

# **MINUTES**

## **THE REGULAR MEETING OF THE BOARD OF ALDERMEN CITY OF BRANSON, MISSOURI June 23, 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 June 23, 2008 at 7:00 p.m. with the following members present:

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

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.

Lisa Dewoody Clark, 816 Sunset Road, Branson, Missouri will speak during discussion of item.  
June Hartley 1016 Cliff Drive, Branson, Missouri will speak during discussion of item.  
Ray Atwood, 610 S. Old County Road, Branson, Missouri will speak during discussion of item.  
Dave King, 115 Brook Ct., Branson, Missouri will speak during discussion of item.

### **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 5, Bill No. 3554 be pulled down 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:

June 9, 2008 regular meeting.  
June 17, 2008 special meeting.

**Bill No. 3551**  
**Ord. No. 2008-060**

**Approving a Municipal Code amendment to Chapter 2, Article VI, Section 2-121 of the Branson Municipal Code pertaining to the City Clerk.**

Final reading of Bill No. 3551 an ordinance approving a Municipal Code amendment to Chapter 2, Article VI, Section 2-121 of the Branson Municipal Code pertaining to the City Clerk was read by title by City Clerk Westfall. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried. Ordinance No. 2008-060 was duly enacted.

**Bill No. 3552**  
**Ord. No. 2008-061**

**Approving a Municipal Code amendment to Chapter 2, Article V, Section 2-101 of the Branson Municipal Code pertaining to the City Attorney.**

Final reading of Bill No. 3552 an ordinance approving a Municipal Code amendment to Chapter 2, Article V, Section 2-101 of the Branson Municipal Code pertaining to the City Attorney was read by title by City Clerk Westfall. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried. Ordinance No. 2008-061 was duly enacted.

**Bill No. 3553**  
**Ord. No. 2008-062**

**Approving a Municipal Code amendment to Chapter 2, Article IV, Section 2-81 of the Branson Municipal Code pertaining to the City Administrator.**

Final reading of Bill No. 3553 an ordinance approving a Municipal Code amendment to Chapter 2, Article IV, Section 2-81 of the Branson Municipal Code pertaining to the City Administrator was read by title by City Clerk Westfall. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried. Ordinance No. 2008-062 was duly enacted.

**Bill No. 3555**  
**Ord. No. 2008-063**

**Awarding the bid to Key Equipment & Supply Co. for the purchase of a six yard rear load refuse truck for the Public Works Department.**

Final reading of Bill No. 3555 an ordinance awarding the bid to Key Equipment & Supply Co. for the purchase of a six yard rear load refuse truck for the Public Works Department of the City of Branson and authorizing the Mayor to execute the same was read by title by City Clerk Westfall. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried. Ordinance No. 2008-063 was duly enacted.

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

## **REGULAR AGENDA**

**Bill No. 3554**                    **Approving a planned development for Bay Harbor for properties located at 1168 Sunset Road.**

Final reading of Bill No. 3554 an ordinance approving a planned development for Bay Harbor for properties located at 1168 Sunset Road, Branson, Missouri was read by title by City Clerk Westfall.

Mayor Presley asked for a motion approving the final reading of Bill No. 3554. Alderman Marshall so moved, seconded by Alderman Davis. A staff report was presented by Don Stephens. Mayor Presley then asked for anyone in the audience wishing to speak regarding this matter. Ray Atwood, 610 S. Old County Rd., Branson, Missouri said he wants to retire in this location and doesn't want a dwelling below his house. Lisa Dewoody Clark, 816 Sunset Road, Branson, Missouri stated she doesn't want change in her backyard and is concerned about the nature, safety and integrity of the neighborhood. She said there are current traffic concerns in the area due to the narrowness of the road. She stated there are regulations set forth by the City that others in the neighborhood abide by and they are opposed to any proposals that would affect the current density. She was also concerned with the 28 feet road proposal and future need to widen Sunset Road by taking property from the landowners. Bob Smith, 828 Cliff Drive, Branson, Missouri said his backyard is 10 feet from the bluff and he is worried about the blasting. He also had additional concerns: the language was too vague, increased traffic, safety of the children at Alexander Park, future pressure to eliminate Alexander Park and private homes. He reminded the Board they are elected as public servants to serve the residents of Branson. Jim Justus, 1014 Cliff Drive, Branson, Missouri stated notification is required for Planning and Zoning and he feels notification should also be provided when items are denied at P & Z but are moved on to the Board. He said the current road has been used by the public for the last 50 years and there is a provision under Missouri law that provides when a road, even a private road, had been used by the public for a period of time and public funds have been expended upon that road then it becomes a public road. He said recently public money has been expended on this area. He requested the Legal Department look into it. Richard Hammel, 804 Sunset Road, Branson, Missouri stated he does not have a problem with single family houses being built but asked if these will be rental houses. He said realistically there could not be that many houses built there without blasting. He said the land owner has a right to use his land but a gated community doesn't fit into the community. He stated it is zoned R-1 and it needs to stay that way. Melvin Dillman, 1002 Sunset Road, Branson, Missouri said the area is dark and needs lighting. He said he is in favor of this development and he thinks this is a great development for that area. He would like to see the road widened and would be willing to give a piece of his land for it. He also said a turn around is needed. Jack Graham, 904 Cliff Drive, Branson, Missouri said he agreed with Mr. Dillman about the area being dark but rezoning it to R-1 would not help. He said he was under the impression the Board wanted to keep continuity. Darrell Tomlinson, 207 South Second Street, Branson, Missouri asked if the development would be houses and cabins. Bob Huels, 500 W. Main, Branson, Missouri stated he asked Alderman Barker to delay this item but was prepared to go forward if necessary. He said they were prepared to make additional concessions including dropping the easement so it is similar to Sunset Drive and not gating the subdivision. He stated the homes would not be seen from Cliff Drive so no views would be blocked. He said these homes were approximately 3500 sq. ft. and feels adjusting to a lower height could cause a footprint which would cause more of an impact. Brad Hoffman, 131 White Oak Lane, Branson, Missouri stated they could blast into the hillside for a public road, a cul-de-sac and build more units than are shown now. He said the PD limits this site to 2.5 units per acre which is less than the traditional 4.8 per acre. He stated any rebuild of homes will have to be on stilts because of the flood plain and due to the 35 feet height requirement they will have to be single story. Mr. Hoffman said if they have to build the bigger road they will have to blast and take more trees and have less of a buffer between houses. Mr. Huels stated the Herschend property has access from the top of the bluff. Building a road is possible but would be expensive and lot 1 as a home site would be lost. If it was zoned R-1 a public road would not be extended to go through to the Herschend land. Brad Hoffman said there would be no reason to blast unless they go to R-1 zoning which would require more earth work. He said the street tree plan uses canopy trees and he would provide a landscape preservation plan which is saving 45 percent of the site in tree cover. Ray Atwood 610 S. Old County Road, Branson, Missouri said he is nervous about blasting with his home sitting at the top of the hill. Mayor Presley asked for comments from the Board. Discussion. Charles Wilkerson, 819 Cliff Drive, Branson, Missouri said he agrees that there are too many maybes, blasting is a concern and cutting that cliff back to a straight up and down face will cause problems with heavy rains. Glenda O'Fout, 900 Cliff Drive, Branson, Missouri asked if blasting takes place who would be responsible for damages. Bob Huels, 500 W. Main, Branson, Missouri said they don't anticipate any blasting under the current PD plan but if they go to R-1 the road would need to be moved further in and that is when they may have to blast. Jim Arneson, representing the developer said the blasting issue is bothering people

and he wanted everyone to understand under the current Planned Development as it is being proposed there will be no blasting. It is only if it is not approved that there will be blasting because then they will have to move the road. June Hartley, 1016 Cliff Drive, Branson, Missouri stated the use of public money needs to be researched. She asked how many acres are required for a PD, if there is a legal survey of the property and what was the necessity of building the wooden fence. She said the Board needs to consider preserving neighborhoods and she is not opposed to this being zoned R-1. Larry Poos, 814 Sunset, Branson, Missouri said if this goes through there will be a constant parade of heavy construction equipment and he asked who will be responsible for taking care of Sunset Road. Stephen Bradford, 165 Cougar Trails, Branson, Missouri addressed the blasting concern and said contrary to procedures a previous project had no pre-blast survey conducted and gave no notification in advance of the blasting. He said the City has procedures but they do not always get followed. He also spoke on behalf of Jack and Sherry Herschend who expressed their position on this issue. He said they feel the area should continue to be zoned as R-1 and a PD is not necessary or compatible with the surrounding area. Discussion. Voting aye: Barker. Nays: Davis, Williams, Marshall and Bohinc. Absent: McDowell. Motion failed.

The meeting recessed at 8:43 p.m. and reconvened at 8:50 p.m.

### **PRESENTATION OF THE BRANSON/LAKES AREA CHAMBER OF COMMERCE FIRST QUARTER MARKETING REPORT FOR 2008**

Ross Summers, President of the Branson/Lakes Area Chamber of Commerce and Dan Lennon, Vice President of Marketing and Public Relations presented the First Quarter Marketing Report for 2008 as required by contract.

Alderman Barker left the meeting at 9:22 p.m. and returned at 9:24 p.m.

Mayor Presley asked if anyone in the audience had questions or comments. Grant Johnson, 107 E. Main Street, Branson, Missouri asked if there would be any foreign marketing in 2009 and foreign visitors love Americana and that's Branson. Mayor Presley asked for comments or questions from the Board. Discussion. Mayor Presley asked for a motion to accept the Branson/Lakes Area Chamber of Commerce First Quarter Marketing Report for 2008 as required by contract. Alderwoman Williams so moved, seconded by Alderman Barker. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

### **HEARING**

A hearing appealing the denial of the Branson Farmer's Market special event permit by the Downtown Branson Business Owners Association. Dave King, Vice-President, Downtown Branson Business Owners Association, 115 Brooke Court, Branson, Missouri addressed the Board and requested a Special Event Permit for the Branson Farmers Market for an additional 10 day period beginning July 26, 2008 and ending September 27, 2008. Discussion. Mayor Presley asked for a motion to approve the Special Event Permit for the Branson Farmers Market dated May 9, 2008 as submitted by the Downtown Branson Business Owner's Association. Alderman Barker so moved, seconded by Alderman Davis. Discussion. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

**Bill No. 3550****Approving a Municipal Code amendment to Chapter 26, Article III, Division 1, Section 26-61 of the Branson Municipal Code pertaining to the definition of "solicit".**

First reading of Bill No. 3550 an ordinance approving a Municipal Code amendment to Chapter 26, Article III, Division 1, Section 26-61 of the Branson Municipal Code pertaining to the definition of "solicit" postponed from June 9, 2008 Board of Aldermen meeting was read by title by City Clerk Westfall and the staff report was presented by Mayor Presley by saying the Bill was postponed from the June 9, 2008 meeting. At that meeting it had a First Reading, Motion to Approve and Second as well as a motion to amend the definition of the word "Solicit" to read as follows, "Solicit means to initiate contact with a member of the public by the offer of any goods or services, whether at full price, discounted or free, in exchange for any action on the part of that member of the general public" and a Second. Mayor Presley then asked for anyone in the audience wishing to speak regarding the amendment. Bill Stephenson, 208 Mead Road, Kirbyville, Missouri said timeshares have helped the tourist industry; people are here because of an OPC asking them to visit the resort. He stated if you have to examine the content of a speech then the ordinance is not valid according to the Supreme Court. Jackie Stephenson, 208 Mead Road, Kirbyville, Missouri said her marketing is her window dressing with her OPC's and she generates a lot of revenue. She stated they do give away free tickets and the City is asking her to change her business plan to address this when they have never been ticketed for aggressive solicitation. Mayor Presley asked for comments from the Board. Discussion. Bill Stephenson, 208 Mead Road, Kirbyville, Missouri asked if the Coal Creek case had been reviewed. He said Supreme Court rulings do impact what the Board is doing here today. Mayor Presley called for a vote on the amendment. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried. Mayor Presley asked if anyone in the audience wished to speak regarding the bill as amended. Hearing none, Mayor Presley asked for comments from the Board. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

**Bill No. 3556****Approving an Agreement between the City of Branson and the Missouri Highway and Transportation Commission for Signing Installed and Maintained by Applicant, pertaining to the Route 165 designation for Gretna Road.**

First reading of Bill No. 3556 an ordinance approving an agreement between the City of Branson and the Missouri Highway and Transportation Commission for Signing Installed and Maintained by Applicant, pertaining to the Route 165 designation for Gretna Road and authorizing the Mayor to execute the agreement was read by title by City Clerk Westfall and the staff report was presented by David Miller. Mayor Presley asked for a motion approving the first reading of Bill No. 3556. Alderman Marshall so moved, 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, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

**Bill No. 3557****Approving an agreement between the City of Branson and Olsson Associates for the study and preliminary design of the Compton Wastewater Treatment Plant improvements.**

First reading of Bill No. 3557 an ordinance approving an agreement between the City of Branson and Olsson Associates for the study and preliminary design of the Compton Wastewater Treatment Plant improvements, and authorizing the Mayor to enter into the agreement was read by title by City Clerk Westfall and the staff report was presented by David Miller. Mayor Presley asked for a motion approving the first reading of Bill No. 3557. Alderman Barker moved to approve, seconded by Alderman Davis. 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, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

**Bill No. 3558**                    **Approving a Municipal Code amendment to Chapter 70 Section 70-10 of the Branson Municipal Code pertaining to temporary directional signage.**

First reading of Bill No. 3558 an ordinance approving a Municipal Code amendment to Chapter 70 Section 70-10 of the Branson Municipal Code pertaining to temporary directional signage was read by title by City Clerk Westfall and the staff report was presented by Don Stephens. Mayor Presley then asked for anyone in the audience wishing to speak regarding this matter. Kathleen Steele Danner, 1075 Crescent Drive, Hollister, Missouri, President of Athina Consulting and representing League of Branson Theater Owners and Show Producers said the League thought the proposal was fine but questioned services held on another day of the week. Mayor Presley asked for comments from the Board. Discussion. Mayor Presley asked for a motion approving the first reading of Bill No. 3558. Alderman Davis so moved, seconded by Alderman Marshall. Alderwoman Bohinc moved to amend Bill No. 3558, Section 70-10, No. 1 (a) to read as follows: "EXCEPTION: When religious services, including praise and worship services for which no admission fees are charged are held at live theater locations, approves as "Special Uses" within one of the Sign Overlay Zone areas:" and 70-10 No. 1 (a) 4) strike Monday and add Sunday, seconded by Alderwoman Williams. Mayor Presley asked for questions or comments from the audience on the amendment. Hearing none, Mayor Presley asked for comments from the Board. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried. Mayor Presley asked for questions or comments from the audience on Bill No. 3558 as amended. Hearing none, Mayor Presley asked for comments from the Board. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

**Bill No. 3559**                    **Approving a Municipal Code amendment to Chapter 415 Section 415.010 of the Branson Municipal Code pertaining to gravel parking surfaces.**

First reading of Bill No. 3559 an ordinance approving a Municipal Code amendment to Chapter 415 Section 415.010 of the Branson Municipal Code pertaining to gravel parking surfaces was read by title by City Clerk Westfall and the staff report was presented by Don Stephens. Mayor Presley asked for a motion approving the first reading of Bill No. 3559. Alderman Barker moved to approve, 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, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

**Bill No. 3560**                    **Awarding the bids to North Central Laboratories, Hach Company, VWR International, LLC and Orbeco-Hellige, Inc. for chemicals and supplies used in the water and wastewater treatment laboratories for the City of Branson.**

First reading of Bill No. 3560 an ordinance awarding the bids to North Central Laboratories, Hach Company, VWR International, LLC and Orbeco-Hellige, Inc. for chemical and supplies used in the water and wastewater treatment laboratories for the City of Branson and authorizing the Mayor to execute the contracts 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. 3560. Alderman Barker moved to approve, seconded by Alderman Davis. 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, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

**Bill No. 3561**

**Awarding the bid to APAC-MO, Inc. to furnish materials and labor to construct cast-in-place concrete curb and guttering for the Public Works Department of the City of Branson.**

First reading of Bill No. 3561 an ordinance awarding the bid to APAC-MO, Inc. to furnish materials and labor to construct cast-in-place concrete curb and guttering for the Public Works Department of the City of Branson 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. 3561. 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, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

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

Alderwoman Bohinc welcomed Dean Kruithof, the new City Administrator.

Alderman Barker said an item brought up earlier about the notification process when variances and other items are denied by the Planning and Zoning Commission needs to be looked into. He also suggested looking into improving the process on Planned Developments. He said he is expecting a Granddaughter in November.

Alderman Davis stated the Planning and Zoning Commission recognizes that Planned Developments are an important tool and they are hopeful that a policy discussion could occur. He said the way the ordinance reads for planned developments now allows for a more extensive predevelopment phase of review. He said he would like to see the P & Z Commission and the Board get together and refine policies. He said he is championing the street overlay or street works into more of streetscape projects. He said he would like to move forward with this and suggested a prioritized schedule for these items in 2009. He read a letter from Caitlin von Seckendorff of Union, Missouri who is concerned about the disappearing forest around Branson being replaced by shopping centers and housing developments and while she knows these are necessary she feels there is a lot of unnecessary clearing. She asked to protect Branson's natural beauty.

Alderwoman Williams stated she received many phone calls about Bay Harbor. She realizes we are now required to involve residents within a certain distance from the project but she feels this needs to be revisited in order to encourage citizen participation. She said the Board needs to meet with Planning and Zoning to come up with a policy for Planned Developments. She thanked everyone that attended the meeting for their participation.

Alderman Marshall asked that Public Works review the placement of color coded signs. Mayor Presley added that one is hidden by a tree on Highway 248.

Mayor Presley welcomed Dean Kruithof to the team. She noted the library of materials available for the Board and Directors in the Administrative Office. She said Dean Kruithof is working with a facilitator on the retreat scheduled on July 9<sup>th</sup> and 10<sup>th</sup>.

## **EXECUTIVE SESSION**

Mayor Presley stated, that concluded the Regular Agenda and entertained a motion to adjourn to a closed Executive Session. Alderwoman Williams moved to go into Closed Executive Session

pursuant to 610.021.3 RSMo for personnel, seconded by Alderman Marshall. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

## **ADJOURN**

At this time Mayor Presley asked for a motion to adjourn. Alderman Davis so moved, seconded by Alderman Barker. Meeting adjourned at 10:51 p.m. Voting aye: Barker, Davis, Williams, Marshall and Bohinc. Nays: none. Absent: McDowell. Motion carried.

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Raeanne Presley  
Mayor

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Lisa K Westfall  
City Clerk