail and Kim is carboned on it. Alderman Johnson agreed.

APPROVAL OF MINUTES

A. Regular meeting on February 16, 2016

Motion made by Alderman Bates, seconded by Alderman Filley to approve the minutes of the regular meeting on February 16, 2016. A voice vote was taken with an affirmative result, and Mayor Palmore declared the motion carried.

B. Special meeting on February 18, 2016.

Motion made by Alderman Myers, seconded by Alderman Filley to approve the minutes of the Special Meeting on February 18, 2016. A voice vote was taken with an affirmative result, and Mayor Palmore declared the motion carried.

C. Executive session meeting on January 8, 2016

Motion made by Alderman Filley, seconded by Alderman Myers to approve the executive session meeting on January 8, 2016. A voice vote was taken with an affirmative result, and Mayor Palmore declared the motion carried.

INTRODUCTION OF NEW BILLS

BILL NO. 2967 AN ORDINANCE AMENDING THE PARK REGULATIONS WITH RESPECT TO JENSEN POINT AND TAMPERING WITH SECURITY DEVICES. (1st reading)

Motion made by Alderman Gass, seconded by Alderman Bates to read Bill No. 2967 for the first reading. A voice vote was taken with an affirmative result, and Mayor Palmore declared the motion carried. As posted pursuant to the ordinance, City Clerk Barfield read Bill No. 2967 for the first reading.

CONSIDERATION OF BILLS PREVIOUSLY INTRODUCED

UNFINISHED BUSINESS

BILL NO. 2952 AN ORDINANCE ADOPTING THE 2015 CITY OF PACIFIC COMPREHENSIVE PLAN UPDATE AND REPEALING ALL PREVIOUS ORDINANCES CONFLICTING THEREWITH. (1st reading)

RESOLUTION NO. 2015-49 A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH HACH COMPANY FOR REFRIGERATED COMPOSITE SAMPLES

NEW BUSINESS

RESOLUTION NO. 2016-05 A RESOLUTION AUTHORIZING EXECUTION OF A QUIT CLAIM BILL OF SALE AND ASSIGNMENT WITH

**ANDREW WHITMAN FOR THE CITY TO SELL ITS
GERMAN SHEPARD DOG KNOWN AS YUKI.**

Motion made by Alderman Gass, seconded by Alderman Bates to read Resolution No. 2016-05. As posted pursuant to ordinance, City Clerk Barfield read Resolution No. 2016-05. Mayor Palmore asked for any discussion. A voice vote was taken with an affirmative result, and Mayor Palmore declared the motion carried.

**RESOLUTION NO. 2016-06 A RESOLUTION AUTHORIZING THE MAYOR TO
EXECUTE AN AGREEMENT WITH RICH GULLET &
SONS, INC FOR EMERGENCY REPAIRS AT THE CITY
LAGOON FROM THE DECEMBER 2015 FLOODING.**

Motion made by Alderman Gass, seconded by Alderman Myers to approve Resolution No. 2016-06. As posted pursuant to the ordinance, City Clerk Barfield read Resolution No. 2016-06. Mayor Palmore asked for any discussion. A voice vote was taken with an affirmative result, and Mayor Palmore declared the motion carried.

MISCELLANEOUS

A. Discuss programs for the Building Department.

Mayor Palmore stated the current program is significantly outdated and has been for years. Recently they were down for a day or two and could not issue permits. He is going to look into what different companies offer.

B. Approve Pacific Animal Hospital, Vaccine Clinic for Saturday, April 9th, Saturday, May 14th, Saturday, June 11, and September 10th, 2016.

Motion made by Alderman Gass, seconded by Alderman Myers to approve the Pacific Animal Hospital, Vaccine Clinic for Saturday, April 9th, Saturday, May 14th, Saturday, June 11, and September 10th, 2016. A voice vote was taken with an affirmative result, and Mayor Palmore declared the motion carried.

C. Approve use of council room on May 5, 2016 for National Day of Prayer.

Motion made by Alderman Myers, seconded by Alderman Pigg to approve the use of the council room on May 5, 2016 for National Day of Prayer. Alderman Johnson asked why this was. City Clerk Barfield stated they did this last year and usually a group comes in around the lunch hour and has prayer. A voice vote was taken with an affirmative result, and Mayor Palmore declared the motion carried.

D. Approve invoice to Smith Foods.

Alderman Myers asked if Smith Foods has seen this invoice. Attorney Hamby stated the ordinance reads to have the Public Works Commissioner approve and then the Board of Aldermen to send. If the customer objects, the process to follow is them filing a petition. Alderman Myers stated that they were being asked to approve something in good faith, and questioned the dollar amount for the testing composite. Alderman Gass stated this is 24 hours sampling and is expensive, but Alderman Myers thought there should be a clearer explanation. Attorney Hamby stated that Smith Foods is polluting the system by their own admission. The costs are associated with this. If the Boards desire was to see all the

backup with the letters then we would provide that. Alderman Johnson stated she wanted to get the meeting set. A roll call vote was taken with the following results: Ayes: Alderman Bates, Alderman Gass, Alderman Filley. Nays: Alderman Johnson, Alderman Pigg, Alderman Myers. There being a tie of 3-3, Mayor Palmore voted "aye" and the motion carried 4-3.

E. Discuss transferring funds from General Fund to Contingency Reserve received from sale of House house.

Mayor Palmore stated these funds were in the General Fund and if the Board's desire was to put the money back where it was paid from a resolution would need to come before them. Board members agreed to transfer the money back to the Contingency Fund.

F. Discuss Sewer Connection Request as proposed Dollar General, 2716 Hwy 100, Gray Summit, MO to connect to Brush Creek sewer system.

Alderman Pigg asked if this should go to executive session. Mayor Palmore stated this was a proposed new customer requesting permission to hook on to Brush Creek. We have already set a precedence four times, and a policy needs to be developed. If we say "no" though we have stopped all development in Franklin County. Discussion followed. Alderman Gass suggested Attorney Hamby apply leverage to Brush Creek. **Motion made by Alderman Gass, seconded by Alderman Bates to approve the sewer connection request for the proposed Dollar General, 2716 Hwy 100, Gray Summit, MO to connect to Brush Creek sewer system as long as they comply with City Code and they will be billed for the inspection.** Alderman Johnson did not think there was enough pressure on the commissioners to settle this. Attorney Hamby stated he would report back to the Board what he finds out. Alderman Bates stated we have always had an attorney involved and you are asking Attorney Hamby to look into this, but yet you're trying to remove him from doing City business. **A roll call vote was taken with the following results: Ayes: Alderman Gass, Alderman Johnson, Alderman Pigg, Alderman Filley, Alderman Myers, Alderman Bates. Nays: none. Whereupon, Mayor Palmore declared the motion carried 6-0.**

COMMITTEE REPORTS

Park Board Committee – Alderman Filley stated there is a meeting next Monday.

Cemetery Committee – No Report.

Industrial Development Committee – No Report.

Tourism Committee – No Report.

Planning & Zoning Committee – Alderman Bates stated there has been no activity.

Genealogy Committee – No Report.

Operations Committee – Alderman Johnson stated there was a meeting last Thursday. The chicken ordinance was discussed, and a one page example from the City of Eureka was reviewed. The Wastewater Treatment Facility was discussed. Also the sign on the Miller's was down.

Mayor Palmore stated he didn't know who gave the order for the sign to come down, but it needs to go back up. He continued that the Public Works Commissioner told me he was putting it on the back of the sign across the street. There is a crosswalk at this location and two caution signs, with arrows pointing

down. There is a document that has the standard signage and it is used when plans are created and approved. That is the Uniform Traffic Code Manual. This project actually ends at the crosswalk, and it left parking in front of this house. The sign was actually in the right-of-way. The suggestion was to move the sign to the other sign, but the arrow would be pointing away from the crosswalk and we can't do that. In this situation we need to have "no parking". This is an unexpected crossing and has created this situation to get worse. We must maintain 4' of sidewalk. The only thing to do is move the sign on the other side of the sidewalk, and build an island to protect it and now a no parking area in front of his house has been created. Alderman Gass suggested taking the crosswalk out. Mayor Palmore stated only 20% of the crosswalk belongs to the City. The sign was fine, but it should have been cross hatched. There is a handicap ramp on the other side that needs to go to the corner. Alderman Myers agreed. Alderman Pigg stated there was no sign on the Walkers side for the crosswalk. Alderman Myers stated that Jim only wanted it moved to the property line. Mayor Palmore continued that there is also a bump stop at the driveway, which is out of the project area.

Administration Committee – Alderman Bates stated at the last meeting we discussed the Memorandum of Understanding, we are just waiting on a clean copy to go to the Board. City Clerk Barfield stated she forwarded that to Pat Lynch, but hasn't heard back from him. Mayor Palmore stated he had not heard from him either. He suggested a meeting be set to go over the applications for a City Administrator. A meeting was set for Thursday, March 10, 2016 at 6:30 pm.

Attorney Hamby stated there was an article in the paper regarding him providing communication to the Board. It was his understanding that Kim or the Mayor would be providing the communication to the Board, not him.

REPORT OF CITY OFFICIALS

Alderman Filley - Stated that Jensen's Point looked good. The barbed wire still needed to be removed. Mayor Palmore stated they were still addressing a few things that were discussed in the MIRMA Letter. Alderman Filley continued that Harry Englehart is bringing his sketches of rod iron fence to the Park Board to look over. She continued that Saturday there was a Trivia Night at Bigfoot, and another fund raiser at the Eagles. Mayor Palmore stated that he was told the caps on the fence are also on.

Alderman Myers – stated the Ozark Trail Association worked Saturday at Jensen's Point with 32 volunteers taking down the invasive honeysuckle. He thought the Park was opened prematurely, as they told him all we had to do was request an extension, but we need to protect our asset. He suggested we get security cameras up there as quick as possible and would like Chief Mansell to look into this. Chief Mansell stated he would obtain some information. Alderman Myers also stated that the Board voted to remove the graphite. Mayor Palmore stated he hasn't contacted anyone yet. Alderman Myers suggested contacting John Berra as he has an expert in the field that does this. Alderman Myers continued that there is a 1' gap where the snow fence is and the plywood.

Alderman Myers – stated there are sand bags at Lederle Machine on the west wall that need picked up. Mayor Palmore stated the problem is getting the equipment in there.

Alderman Myers – asked about curb and gutter around town. There is an area at Union & Fifth St. and this lady states the water comes off the road to her foundation and then floods her basement. Mayor Palmore stated he has looked at this, and it is not our fault. The water in her yard runs down her foundation, the water is not coming from the road. Alderman Myers asked if the street employees were able to pour curb and gutter. Alderman Gass stated they can do it, but we don't have enough people. The crumbling curbs are part of the City's maintenance. Mayor Palmore stated they categorize the curbs and

sidewalks and do repairs off of the priority list. Alderman Myers stated that Donna Williams says she has been asking for three years. Alderman Gas stated the City used to use Benton Kelley for that. Mr. Kelley (audience) stated the cost was \$ 17.00 a running foot.

Alderman Myers – asked if the letter to the Flood victims has been mailed. Mayor Palmore stated he is working on the letter and may be making a few changes to it. Alderman Myers stated that he is hearing that some folks are interested in a buyout.

Alderman Myers – asked about Birch Street in Hawthorne. The width is not adequate for parking on that side of the street, and it has become a problem. He thought Chief was looking into this, but they only want parking on one side. Discussion followed.

Alderman Myers – stated that he was able to attend an East-West Gateway seminar at the Opera House regarding the lower Meramec River. The notes from the class will be on-line and folks are focused on Pacific, but we have to ask for the help.

Alderman Bates – stated that Vicki Leah was here this evening, and we needed to get the cut in the drains at her place. Discussion followed. **Motion made by Alderman Gass, seconded by Alderman Bates for Public Works to go down there and cut two, or three or four channels into the drains with grates. A voice vote was taken with an affirmative result, and Mayor Palmore declared the motion carried.** Ms. Leah stated her drains are still blocked.

Alderman Bates – asked if we received any funds for the recycling. City Clerk Barfield stated we had not. Alderman Bates continued that he has seen the trash service dump both containers together and then dump them. Mayor Palmore stated he has seen the same thing. Alderman Bates stated his concern was for the Senior Center.

Alderman Bates – stated he had an unusual circumstance come up with a great-niece, but she was a guest in the Police Department. She is 3 years old, and she had a great time down there and the attitude of the Police Department was good, and it was a heartwarming experience for her and he thanked the department.

Alderman Gass – asked about the non-attributable funds. Mayor Palmore stated he has not heard an update from Engineer Rahn, but he had direction to move forward.

Alderman Gass – asked about the crack filling machine. Mayor Palmore stated he has looked at several. Alderman Gass suggested we ask for demonstrations.

Alderman Gass – asked if Attorney Hamby could talk to the company that did the street repairs last year. He showed pictures of the streets faults. There is a strip down the center, there was no brooms to do the push off. There is bare pavement in place. He would like the attorney to write a letter and ask him to repair or shoot over the streets. Mayor Palmore asked that City Clerk Barfield send the contract to Attorney Hamby.

Alderman Johnson – asked about the status of Candlewick. Mayor Palmore stated that Engineer Rahn is supposed to be looking into this.

Alderman Johnson – asked about the project that includes the sidewalks to Riverbend. Mayor Palmore stated this is a line item with Franklin County Transportation.

St. Patrick's Day Parade – Alderman Johnson stated the Brew Haus is hosting a celebration on March 19th

for St. Patrick's Day. There will be an activity at the Plaza and with those Tourism Funds they are going to pay for the music that will be there in celebration of St. Patrick's Day. She continued that Coleman Florists is also doing a Ribbon Cutting on the 18th and 19th.

Mayor Palmore stated that Public Works Commissioner Brueggemann was out sick.

Alderman Pigg stated he wanted to apologize for earlier. He left his glasses at home, and was having trouble seeing. On the discussion earlier when they were comparing the attorney bills, it was 443 hours at a cost of \$ 4,748 and Hamby was \$ 8,940. We needed to compare the bills for the same amount of hours.

Alderman Pigg stated there will be a Tourism meeting on Monday.

Collector Kelley stated that she hasn't received the report from the Flood Plain Manger yet to send to Franklin County. They need a list of the substantially damaged property. Mayor Palmore stated to call Engineer Rahm for this. She stated that she already asked once.

Mayor Palmore stated he did not have anything for executive session.

ADJOURNMENT

There being no further business, motion made by Alderman Myers, seconded by Alderman Filley to adjourn. A voice vote was taken with an affirmative result, and Mayor Palmore declared the motion carried.

The meeting adjourned at 10:25 pm.

ATTEST:

Lamberly Barfull
City Clerk

Jeffrey M. Palmore
Jeffrey M. Palmore, Mayor

