

MINUTES

REGULAR MEETING OF THE BOARD OF ALDERMEN CITY OF BRANSON, MISSOURI AUGUST 13, 2024

CALL TO ORDER

The Board of Aldermen of the City of Branson, Missouri, met in Regular Session in the Council Chambers of the City Hall on August 13, 2024 at 6:00 PM. Mayor Milton called the meeting to order.

PLEDGE OF ALLEGIANCE

INVOCATION

An invocation was provided by Charlie Huston.

ROLL CALL

City Clerk Briand called roll. Present: Mayor Milton, Alderman Artie Lucas, Alderman Ruth Denham, Alderman Clay Cooper, Alderman Marshall Howden, Alderman Ralph LeBlanc, Alderman Glenn Schulz. Absent: none.

AWARDS/RECOGNITIONS:

EMPLOYEE OF THE MONTH:

- A. RECOGNIZING BOB SMITHER OF THE HUMAN RESOURCES DEPARTMENT AS THE EMPLOYEE OF THE MONTH FOR AUGUST, 2024 TO BE PRESENTED BY DIRECTOR HAYLEY HUTCHINS.

Human Resources Director Hayley Hutchins presented the Employee of the Month.

SPECIAL RECOGNITIONS:

- A. FIRE DEPARTMENT VIDEO PRODUCED FOR THE INTERNATIONAL ASSOCIATION OF FIRE CHIEFS.

A presentation was provided by Assistant Fire Chief Charlie Huston.

PUBLIC COMMENT:

TO SPEAK DURING PUBLIC COMMENT, PLEASE SIGN UP AT THE FRONT DOOR OF THE COUNCIL CHAMBERS PRIOR TO THE START OF THE MEETING.

Mona Miller discussed "Military month 2025." She commented she's been the morale officer for Veterans Week for over 20 years and read a letter to the Board, inviting President Trump to Branson, Missouri for National Military Appreciation Month.

Lena Hughes discussed “TCED Endorsement.” She introduced herself as co-owner of the Hughes Brothers Theater and Hughes Entertainment Inc. She endorsed Cindy Merry to continue representing the City of Branson on the TCED Board and shared why she believes she should remain on the TCED Board.

Heidi Bitter discussed “Ordinance 6472.” She introduced herself as a nurse of 16 years with a master’s degree in public health. She expressed concern with the noise levels in the proposed ordinance and the health and safety of community members. She shared her research of what studies have found on the topic.

Steve Bitter discussed “Ordinance 6472 noise amendment.” He mentioned his residence is just to the south of the proposed data mining center location and explained he’s not in favor of it being built there. He suggested regulating sound from a public health perspective, regulating dBA and dBC and looking at each project on a case-by-case basis.

Michelle Ward discussed “data center.” She read a letter on behalf of Jeff and Kristina Crowl, owners of America’s Best Campground, in which they expressed their support of the proposed ordinance as written. Ms. Ward explained she and several other employees of the campground support the ordinance.

Lois Fulkerson discussed “Mining.” She shared her research that showed China began mining in 2011, but shut it down in 2021 due to high emissions. She explained how other states have shut down mining and talked about negative health impacts. She suggested the City pass an ordinance banning mining.

Kathleen Downing discussed “Crypto mining ordinance – leave it as is!” She introduced her husband Corky Downing and explained they work for ABC Campground. She commented they appreciate all the Board’s time and effort on this ordinance and think it should stay the way it’s written.

Charles Downing signed up to discuss “Crypto Mining Ordinance leave as is. We don’t want the noise!” He declined the opportunity to speak during Public Comment.

Candace Cook signed up to discuss “Ordinance.” She declined the opportunity to speak during Public Comment.

Gary Groman discussed “TCED.” He recalled two years ago he spoke before the Board about the composition of the TCED Board and how Branson contributed 88% of all the funds while Stone and Taney County contributed 12%. He reported Branson still has less members on the TCED and Stone County has the chairman of that Board. He inquired about changing the composition of the TCED Board and offered to discuss his ideas.

Moxie Black discussed “Local residents.” She talked about overpopulation of cats and dogs and animal welfare in the City of Branson. She emphasized the importance of spaying and neutering animals and shared her desire to educate people and raise awareness about this topic. She inquired if she could have a conversation with the Board about making some changes for the animals in Branson.

Shelley Kleypas discussed “Local residents.” She introduced herself as a resident of 47 years and former business owner in Branson. Over the years she’s rescued and given homes to dozens of cats and dogs as Branson has become the dumping grounds for unwanted pet litters. She asked the Board to address this problem and suggested a low-cost spay and neuter facility in Branson and she offered to help educate people on the subject.

Dwight McKee discussed “Bit Coin Mining.” He voiced concerns over the decibel levels of bitcoin mining operations and health risks associated with them and explained he’s a cancer survivor, heart patient and has long-term Covid. He feels a mining operation would also negatively affect the enjoyment of living in his neighborhood and lower property values.

Gabe Palacios discussed the proposed ordinance, Bill No. 6472. He explained he hired a sound engineer who deals with environmental sound and the engineer deals specifically with environmental sound and he provided recommendations. He shared the desire for having a third party expert take the City’s and residents’ best interests at heart to draft a sound ordinance tailored to the community. Mr. Palacios discussed some of the changes he’d like to see in the ordinance.

Alan Mauk signed up to discuss “Zoning.” He declined the opportunity to speak during Public Comment.

Chris Myer discussed “Ozark Mountain Christmas end date.” He explained the end date for Ozark Mountain Christmas is currently January 7th and he asked if it could be looked at so it’s not always on January 7th. He explained last year Ozark Mountain Christmas ended on a Sunday and this year it ends on a Tuesday which doesn’t make a lot of sense.

CONSENT AGENDA:

Mayor Milton asked if any member of the Board had any items they wished to have removed from the Consent Agenda for further discussion. Alderman Schulz requested Item Number 4 be removed from the Consent Agenda and placed as the first item on the Regular Agenda. The following items were read by title:

1. APPROVAL OF THE BOARD OF ALDERMEN MINUTES FOR THE JULY 23, 2024 SPECIAL MEETING, JULY 23, 2024 REGULAR MEETING AND AUGUST 1, 2024 SPECIAL MEETING.
2. ACKNOWLEDGE RECEIPT OF PLANNING COMMISSION MINUTES FOR THE JUNE 4, 2024 REGULAR MEETING.
3. ACKNOWLEDGE RECEIPT OF MONTHLY CONTRACT REPORT FROM JULY 2, 2024 TO AUGUST 5, 2024.
4. FINAL READING OF BILL NO. 6472 AN ORDINANCE FOR MUNICIPAL CODE AMENDMENTS THROUGHOUT CHAPTER 94, INCLUDING BUT NOT LIMITED TO THE INDUSTRIAL ZONING DISTRICT, NOISE REGULATIONS, AND SPECIAL USE REQUIREMENTS FOR DATA CENTERS, DATA MINING AND SIMILAR INDUSTRIES.

Bill No. 6472 has been removed from the Consent Agenda and placed as the first item on the Regular Agenda.

The item was read by title. The floor was opened for a motion approving FINAL READING OF BILL NO. 6472 AN ORDINANCE FOR MUNICIPAL CODE AMENDMENTS THROUGHOUT CHAPTER 94, INCLUDING BUT NOT LIMITED TO THE INDUSTRIAL ZONING DISTRICT, NOISE REGULATIONS, AND SPECIAL USE REQUIREMENTS FOR DATA CENTERS, DATA MINING AND SIMILAR INDUSTRIES. Alderman Cooper so moved, seconded by Alderman Howden.

Alderman Schulz moved to amend Bill No. 6472 as follows (changes indicated in bold and underlined):

Definitions

Sec. 94.5. – Definitions

Sound Pressure Level (SPL) means the sound pressure levels stated in dB units referenced to 20 micropascals, with a C frequency weighting and a 10 mS response with peak detection per ANSI S1.4 2014, and measured as Leg (equivalent continuous sound level) over a 15 minute measurement period (reference ANSI S1.4/IEC 61672 and IEC 801-22-16.

Industrial Uses

Sec. 94-61. – Use and structure standards.

(f) Industrial uses.

(1) General. All industrial uses shall be subject to the following standards:

- a. All traffic hazards shall be minimized;
- b. Lights shall be directed away from adjoining residential areas;
- c. Off-street loading areas shall be available as needed; and
- d. No dust, smoke, fumes, gas, noxious odor, excessive noise or other atmospheric effluent shall exceed in intensity [at] **past** the boundary of the lot. [~~of conditions normally found in a residential neighborhood.~~]

e. The operations shall not cause the dissemination of vibration or noise in excess of the maximum environmental noise level established by City Code of Ordinances Chapter 58, Article VII, Section 262 or other restrictions as contained in Chapter 94 as it relates to specific industrial uses.

f. A minimum setback of 50 feet shall be required for all structures (except fences and walls) located on the subject property measured from the subject property lines to the property lines in question.

g. The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at three feet above the grade.

h. All utility lines serving the site and located on the subject property, shall be contained underground.

i. All parking areas, drive aisles, service areas, storage, and loading docks shall be constructed of a hard surface (i.e. asphalt/concrete), conforming to the Branson Municipal code requirements.

j. Testing of generators is prohibited between the hours of 11:00 p.m. and 7:00 a.m. If generators are located outside of an enclosed building a screening wall shall be required.

k. The SPL attributable to infrastructure of the industrial use on the property shall not exceed 65 dBC, as measured at every property line. For industrial uses located within 500 feet of any allowed residential use or district, place of worship, daycare, park, lodging establishment (including bed and breakfast inn, campground and recreational vehicle park, hotel and motel, nightly rental, and timeshare unit), and educational facilities, the SPL attributable to the facility shall not exceed 55 dBC at every property line.

Setbacks

Sec. 94-62. – Special Use Standards.

(c) Industrial uses

(2) Data Centers.

c. Site Requirements:

(ii) Buffering: A minimum setback of 50 feet shall be required for all structures (except fences and walls) located on the subject property measured from the subject property lines to the property lines in question.

Appeals

Sec. 94-62. – Special Use Standards.

(c) Industrial uses

(2) Data Centers.

d. Sound/Noise Requirements:

(iv) If at any time the data center operation exceeds violates the standards as set forth in this Section, the planning and development director shall give five days' notice in writing to the owner of the building, structure, or property on which the violation is located, stating the nature of the violation and ordering the owner to cease the violation or bring the property into compliance. Notice to the owner may be by first class mail, personal delivery, or posting on the property. Notice given shall state the violation of the standards and the time within which the violation must be abated. A notice of violation and order to abate under this article may be appealed by filing a written appeal in the office of the planning and development director within five calendar days of the violation notice. The board of adjustment shall hear the appeal in accordance with its usual procedure. The board of adjustment, upon finding that a violation exists, may approve or modify the order of the planning and development director. The board of adjustment's decision may be appealed in the manner provided by law. ~~the special use permit shall be revoked and operations shall cease~~, seconded by Alderman LeBlanc.

Speakers:

Bob Huels of Commercial One Brokers inquired if the property line referenced in the ordinance refers to the project or motel's property line. He asked if a fence would need to go around the entire property line or the crypto coin mines.

Hulk Gray asked for clarification on comments made earlier regarding not building the primary structure first.

Gabe Palacios asked for clarification regarding the ordinance sticking with dBC and explained if that's the case he wants to make sure the Board understands this building wouldn't get permitted. Additionally, the property his clients are looking at that's nothing but grass wouldn't get permitted either. He feels the Board is saying anti-progress loud and clear since a data mining center or anything else can't be built because even a blade of grass fails.

Heidi Bitter explained how she used a decibel meter to measure dBA and dBC at the roundabout near the hospital and she shared her findings with the Board. She mentioned when she measured with dBA the noise was still less than 40.

Paul Homburger commented it seems like there's guessing from an architectural standpoint as to how to mitigate noise. He shared how these structures are all over the country and can be properly designed, so he's not sure where the struggle is.

Vote on the amendment. Voting aye: Denham, Cooper, Howden, LeBlanc, Schulz. Nays: Lucas. Motion Carried.

Vote on Bill No. 6472 as amended. Voting aye: Denham, Cooper, Howden, LeBlanc, Schulz. Nays: Lucas. Motion Carried.

Ordinance No. 2024-0071 was duly enacted.

Discussion.

The floor was opened for a motion to approve all items on the Consent Agenda as amended. Alderman Howden so moved, seconded by Alderman LeBlanc.

Voting aye: LeBlanc, Howden, Cooper, Denham, Schulz. Nays: Lucas. Motion Carried.

REGULAR AGENDA:

5. PUBLIC HEARING AND FIRST READING OF BILL NO. 6473 AN ORDINANCE ESTABLISHING THE ANNUAL LEVY OF A PROPERTY TAX FOR GENERAL REVENUE IN THE CITY OF BRANSON, MISSOURI, A CITY OF THE FOURTH CLASS.

The item was read by title. Mayor Milton opened the public hearing and asked if anyone wished to speak in favor of or opposing this matter. Hearing none, Mayor Milton closed the public hearing. The floor was opened for a motion approving FIRST READING OF BILL NO. 6473 AN ORDINANCE ESTABLISHING THE ANNUAL LEVY OF A PROPERTY TAX FOR GENERAL REVENUE IN THE CITY OF BRANSON, MISSOURI, A CITY OF THE FOURTH CLASS. Alderman Lucas so moved, seconded by Alderman Howden.

Voting aye: Lucas, Denham, Cooper, Howden, LeBlanc, Schulz. Nays: none. Motion Carried.

No discussion.

APPOINTMENTS:

6. APPOINTMENT TO THE TOURISM COMMUNITY ENHANCEMENT DISTRICT (TCED).

City Clerk Hillary Briand stated this appointment process is in accordance with the Board and Committee Appointments Procedure for Category 2, appointments made by the Governing Body. The Board will be voting by ballot and the two applicants receiving the most votes will be appointed to the Tourism Community Enhancement District with a term expiring September 2027. The floor was opened for a motion to vote by ballot on the following applicants for the Tourism Community Enhancement District (TCED):

- Michael Pitman
- Matthew Kendrick
- Cindy Merry
- Timothy Haygood
- Angie Teel

- Tony Morreale
- Stephen Scherer
- Zachary Fletcher
- Vinay Patel
- Sue Braun

Alderman Lucas so moved, seconded by Alderman Howden. Mayor Milton stated the Board will be voting by ballot and the City Clerk will read the results. City Clerk Hillary Briand read the results of the ballot vote: Alderman Lucas voted for Cindy Merry and Sue Braun, Alderman Denham voted for Cindy Merry and Sue Braun, Alderman Cooper voted for Timothy Haygood and Sue Braun, Alderman Howden voted for Cindy Merry and Sue Braun, Alderman LeBlanc voted for Timothy Haygood and Sue Braun, Alderman Schulz voted for Cindy Merry and Sue Braun. The result of the vote for the Tourism Community Enhancement District (TCED) is Cindy Merry – 4 votes, Timothy Haygood – 2 votes, Sue Braun – 6 votes. Cindy Merry and Sue Braun will be appointed to the TCED with terms expiring September 2027.

REPORTS

Alderman Lucas thinks this is another opportunity for the public to know that the Board is doing its best to represent them and make sure everything is done in a proper and just manner. He understands some people are going to be upset because of some of the decisions that were made tonight, but will be able to sleep well.

Alderman Denham thanked City Staff and all Departments for the deconstruction of the new Police Department. She felt it was a blast and she thanked everyone for all the work that was put into it. She congratulated State Representative Brian Seitz on his win and thanked him for serving.

Alderman Howden commented on the City's value of the month of volunteerism and he thanked all volunteers.

Alderman LeBlanc thanked all City Staff working in the heat to make things run as they are the heartbeat of the community. He thanked all City Departments for the things they do from cutting grass to changing trash can liners as they're making a difference and they matter.

Alderman Schulz mentioned he represents the City on the M. Graham Clark Downtown Airport Board and he reported the airport just finished a \$400,000 capital project putting in new runway reflectors, wind sock and beacon and good reports have been received from the first pilots that have flown in and out of the airport. He reported the airport's service volume is down which means there's not as many pilots coming in spending money and he feels the City should keep an eye on this with other economic indicators. He discussed the data center ordinance and thanked everyone who provided input, Gabe and Bob of Terra Industries, Mayor Milton, Alderman Lucas and all Directors who were involved. He thanked all the candidates for the TCED Board and those who contacted him to explain why they're running.

Mayor Larry Milton discussed Operation Unity which is a committee recently started in town for every entity in Branson that honors veterans. He's working on creating a schedule for Veterans Week to help people with planning and coordinating events in an effort to minimize overlapping events. He invited anyone interested in joining the committee to attend the next meeting. He appreciates everyone who attended this evening and the input received from citizens which helps make Branson a better City.

ADJOURN

The floor was opened for a motion to adjourn. Alderman Howden so moved, seconded by Alderman LeBlanc. Voting aye: Lucas, Denham, Cooper, Howden, LeBlanc, Schulz. Nays: none. Motion Carried.

Meeting was adjourned at 7:29 p.m.

Larry D. Milton
Mayor

Hillary Briand
City Clerk