

AGENDA  
CITY COUNCIL MEETING  
Monday, January 24, 2011  
7:30 P.M.

1. Call to Order
2. Minutes of December 27, 2010 meeting

Old Business

3. Bill No. 11-1184: Ordinance vacating portions of Riley Street and Howard Avenue
4. Resolution: Contract for 2011 Transit Grant

New Business

5. Visitors (All visitors wishing to address the Council must complete an information card and submit it to the City Clerk before the meeting begins)
6. 2011 Liquor License Applications: Casey's General Store  
Club Flex  
Ramey Supermarket  
G & G Package Liquor  
M & H Package Liquor
7. Resolution: 2011 Contract with New Madrid Historical Museum
8. Resolution: 2011 Contract with Higginson School Historic Site
9. Resolution: 2011 Contract with New Madrid Chamber of Commerce
10. AECI Statement of Revenues and Expenditures: November and December 2010
11. Discussion: Water Pump Station to New Madrid Public Water Supply District #2
13. Bill No. 11-1185: Insurance Proceeds
14. Bill No. 11-1186: Payments in Protest
15. Resolution: Intent to Reimburse for certain capital expenditures
16. Resolution: Tac 10, Inc. software maintenance agreement
17. Building Permit: 30 X 40 storage shed at 28 Old Kinghighway submitted by Rick Nowell
18. City Administrator's Report

CLOSED SESSION, if requested, relative to:

- A. Legal actions, causes of action, or litigation (RSMo 610.021.1)
- B. Leasing, purchase or sale of real estate where public knowledge of the transaction might adversely affect the legal consideration there for (RSMo 610.021.2)
- C. Hiring, firing, disciplining or promoting or particular employees when information relating to the performance or merit of individual employees is discussed or recorded (RSMo 610.021.3)
- D. Preparation, including any discussions or work product, on behalf of the Council or its representatives for negotiations with employee groups (RSMo 610.021.9)
- E. Sealed proposals and related documents or any documents related to a negotiated contract (RSMo 610.021.12)

19. Additional items, if requested.

AN ORDINANCE VACATING RILEY STREET FROM MITCHELL AVE. TO KINGSHIGHWAY AND HOWARD AVENUE FROM THE ALLEY BETWEEN SCOTT STREET AND RILEY STREET TO RILEY STREET IN N.B. BYRNES ADDITION TO THE CITY OF NEW MADRID, MISSOURI

WHEREAS, The Board of Aldermen of the City of New Madrid, Missouri is authorized under the provisions of Section 88.673 Revised Statutes of the State of Missouri (1939) as a Fourth Class City to vacate streets; and

WHEREAS, Riley Street and Howard Avenue were accepted as City Streets when N. B. Byrnes Addition was dedicated in May, 1875 and filed for record in the Recorder's Office of New Madrid County, Missouri in Plat Book 1 at Page 3 (Slide 3); and

WHEREAS, Riley Street from Mitchell Ave. to Kingshighway and Howard Avenue from the alley located between Scott Street and Riley Street to Riley Street have not been maintained, opened or used as a public street for a period of over 100 years when the St. Louis, Arkansas and Texas Railroad was formed and constructed in New Madrid and they serve no useful purpose of the citizens of the City of New Madrid; and

WHEREAS, the City of New Madrid has utilized the right-of-way provided by Riley Street and the Railroad Right-of-Way for utility right-of-way and not as a street or alley; and

WHEREAS, the sections of Riley Street and Howard Avenue to be vacated have no established grade; and

WHEREAS, the Board of Aldermen has deemed the vacation of Riley Street as a public street expedient and necessary; and

WHEREAS, the vacation of Riley Street from Mitchell Avenue shall be subject to the City of New Madrid retaining its rights to operate, maintain, repair or replace any utility lines for the transmission of electricity water or sewage or other municipal purpose, above, across and through the area of Riley Street and otherwise continue to use the property for municipal utility purposes in a manner similar to those rights in other and newer subdivisions to the City,

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW MADRID, MISSOURI AS FOLLOWS:

1. That Riley Street from Mitchell Avenue to Kingshighway and Howard Avenue from the alley located between Scott Street and Riley Street to Riley Street is hereby vacated pursuant to Section 88.673 R.S.Mo (1939) and shall revert to the owners of the abutting lots of N. B. Byrnes Addition and subject to the taxation as all other property in the City, except that the City of New Madrid retains a non-exclusive easement for Municipal Utility Purposes in the area

formally occupied by Riley Street, being a Thirty foot (30') strip bounded on the North by the right of way of the abandoned St. Louis-Southwestern Railroad and on the south by Blocks 2 and 3 of the N. B. Byrnes Addition to the City of New Madrid, Missouri.

2. That said easement shall include the right of the City to forever erect, construct, install, use, operate, maintain, repair or replace any utility lines or pipelines for the transmission of electricity, water or sewage, and any other conduits for any other public authority above, across or through the Thirty foot (30') strip of land formally used as Riley Street, together with such rights of entry upon and passage over on such areas as may be necessary or useful for the maintenance, cleaning and repairs of any utilities.

READ TWO TIMES AND DULY PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF JANUARY, 2011.

APPROVED:

\_\_\_\_\_  
DONNIE BROWN, MAYOR

ATTEST:

\_\_\_\_\_  
MARIAN B. BOCK, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
LYNN N. BOCK,  
CITY ATTORNEY

AN ORDINANCE AMENDING CHAPTER 10 "BUILDINGS AND BUILDING REGULATIONS" OF THE MUNICIPAL CODE OF THE CITY OF NEW MADRID, MISSOURI BY ADDING A NEW SECTION 10-152 "INSURANCE PROCEEDS" WHICH REQUIRES INSURANCE COMPANIES TO WITHHOLD CERTAIN CLAIM PAYMENTS FOR THE PAYMENT OF ASSESSMENTS, TAX BILLS AND REMOVAL OF DEBRIS.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW MADRID, MISSOURI AS FOLLOWS:

That Chapter 10 "Buildings and Building Codes" of the Municipal Code of the City of New Madrid, Missouri be amended so as to add a new Section 10-152 to read as follows:

**Sec. 10-152. INSURANCE PROCEEDS**

If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, and if the covered claim payment is in excess of fifty (50) percent of the face value of the policy covering a building or other structure, then the following procedure shall apply:

(1) Every special assessment and special tax bill issued against property pursuant to the provisions of this article shall be deemed a personal debt against the property owner or owners.

(2) The insurer shall withhold from the covered claim payment ten (10) percent of the covered claim payment, and shall pay that amount to the City to deposit into an interest bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this section.

(3) The City shall release the proceeds and any interest which has accrued on such proceeds received under subdivision (2) of this section to the insured or as the terms of the policy and endorsements thereto provide within ninety (90) days after receipt of such insurance moneys, unless the city has instituted legal proceedings under the provisions of this article. If the city has proceeded under the provisions of this article, all moneys in excess of that necessary to comply with the provisions of this article for the removal of the building or structure, less salvage value, shall be paid to the insured or as the terms of the policy and endorsements thereto provide.

(4) The City may certify that, in lieu of payment of all or part of the covered claim payment under this section, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the City shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without deduction. It shall be the obligation of the insured or other person making claim to provide the insurance company with the written certificate provided for in this subsection.

(5) No provision of this section shall be construed to make the City a party to any insurance contract.

READ TWO TIMES AND DULY PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF JANUARY, 2011.

APPROVED:

\_\_\_\_\_  
DONNIE BROWN, MAYOR

ATTEST:

\_\_\_\_\_  
MARIAN B. BOCK, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
LYNN N. BOCK, CITY ATTORNEY

AN ORDINANCE AMENDING CHAPTER 22 OF THE MUNICIPAL CODE OF THE CITY OF NEW MADRID, MISSOURI BY ADDING A NEW SECTION 22-2 THAT ESTABLISHES A PROCEDURE FOR PROTESTING ANY PAYMENTS TO THE CITY, OF WHATEVER NATURE AND SETTING FORTH DUTIES OF THE CITY CLERK WHEN A PROTEST IS MADE.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW MADRID, MISSOURI AS FOLLOWS:

SECTION 1: That the Municipal Code of the City of New Madrid be amended so as to add a new Section 22-2 which shall read as follows:

Section 22-2 Payments under Protest.

(a) If no other procedure is established by law for protesting payments made to the City, then a person who has made a payment to the city, of whatever nature, shall protest at the time of paying such payment, or within 30 days thereafter, by filing with the City Clerk a written statement setting forth the grounds on which the protest is based, the true value of the money in dispute, the date when the payment was made and proof of the payment.

(b) If no other procedure is established by law for protesting payments made to the city, of whatever nature, and a person has made a payment to the city prior to the passage of this ordinance, such person shall have the right to protest the payment provided the statute of limitations has not expired on the claim, and the claim is filed within 30 days of the passage of this ordinance with the City Clerk setting forth therein a statement of the grounds on which the protest is based, the true value of the money in dispute, the date when the payment was made and proof of the payment

(c) The City Clerk shall set aside, in a separate fund, all or part of such payments which are in dispute under subsection (a). Within 60 days after the filing of the protest under subsection (a) or (b), an Administrative Hearing Officer appointed by the City Administrator shall hold a hearing on the protest. Notice of the hearing shall be given in writing to the person protesting the payment at least ten days prior to the hearing and presentation of evidence shall be in accordance with the rules and procedures established by the Administrative Hearing Officer. A record of the hearing shall be made and upon hearing the evidence, the Administrative Hearing Officer shall rule on the validity of the protest within ten days after the conclusion of the hearing. Any person aggrieved by this decision, including the city, shall, within 30 days after notice of the ruling as required by Chapter 536 RSMo., file his or her administrative appeal pursuant to the rules established in Chapter 536 RSMo., for review of a contested case in the circuit court of New Madrid County. If no action is taken to appeal the decision of the Administrative Hearing Officer as required by Chapter 536 RSMo., the decision shall be final.

(1) If the protest is invalid the City Clerk shall, when such decision is final, disburse to the proper official the funds impounded as authorized by the laws of the city.

(2) If the protest is valid, then the City Clerk shall, when the decision is final, refund to the person who protested the payment in the amount found to be invalid, plus interest computed at a rate equal to that received on the city's average daily collected bank balance on the sum from the time it was paid to the city.

(d) Nothing in the section shall preclude the city from exercising its rights to determine the enforceability and applicability of this section when a person challenges such authority wherever and however such rights may be asserted under applicable law.

SECTION 2: SEVERABILITY OF CLAUSES

It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

BE IT FURTHER ORDAINED THAT THIS ORDINANCE SHALL BE IN EFFECT FROM AND AFTER ITS PASSAGE AND APPROVAL AND ANY ORDINANCE IN CONFLICT HEREWITH IS HEREBY REPEALED.

READ TWO TIMES, PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF JANUARY, 2011.

\_\_\_\_\_  
Donnie Brown, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney