

City of Lake Lotawana

Board of Aldermen Meeting Minutes

October 18, 2011

I. Call to order

In the absence of Mayor, Howard Chamberlin, Mayor Pro-Tem, David Welsh called to order the meeting of the Board of Aldermen at 7:00 pm on October 18, 2011 in the Board Chambers of the Municipal Building.

II. Roll call

City Clerk, Rhonda Littrell, conducted a roll call.

Mayor Howard Chamberlin - Absent

Alderman David Welsh – Present

Alderman Scott Miles – Present

Alderman Terry Reed – Present

Alderman Carl Calcara – Present

Alderman David Needles – Present

Alderman Chuck Falkenberg – Absent

City Clerk, Rhonda Littrell, declared a quorum was present for the meeting to proceed.

III. Approval of Minutes

Regular meeting September 20, 2011

Alderman Calcara made a motion to approve the September 20, 2011 regular meeting minutes as submitted. The motion was seconded by Alderman Miles. Terry Reed – Rhonda, I would just to like to ask our policy when you transcribe these. Is there a policy to put everything that is said down or do we eliminate certain language? Rhonda – There is really no policy, but I was asked by the Board to put down who is speaking and it is very hard to do that if you don't do it basically word for word. Terry Reed – Right, you are recording this right now, so you have a complete transcript. I am not picking on you; I am just trying to figure out what our policy is in terms of providing a complete transcription of exactly what was said. What is our policy if you decide to change that for some reason? I am hoping that it would be something some of you guys would discuss. One reason I am talking about this right now, is we established a policy or we discussed this since I joined the Board to provide a more detailed synopsis. Barb Cooley has in the past said to me that she doesn't really need to send a reporter to City Hall because she publishes the minutes. Now I am noticing that the minutes are not in the paper in their entirety. I guess my question is where does the public go to see the unadulterated minutes of what is said here. Rhonda – They come to me and request a copy of the minutes. Terry Reed – But these may not be completely what was said, correct? Rhonda – The minutes that you are approving right now, they are not an exact word for word because sometimes I cannot hear or understand what is being said but they are almost, as close as they can get an exact word for word. Alderman Welsh – She is not editing anything. Alderman Miles – They can also make a Sunshine Law request for the tape, too, can't they? Rhonda – I would have to ask the City Attorney.

They can come in and get the minutes you approve which are almost a word for word transcription of what is recorded. Now, as I have said sometimes I cannot understand what is being said because there is paper rustling or some noise is made that I can't hear, so I have to take the context around it and figure out what is being said or if it is something that does not seem to be important to leave it out because I cannot hear what is being said. They are almost 95% word for word. Terry Reed – So the only time you deviate from what was exactly said is just when you are confused or when? Rhonda – When I cannot literally understand what is being said because of noise or whatever. Terry Reed – The reason I am asking this, is I have had several people in my precinct ask about minutes where they can see them and in this last edition of the newspaper there was a big chunk that was condensed down to sort of a paraphrase of what was said. As you probably know we have had some very controversial Aldermen meetings recently. The paper didn't reflect what was really said. My question is when you send these to the paper are they being edited by the paper or are they being paraphrased by you guys? Rhonda – All I can say is that I send what you approve, the same document you have in your hand, I go into my computer after you approve them, open that document up and send it to Barb Cooley. Alderman Miles – So the Lotawana News is doing the editing. Aldermen Welsh – They are doing the editing. If you have someone that asked you, if they read the paper and the wanted to, they could contact her, request a copy at City Hall. Terry Reed – I think we discussed in the past publishing the complete unedited minutes on the City website. Haven't we talked about that in the past? Alderman Welsh – I don't know but we can look into that. There is nothing wrong with that as long as it is not some undue burden or changes the fees that we are paying for the website right at the moment. But we can look into that. Terry Reed – For right now if someone wants to see the complete minutes, Rhonda is that an official Sunshine request? Rhonda – They can come in, I have a form, someone has already come in this week and requested it, I handed them a request for records form. They filled it out signed, I signed it approving giving it to them, dated when I gave it to them and made a copy of the minutes and gave it to them. Alderman Miles – That brings up a question, Barb is not publishing them because she doesn't want to. It is just because they are 40 pages long now, right? She only has so many pages in the paper.

Alderman Welsh – Let us keep going on this and come back to this under Alderman Concerns. The minutes were approved with the following votes:

Alderman Welsh – Aye	Alderman Calcara - Aye
Alderman Miles – Aye	Alderman Needles – Aye
Alderman Reed – Aye	Alderman Falkenberg – Absent

Special Meeting September 27, 2011

Alderman Calcara made a motion to approve the September 27, 2011 special meeting minutes as submitted. The motion was seconded by Alderman Reed. The minutes were approved with the following votes:

Alderman Welsh – Aye	Alderman Calcara - Aye
Alderman Miles – Abstain	Alderman Needles – Aye
Alderman Reed – Aye	Alderman Falkenberg – Absent

Special/Work Session Meeting October 4, 2011

Alderman Calcara made a motion to approve the October 4, 2011 special/work session meeting as submitted. The motion was seconded by Alderman Miles. The minutes were approved with the following votes:

Alderman Welsh – Aye	Alderman Calcara - Aye
Alderman Miles – Aye	Alderman Needles – Aye
Alderman Reed – Aye	Alderman Falkenberg – Absent

IV. Consideration Of September 2011 Financials

Alderman Welsh presented the financial report to the Board. For the General Fund we have ended the month with the revenue for the month exceeding the expenditures by a little over \$600. The revenue has exceeded the expenditures over all for the year to date through September by a little over \$14,000. We are on track for the year. The biggest revenue source for the City is in real estate taxes and we have about 2/3 of that revenue source to come in before the end of the year, November and December are the big months for that. In generally that works out but it is one of those things that kinds of makes if kind of nervous when you are not sure how it is going to work to cover. In any case that is on track. The other budgets, individual line items are on schedule pretty real, so we are okay there. I do want to make some comments about the budget itself. The Police Department appears to be going very close to being on budget by the end of the year; by the end of next month we will have a sense of whether that budget is going to be a problem for us at all. The legal budget for the City we know we are going to be going over by quite a bit. I will ask that Staff and Alderman, please before consulting with the City Attorney to check with the Mayor or myself because we're trying to cut back on how much we use that line because it is going to be very tight by the end of the year. On the Sewer Fund, revenues exceeded the expenditures by a little over \$1,600 and so far to date for the year the revenue has exceeded the expenditures by about \$115,000. The Sewer Fund is in good shape. We are working on the budget for 2012, it is virtually finished. We will be presenting the first reading of the ordinance to pass that budget in November with a second reading in December. We are going to probably finalize how that budget however way that budget ends up in the work session in November.

V. Approval of Disbursements for September 11, 2011 thru October 10, 2011

Alderman Calcara made a motion to approve disbursements from the General Fund in the amount of \$62,148.37, Check Numbers 37979 thru 38031. The motion was seconded by Alderman Miles. The General Fund disbursements were approved with the following votes:

Alderman Welsh – Aye	Alderman Calcara - Aye
Alderman Miles – Aye	Alderman Needles – Aye
Alderman Reed – Aye	Alderman Falkenberg – Absent

Alderman Miles made a motion to approve disbursements from the Sewer Fund in the amount of \$126,667.77, Check Numbers 24477 thru 24507. The motion was seconded by Alderman Calcara. The Sewer Fund disbursements were approved with the following votes:

Alderman Welsh – Aye	Alderman Calcara - Ay
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Alderman Miles – Aye
Alderman Reed – Aye

Alderman Needles – Aye
Alderman Falkenberg – Absent

Mayor Pro Tem David Welsh made a modification to the agenda to bring the report from Olsson Associates up to this point so that we can get to that little project if we could please.

VI. Report from Olsson Associates concerning sewer system

Kevin Waldron with Olsson Associates – I have a couple of handouts for you. Basically that is the timeline schedule that comes right out of the facility plan that was reviewed in a work session on October 4th. Part of that facility plan was a completion schedule in the back. The facility plan lays out the details of the proposed improvements background on the system, cost, alternatives, recommends and alternatives, and basically the proposed schedule. It's all in line with DNR's directive with your permit compliance schedule. There was a notification, as you are well aware of, that has the City on a schedule to present that facility plan as a scheduled notation by the end of this month, October 2011 so we are working toward that goal. Tonight's report I want to focus more on as an outcome of the work session, primarily how that would affect user charges and the financing plan that would be associated with the proposed set of improvements. Charlie Zinik with D.A. Davidson & Co is going to try to move in here in a few seconds and let him go through that a little bit. I did want to emphasize that the well out come and point of this is to get some feed back if there is any and to let you know/report to you to let you know that we plan on finalizing that facility plan with that schedule attached and submit that on the City's behalf to MDNR per their request before the end of this month. We do have a schedule that we are trying to work towards that they have requested that we use so we can and will have to make that happen. There was just a couple of things that came out of the work session. Some questions and some discussion that I am aware of. Primarily the main item was the way we dealt with a look at population growth and the sizing of the new facility, the wastewater treatment plant. Just wanted to report back to you that the final report will reflect some refinements on that methodology but the basic outcome was the same. The plant sizing did not really change. It was just the way we presented it with some of that background data. We will continue with a modest percentage of growth that basically mimics what you've seen historically over the past years. I didn't understand that there was any difficulties with that. Basically the bottom line is we are looking at pretty much the same size of project in the budget. About a 3.1 million improvement for primarily wastewater treatment plant improvements. You have some ongoing efforts that you are conducting in house staff to rehabilitate the collection system. Those are acknowledged in the report and facility plan and will continue to be that way. The way we talk about finances tonight will kind of deal with both of those parts of that project. If there are any questions I will take them first or I'll turn it over to Charlie to talk about the financing. Alderman Miles – Are we going to have those revised estimates from you calculations before you guys submit the envelope? I thought we wanted those for tonight, didn't we? I thought that was our request. Revising the assumptions along with all models. Mr. Waldron – Basically the report is that the assumptions are sound. It is more the way they were presented in that report that led to

misunderstanding. Alderman Miles – We challenged some of the assumptions. Mr. Waldron – Is that right? Alderman Miles – Yes. Mr. Waldron – We do not have an additional packet of information to present to you on that. There will be some revisions to the methodology in the final report. The bottom line is the plant size remains the same. As far as what the basis is the outcome of that methodology, the growth projections were agreeable as I understood it so the sizing of the plant stays the same. Some minor tweaks to the construction cost estimate. For instance, I think Charlie will get into this a little bit; the construction estimate included decommissioning of the existing plant. One of the bond covenants of that loan attaches to the existing plant that it remain in service or available for service. It is more of a moth ball rather than demolish and take it out. That saves you a few dollars in the budget there. Alderman Welsh – It sounds like if this has to be turned in by the end of the month that we may need to schedule a special meeting to go over what it is you're submitting prior to the end of the month. Mr. Waldron – We would not be disagreeable with that. Alderman Welsh – When I talk to the Mayor tomorrow, I think I will say we need to think about doing that in order to be able to be sure we are all on the same page before it gets submitted to DNR. Alderman Reed – We were given three options as I recall. Are you zeroing in on just on specific option? Mr. Waldron – Yes, the recommended alternative was alternative number 1. I don't know if you all have the facility plan graph that we provided. It amounts to a new treatment plant adjacent to the existing rather than some method of reusing of the existing and splitting flows between new and existing plant keeping it in operation. It has some advantages and that is the recommended alternative. Alderman Reed – There was one option that was over six million dollars as I recall. Mr. Waldron – That was the oxidation basin. This would be the sequencing batch reactor or SBR is alternative one. Alderman Reed – Olsson is not going to try to present the viable option of doing that is that going to be presented to us as a positive or just eliminate it because of our budget constraints or our perceived budget constraints. Mr. Waldron – It would be maintained in that plan as a comparative just so that we can establish that you have looked at a number of alternatives and not just selected one. We would continue with the recommendation of alternative one which is the sequencing batch reactor as a new plant versus the second alternative which was basically split flow to the new plant SBR and the existing plant that you have. Alderman Needles – Number two option required that the existing plant function. Meaning that we could build new in, the weak link is the existing plant. We could have new equipment there and the plant shut down and our new equipment would be useless basically. Am I correct on that? Mr. Waldron – Alternative two that would be to make some modifications to the existing plant to keep it in service throughout the planning period then install an additional smaller new plant. They would both work in cooperation. Alderman Needles – It would still depended upon the old plant functioning? Mr. Waldron – Correct. Alderman Needles – The three was just basically too much money. Mr. Waldron – New style treatment but all new plant although adjacent. Alderman Needles – It had significantly higher operating costs also as I remember. Mr. Waldron – In the relational operating costs, they are not too far off. There are some additional operating costs. Alderman Needles – They are significant is what I remember. Mr. Waldron – About \$10,000 difference, \$130,000 a year for O&M costs for option 3 versus \$120,000 for option one. Alderman Needles – There certainly

something in there for considerably more but I can't remember what it was. I don't have my book right with me. Mr. Waldron – It was the second option. That would make sense if you were having to attend to two separate plants that you would see some duplication in costs. If there is a slight confusion there, I apologize for that, I think you probably have a good idea of that we would want to have one more session to make sure we have it all covered. We certainly wanted to come to you tonight to report to you that the most substantial changes based on the discussions of October 4th of the draft. We want to advance things forward as you have got a schedule to stay on.

Alderman Needles – As we operate now, of course it is dry weather, we are pumping down the EQ basin, everything is working fine, we are clearing up our I&I, it becomes a little bit of a harder sell than it would be maybe in April when it is raining cats and dogs. I am a little more optimistic that the I&I is going to help more than Olsson projects.

Alderman Miles – Wasn't what they said 10%? Alderman Needles – Yes, I am thinking that we are even going to maybe double that.

Mr. Waldron – There are some significant sources down there that we found with smoke testing.

Alderman Needles – I guess my question is if we, it does boil down to money of course, can we do this report due here in October would we have the option not to pin down a like a 2013 completion date? Can we extend that out, will that be an option in that report?

Mr. Waldron – It is a hard sale right now. As it is presented it is not explored that way. I think you might be swimming upstream a little bit with regulatory pressure. Last correspondence I saw said the City had been referred for some enforcement action that there had been some additional attention that they needed to see some things happen. Not to say that the results of continued attention to I&I sources of flow reduction and the improvements that might result in couldn't be factored into as the design of the treatment plant is developed. One thing about peak flows and wet weather flows is that they driving the plant size and the type of the construction is more than drives this. How you deal with wet weather flows is nearly a separate issue, not totally but nearly.

Alderman Needles – In that meeting the fact that we were turned over to enforcement it simply wanted to pin us down to some milestones in completing the I&I is what my understanding was. Not expanding the plant. I wish Mike was here because he may have a better memory than I. You guys were there, did we really talk about plant expansion at that or was it a milestones in fixing the I&I rather than expanding the plant? I'm just trying to get a little buffer in there. We are prepared for three years budget wise and planning wise. We were going to ask for five in hopes that the plant doesn't blow up and we have to divert funds to fix that. You're looking more into 2013 and we're looking more into 2017, I would say.

Mr. Waldron – How do you look at the pressure and requirement for time of implementation the requirements there is certainly variegated. What we were proposing was that you move forward very methodically on a spelled out schedule and that you're moving towards the replacement of that plant with the retirement of the existing plant at least mothballing. Move into the new facility more or less directly.

Alderman Needles – I am just looking for a little extension in this new plant situation. Is that possible? I think the enforcement and their urgency was on fixing the I&I and I didn't really get a new plant expansion out of that at that time. All I am trying to do is stretch the money out.

Alderman Miles – This letter of commitment that they are going to sign us to is a negotiation. Why would we go in with an aggressive agreement like this up front? It is negotiation strategy and

you're throwing out here's an aggressive schedule that we are going to get to in day one in a commit letter. I am not sure I agree with that. Alderman Needles – I am trying to extend this out a little bit. Like I said we planned for three years by budgeting. Hoping if they said three years, okay that is what we are going to do. If they said five years, okay we are going to take a deep breath and we have a couple of years built in case we do have a problem with our plant which we know is under performing. Alderman Miles – I would hate to run into a problem and we can't hit this commit time table. When we ask for a longer time table for two reasons. One is potentially negotiated back, a negotiation strategy. Two as Dave said for budgeting. Alderman Welsh – Is this a situation in which the City has to participate in a negotiation with DNR? It is not completely on their shoulders, right? Alderman Needles – They also said even in if we establish these points along a timeline where we will have this complete. They said if you come against this and see you are not going to do that prior to that point, we will negotiate with. We will let you extend it. When we talk enforcement we are kind of scared. They weren't pounding their fist on the table. They were very agreeable, very flexible in my opinion. If we build this schedule here with a November 2013 are we going to be able to say then, look we are really wanting to extend this out to 2017 because our plant it limping along quite nicely. The I&I has really helped us in terms of the plant. Mr. Waldron – It is those kind of concessions that are difficult to get in advance and pretty much unlikely to get that in advance forward. Notwithstanding the conversations that you have had and that there is some reasonableness aside to any kind of what they like to call notice of violation is you have a problem with the plant and you have to bypass. You have to go back to parts of the treatment, we don't like to use the B word, the blending word, but if you go back to the blending operation you've had to do to maintain the best quality treatment you can, that is still a violation. If you have a equipment failure problem when in the winter time freezing of some of the process lines problem, then that could lead to an upset, could lead to a bypass or an out of compliance issue. The only thing about it is the longer it goes, the increased opportunity for those kinds of things to add up on you. Summarizing, certainly it is your prerogative to seek the best sense of how they will deal with you in the sense of how you want to deal with them and what you want to propose. That's basically why we are here to report that is not an overly aggressive schedule but it is rather a methodical step into it to begin the process. To give them some not difficult to achieve dates. Then to talk to give you a little report of how that such plan as this would affect financing option rates and budgeting. Alderman Welsh – This is in a sense giving DNR dates that they're going to be comfortable with too start of with in October of 2011. When they see this now that shows good faith on the City's part to try to meet these dates. What Dave is saying once we get into this thing we need to be sure we have the leeway to being able to adjust them as we go through this schedule. Alderman Miles – There is two ways we can approach that. One is giving them a statement right up front and saying we need you guys to be flexible or two is give them a date that is further out and we will do the best we can to draw it back. Alderman Needles – If we have a special meeting those are the kinds of questions we would ask again. Mr. Waldron – I think that is probably just another good reason why we should have that session. With the task that we need to come to a summary this is the kind of schedule we are comfortable submitting. Not necessarily that this is the best possible schedule we could ever meet

under duress, but it is something we are comfortable with and we can manage to. Keep in mind the context may shift a little bit if we talk about those items and move forward.

Alderman – It would stretch things out. Mr. Waldron – I think you would probably say something about the two existing loans, the farther we are from today the more market uncertainties become, the financing options change, rates change and they are not likely to go lower.

Alderman Needles – We have had an underperforming plant from the beginning, some mistakes were made. I don't want people ten years from now say boy did those guys screw up.

Mr. Waldron – This plant will be solid.

Charles Zitnik with D.A. Davidson & Co – What we tried to do here is provide a snap shot of the situation finds itself in. As background in your newspaper is an article about the refinancing we just did for Water District #15. We do a great deal of finance throughout the State. We set up 50 to 60 financings per year. This probably isn't news to you but you're not in a unique position. The Department of Resources in moving aggressively against a number of communities with respect to discharge. City of Versailles in my most recent example. We are working with Versailles which has a population of 2,400 to 2,500, down in Morgan County. Versailles is putting in a nine million dollar sewer treatment plant. DNR didn't give them a choice. DNR told them how it was going to be. They have the unfortunate situation that they have already moved over to the enforcement side and they are subject to enforcement action. You may be in a far stronger position than they are at the moment. What I tried to do here and I will give you all of my exceptions in fine print and then get into some of the details. We have done a very rough analysis on the financing that is in place on the system and then when get to our projections we based it on 1,200 connections. We have not done a dynamic forecast; we have done a linear forecast in fact on rates based on 1,200 connections. We did a base charge versus a per 1,000 charge or that kind of thing. I would say from school this is a \$30,000 view not a "on the runway" view. To start of with, this is just a summary of where you are, if you all start nodding your heads like this is all old news, I'll stop. You've got an existing loan right now through State Revolving Fund with about \$600,000 outstanding on that loan. That loan has a final maturity in 2020. That loan has 70% subsidy on it from the State, and so your rates are between 1½% to 2% cost to the City. Even after rates have dropped so much that is a very favorable loan. In addition you have 2 lease agreements or depending how you want to look at it one lease agreement with an amendment for an additional borrowing. The total payment on those is about \$300,000 and those go out to 2030. We don't have the records on your original SRF loan from either 1998 or 2000. In fact we can't even determine, we think it was done in 2000 rather than in 1998. Our numbers are based on estimates from the information we have. On "The 'Can't' Slide" page of the handout, One of the covenants of your lease financing, the two loans you did about five years ago, is that you pledged that asset, the treatment plant to the lender in that case. You don't have the ability to take that asset out of service. In other words you cannot dismantle it but you can take is out of service. I think the term the engineers gave you is you can mothball it as long as it can be put into service theoretically at some point but you can't dismantle it. If you do that loan is due and payable. The penalty on that loan is about \$800,000 to repay it. It has a severe penalty for pre-paying it. It was just part of the loan package structure. With respect to your State Revolving Fund, the good news on that is you wouldn't want to touch it. It is a great loan. There would not be a reason to

suggest any kind of early payoff and refinancing of that loan. What Kevin Adam had us do is try to model based on the premises that I just gave, what would a new look like and what is the minimum way to impact the rate payers, the customers. What we tried to do since neither of the loans based on the prepayment criteria of one and the good terms on the other, since we can't really touch those loans on a refinancing, we leave those in place and try to model a new financing around those loans. In order to do that what we also came up with is you have a payment right now of about \$910,000 per year on your three loans. That is going to go on based on what we are laying out here it would go on for two years. In two years that payment would go up to about \$1,075,000. There isn't a way unfortunately just mathematically to smooth out that bump, but that bump just over a million is going to drop down significantly in 2021. In fact it is going to cut down to about \$680,000. I would love to tell you we could smooth that out and keep it level but mathematically it doesn't work since we can't touch the other two loans that the system has on it already. The reason I gave you the exceptions and conditions of this report was with respect to the "Summary" page to give you just completely on a linear basis what does that mean to the rate payer, what does that mean to the customer. A rough calculation based on assumed interest rates and assumed loan terms. Currently with 1,200 customers at \$912,000 per year of debt service it is \$63.50 per month per customer. Your operational cost from your 2010 audit is \$54.00 per month per customer. Our measured impact analysis would be that in order to do what I have just outline for 3.3 million, the impact to the rate payers is going to be \$11.50 per month and then that will decrease to \$47.00 per month beginning 10 years from now. That is assuming that no other improvements are made to the system. Alderman Reed – So on page seven we are basically adding the \$11.50 to the \$63.50? Mr. Zitnik indicated that was correct. Alderman Reed – When you add the \$54, which is based upon what you are proposing the operating costs. Would it stay \$54 on new plant? Mr. Zitnik – Generally speaking the Engineers indicate if the operating costs will remain constant to your current operating costs. Whether it is new plant or old plant. Perhaps with a decrease but it wasn't measurable. Alderman Reed – The agreement that some other administration entered into, we're stuck with that completely? Mr. Zitnik – Yes, from an interest perspective it is a good loan. The interest rate is, I am doing this from memory, I think your interest rate is 4.65 is the average that is not a bad loan. The penalty for breaking that loan early is unbelievable and it is 20% of the loan out. Alderman Miles – On the leases? Mr. Zitnik – Yes, it is called a breakage fee. There are derivatives underneath that lease that gave the City a fixed interest rate. The lender on that opted for the benefit of the City opted to swap floating interest rates for fixed interest rate. If you want to refinance that, you have to pay the breakage fee to do so and in talking to the financial advisor the breakage fee is about \$800,000. Alderman Miles – Those were actually written as leases and not as loans? What assets did we use to under write those leases? It was indicated by Mr. Waldron that it was the plant itself. Alderman Welsh – This is all the more reason why we need the meeting before the end of the month. We are missing one Alderman plus we are missing the Mayor so we need to have another meeting. Mr. Waldron – I would agree. It is a lot to absorb, but I know you have been following this. We have had some work sessions but to get to an agreeable point to move forward, I would say that that is a wise decision. Alderman Welsh – What reaction, based on what you've with

other cities, what would DNR's reaction to this plan? Mr. Waldron – I think as it is constituted they will be exceptive to it and consider it reasonable. There will never be any promises in advance as to what they might do should any difficulty, violation or problem be encountered along the way. The reasonable approach to solve this problem always leaves the City in a better position than resisting the action and delaying it.

Alderman Calcara – Under the summary you had the reduced debt load beginning in 2021 at \$65.50 to \$47.00. Where does the \$65.50 come from? If you take the \$63.50 and add the \$11.50 it is like \$75.00. Should that be \$75.00 to \$47.00? Mr. Zitnik – Your debt load, not operating cost is \$63, then that portion of the debt goes away when your SRF loan is paid off and will drop down to the number indicated. I stand to be corrected, I see a typo. It should be 63.50. Alderman Needles – The \$11.50 doesn't have anything to do with that number at all? Mr. Zitnik indicated no. Alderman Welsh – Thank you very much. We will back with you guy if not tomorrow the next day to set a time to for a work session next week.

VII. Department Reports:

A) The Administration report was presented by City Clerk, Rhonda Littrell. A renewal notice has been mailed out to all of the businesses required to have a liquor license. In order for them to have their 2012 liquor license approved before their expiration date of December 31, 2011; they will have to submit all of their paperwork by the end of November so the Board can approve the liquor licenses at the December Board of Aldermen meeting. The business license renewals will be mailed out in November. For the month of September there was 1 business license issued for a total of 181 business/liquor licenses. Compared to 8 business licenses were issued in September of 2010, for a year to date total of 183 business/liquor license. The monthly sewer billings and past due notices were mailed out. There were 8 disconnects for past due sewer bills this month. Alderman Welsh – On the September financials, the annual budget for business licenses, that includes the Quarry fees, for this year, right? Rhonda – No we have not received any Quarry fees the year. Alderman Welsh – I know but what I am saying is the \$30,000 that is budgeted does. Rhonda indicated that it does. Alderman Welsh – We have received roughly around \$12,000 and the Quarry fees would be the difference. Rhonda indicated that was correct.

B) The Planning and Zoning report was presented by Frank Davis. For the period of 8/11/11 to 9/10/11 the Inspections Division completed 74 site visits, 32 property inspections, issued 20 new permits, closed 23 permits, and issued 4 stop work orders; however that needs to be amended. We went back through about 23 or 24 permits that were approved by the Association and never were picked up from us. These were applications that were submitted to us from the Association prior to the Association actually forwarding their original permit to us for the applicants to pick it up. We went through those last week and issued 8 or 9 more stop work orders for projects that had been done without a City permit. We resolved 3 stop work orders. As of 9/10/11 there are 46 open permits which include 6 sewer repair permits. Cumulative totals since May 25th are 249 site visits, 111 property inspections, 12 stop work orders which is not about 21, 4 processed complaints

for weeds, and 100 permits issued. For P&Z – The Pipes annexation, I did meet with Mr. Pipe’s business manager and Mr. Pipes again last Friday morning I believe it was. They had to come up with a couple of different ideas on the things they want to do to the site as far as re-platting to make their site plan work. They are aware and they inform me that they are going to an environmental survey. They are working with MoDOT for a permit for a large sign that can be seen from 50 Highway. We talked about different scenarios that they could pursue as far re-platting in making all of it work. It is still a work in progress. They expressed the desire to annex but I still don’t have anything to present to the Board as far as site plans is to be considered. I will continue to keep the Board updated on that as we continue to go along. We have done two re-plats so far. We have done one variance for a property in T block for a new garage. We have another Board of Adjustment meeting scheduled for later this month for a new build going in over at H block. Alderman Miles – T-131, you guys granted that variance? Mr. Davis – That was a re-plat. Alderman Miles – That was a re-plat? Mr. Davis – Yes sir, those are second tier lots; we actually re-plated to include R-131 and R-132. They’re right across the street from R-67. Alderman Miles – No, I’m talking about T-131. Mr. Davis – Oh, T-131, yes there was a variance approved for a garage addition at T-131. Alderman Miles – I talked to Dean they are going to have a hard time fitting it on the lot. Where did you all end up? Mr. Davis – It’s on the lot. It was about 4 foot over. If you are familiar with that property, he has a lot of stuff piled up all around. His intent is to build a garage so he can store that material. Which hopefully he will or we will have to take action. It is not acceptable the way it is. However I recommended approval to the Board of Adjustment for that project, it meets the same setbacks with the garage addition that most of the properties along that line of the street meet. It doesn’t present any line of site problems and there is no height problems. There is nothing there that I know of that would prevent him from putting a garage on there. Did you have particular concern about it? Alderman Miles – No, I just saw the plat form Dean and the plat that was given show the garage actually over the property line. Mr. Davis – That is why he had to get a variance. If I remember right it is about 4 foot over. I can double check that and call you tomorrow if you like. Alderman Miles – That’s fine, if you guys are confident in your decision that’s fine. Mr. Davis – As far as the variance goes. We have not received any building or started any inspections on it yet. When we do rest assured we will do our due diligence on it. Applications for new construction/plan reviews, we have received four new sets of plans for new builds, two at in R Block, one at R-67 and a guest house for R-68, one on Goat Hill for O-25, and two sets one is a house remodel at Z-35 and the other one is the conversion of the garage for that structure on second tier into a primary dwelling. Currently the estimated permit fees for the two residences in R Block and the one on Goat Hill are \$16,500. That does not include landscaping, retaining walls or a swimming pool proposed on that site plan. We are working with the builder on that now. I was out there Friday morning talking to gentleman doing the landscaping out there. There is some fill out there from the previous attempt at building a structure there. We’re not exactly sure how deep the fill goes in some areas. We want them to get down to natural soil so that the elevations on

the site plan can be adjusted since there is a proposed retaining wall, a swimming pool and those kind of amenities in the rear yard of the structure facing the lake. There is a few issues there we need to work out with the builder as well. We will keep everyone posted as we go along with that. Issues that we have discussed with the City Attorney include a property in V Block that has been ongoing since I arrived. We have made a serious attempt to rebuild a few, if you will a file so that our file is more complete. It is correspondence and inspections of the property that involves a swimming pool as you may remember and a retaining wall that wasn't permitted. Charlie has gone to great lengths to meet with property owners and the electrician. The electrical and bonding for the pool has now passed inspection. The main discussion we had with Paul is about the retaining wall since it is not included on the actual construction permit. The conclusion we came to is we are going to ask the property owner to sign an affidavit. We have a letter from an engineer that he sent us that explains to us how to build a retaining wall of the type that has been constructed on the property. Paul assures us if he signs off on this affidavit saying that he built it to this specification the City's liability at that point is basically zero. We are going to present that to him this week, hopefully he will sign off on that and that case will be closed. The other thing we talked about was roadside setbacks. There seems to be a lot of discussion about that. We are getting a lot of requests for garages. Set backs from the road. I have been talking to Mr. Rudder with the Lake Association about roadside setbacks. There is a lot of variance around the lake in distance from lot lines to the road. In a lot of instances the lot lines actually goes out into the road. In fact there are actually survey pins in the road in some areas. We are trying to find something that we can propose to the Board for your alls consideration that will set some type of equal standard for setback. We are talking about 20 feet right now from the road. That will not preclude variances if something is proposed to go over a lot line. However we feel right now that 20 feet is probably an acceptable amount of setback from the road since from our discussions with the Lake Association that road is never going to move. It is never going to be widened. It is never going to change per say from its current configuration. That is something we are looking at. We wanted to get Paul's opinion about that as well since there are some legal ramifications. When we get to a point where we are comfortable with something we can present to the Board, I'll bring that forward for your consideration probably this winter. Alderman Welsh – How is the special permit thing for the Quarry coming from Paul? Have you talked to them recently? Mr. Davis – I talked to Jennifer, I expressed your concern that we have something to present to the Board at the November workshop. She was very amenable to that. She said that she amenable to come to the workshop if you like to help with the presentation of that. I think that is probably a good idea. Alderman Welsh – We want to have the ordinance ready to go by November so we can pass it in December. Mr. Davis – We are well aware of that and that is our goal. Also, on that note we talked to Paul about permitting fees for the businesses in the Quarry area. He indicated that we cannot do that without a ballot issue because it is considered additional taxation. I don't know the particulars of that. Alderman Welsh – There is a precedence for that. Mr.

Davis – That was his opinion so I guess we will have to run with that for the moment. I do recommend that we take another look at that because a \$100 permit for a six million dollar business just doesn't seem appropriate. Alderman Reed – Why can't we leave that alone, leave it as it is set and enact environmental impact fees? Why can't we something that's layered on businesses that are hazardous or require a lot of your time for inspection? To monitor them in conjunction with DNR that will eat up a lot of your activity or Thomas's or someone. Have you ever looked in your background with your other cities you've worked for? How have they addressed that? Mr. Davis – I have never worked with a city that have a quarry that I have had to monitor. The only city that I worked for that had a quarry was Independence. Our engineering division handled that along with our legal department. They have an in-house legal department there. I am preparing a report now for the Mayor and Alderman Welsh that outlines the meeting with Jimmy Coles concerning that issue. I think there is going to be a considerably amount of burden on the City to monitor the Quarry site and insure that certain situations are not there that we need to be aware of. DNR is not going to be responsible for a lot of the type of situations you are talking about. I think we are going to give them the reports later this week. It will probably be something you will want to read so that we can discuss that. Mr. Reed – I have been doing a little bit of reading. We have talked about as a group and I know you have been involved in a couple of discussions about special inspections. I believe the last time we spoke about this you were of the opinion that our ordinance would accommodate the ability to have special inspections. Mr. Davis – I believe the ICC books that the City adopted allow for that. Mr. Reed – What about the concept then of having a special inspector hired that would inspect the Quarry on a periodic basis and all of those fees get loaded on to the Quarry? The periodic special inspections every 30 days, 90 days or whatever we come up with. I did find a company out of Jeff City that does clean air sampling and the water. It is my thought since we don't have the expertise to really do that why don't we look at having a special inspection process for industry for the things that really require expertise, special equipment and lots of time. We don't make that a part of the license fees, it is almost like keeping your license in effect. Keeping your City license current. Mr. Davis – At this point I think something along those lines is highly conducive to what we will end up with when it comes to facing monitoring the Quarry and the business in the Quarry. They could have 50 businesses in there and we wouldn't know it unless we were actually going over there on inspections. Alderman Welsh – Why don't we when have the workshop when we are talking about the new conditional permit thing is going to be that we be prepared to add what you are talking about into that conversation so that we can package it. We don't have the answers to it right now. Mr. Reed – I would like to back up to the company/people building the house on Goat Hill. This gets back to the special inspection provisions that I am really encouraging us to adopt. Is that the property that Mr. Greg Short used to own or still owns? Mr. Davis – I am not aware of that. Mr. Needles indicated that it is. Mr. Reed – That was deemed unsuitable for construction when he was going to build there. That is why he stopped. This brings up instead of us second guessing that. If we had a special

inspection ordinance in effect or use ICC as our fallback position. It is my feeling that we should a geological survey on that property at their expense making those determinations making those calls. Traditional boring for example and see how deep they have to go to get through to shale. This maybe a futile exercise by a new owner trying to build on a place that really is unstable to be built on. Mr. Davis – It could very well be and the burden is on him to prove that. Now I have been in many situations like that in the past. Particularly in commercial construction. Where piers had to be installed to hold up buildings all the way to bedrock down to forty feet to make sure it was stable. We had special inspectors to come in to do those types of inspections. I am certainly on your side with that. We definitely need something in the code book that gives us the flexibility to bring in special inspectors for anything outside of the expertise we have in-house. We just don't have anything in the code book at this point that gives us that flexibility. I have talked to Paul about similar situations for ICC's so that we could do this or we can do that. He is of the opinion and I will attend to agree Code book supersedes that. We don't have anything in the Code Book right now that allows us that flexibility. What is mentioned in the ICC books is rather vague. It is not really specific in what we would want to be able to do. That is something that we are looking at right now. I wish it was something that we could facilitate and bring to the Board faster for you all's consideration. With the load that we have right now I don't know that we can do that. Not only that but we need the availability to hire third party reviewers for full residential and for commercial construction. That is a very normal thing for smaller cities to do. We just right now do not have the flexibility to do it or I would be doing it. Alderman Reed – Why don't you whip up an ordinance for us to consider if you need it? Mr. Davis – You've got it right after I write it. Mr. Reed – We could do this is a workshop but I just have two more quick questions. Mr. Davis – In fact, if fact if you like I will get with Charlie and we will make a point of getting that ordinance ready for you guys to look at in the November work session. Mr. Reed – This is ordinance related as well. I think we discussed also the ordinance perhaps mirroring Kansas City's ordinance about ICC upgrading for inspectors. The 18 month rule that we talked about. Has Charlie made any progress? Mr. Davis – He has. Alderman Welsh – Is this stuff we need to be talking about in here or is this workshop type of stuff? I would like to move along if we can. Mr. Reed – Okay let's move along.

- C) The Public Works report was presented by Keith Herzberg. We have repaired 6 of our sewer line problems. In between we did have a sewer leak so we did have to shut down to work on it. We are starting to work on the lift stations to prepare them for the winter so they don't freeze up. In the meantime we found two pumps that we are going to have to replace. We will probably be working on those tomorrow. I have been working with Olsson's on the sewer plant. Last month we had 1½ inch of rain and our average flow for the month was 130,000 gallons daily.

- D) The Police Department report was read by Alderman Welsh in the absence of Jeff Rogers. The sirens test that was done on the first Wednesday of the month showed that the sirens that serve the lake worked. For the first time they were triggered by Lee's Summit it was successful. We had people at each one of the ones we expected to go off. One of the sirens that is in our area is the one over at Tarsney Lake that one doesn't work but it's not something that we are as City dealing with right at the present time. The Police Chief is going to meet with the Fire Chiefs for the three districts that serve the Lake this Thursday afternoon. We are trying to put together an Emergency Management Plan. Traditionally those plans are implemented by fire departments not police departments. The City has to figure out a way to give the project to the fire departments. We are in discussion with Bill Large the Chief across the street to take the leadership role on that. It requires coordination with the other two fire departments that serve the city in order to come up with a comprehensive plan. That is in the works. The notebook computer in one of the police cars is beyond repair so they are replacing that. Otherwise the cars are all working. There was a sex offense that occurred in Foxberry that is in the hands of the prosecutor it was presented as soon as the interview with the child protection center was conducted. There were several felony DWI cases that are at the prosecutor's office. Two more will be delivered after an officer makes corrections. One of our officers, Jeffrey, is off work due to an injury. They are changing schedules around in order to be able to make that work.

VIII. Public Speaks

Steve Wagner of G-4 addressed the Board of Aldermen. Two months ago at the town meeting, the public meeting like tonight, I delivered to the Aldermen a letter outlining a problem that I was having with the Mayor about responding to a request that I had made about some records that were open to the Police Department and then distributed. I wrote to you guys two months ago because the Mayor never responded to any of those requests. Never offered anything to me. Now it has been two months and I haven't heard anything from any of the Aldermen. I would like to know why. Alderman Welsh – You wrote a letter to the Aldermen? Mr. Wagner – Yes sir it was delivered in a packet in an envelope like this one. It was delivered to you at the desk. Alderman Welsh – I apologize, but I don't have any memory of that, do any of you? Alderman Miles – I don't think the one Steve gave us requested an action. The one to the Aldermen? Mr. Wagner – The one to the Aldermen was that I wanted an explanation for what happened and if the Mayor wasn't going to give it to me, I wanted you all to give it to me. Alderman Miles – Oh, I took that as an FYI packet to be honest with you. Mr. Wagner – Oh, I still want to know about the records. I still want to know why Officer Miller didn't include the paperwork in the accident file. I want to know why the Mayor took it and then distributed it. Now it has been three months. This is pretty poor behavior. Alderman Welsh – I apologize for not catching the meaning of what you gave to us because I don't think that I fully understood that. Mr. Wagner – How much time do you all think would be reasonable to get an explanation for what happened? I'm willing to talk to you about that and negotiate that. After three months now not hearing from anybody about anything I think it is reasonable that somebody

makes some sort of commitment to me over solving this problem. Alderman Welsh – I will talk to the Mayor about it tomorrow and we will get something back to you by the end of the week. Today is Tuesday so by close of business on Friday we will try to get something to you. Mr. Wagner – Alright, thank you.

Debra Wagner of G-4 addressed the Board of Aldermen. I would like to take this opportunity in Public Speaks to talk about the minutes of August 16th as it relates to what you are going to do later as far as making guidelines and limitations for public speaks. This is a copy of the true as they can be minutes as Rhonda could decipher from that meeting and they are not what was published in the paper. I don't know if anybody else here that was not at that meeting knows what was said. Essentially my objection is that the Mayor and the rest of you Aldermen allowed David Needles as an Alderman to attack the Police Chief. Publically insult and call him a liar. Then proceed onto me to talk about this confidential matter that my husband is talking about that should have never been handed out to each and every one of you. We are talking about what the Mayor obtained this confidential report that I made to the Sherriff's Department. The Mayor handed each and every one of you a copy of that un-redacted with information in it that should have been protected so he violated that also. This is something you all need to be accountable for and certainly the Mayor needs to be accountable for it. Now Mr. Needles goes on to spend more than twelve minutes talking about this incident. Alderman Welsh – What you are going to say, I want you to please not to say anything against anybody that is here in this room. You can describe what happened, but please don't make any. Ms. Wagner – He went on for twelve minutes talking about this incident and then called me a liar in a public session. The Mayor did nothing about checking an Alderman spewing this venom but then when my husband asks for three minutes to speak at the end of the session the Mayor checks him and tells him that it's not appropriate because of the lawsuit that is now started or potential lawsuit that is now started. Actually because the Mayor exposed this document he should not of it was a confidential Sheriff's report. What I am saying is how can you ask the public to be tightened up and be quiet when you yourselves are not keeping yourselves in check? Alderman Welsh – The rules that we are going to discuss next in this thing applies to everybody. Ms. Wagner – Good, well that is what I would like to know, that is what I would like to hear discussed is that we check ourselves up there as well as the public. We need guidelines. No one wants these meetings to go on for hours and no one wants hateful things to happen but if we don't have transparency and if we don't have the minutes in their entirety. Think about this, look at how thick that is from the August 16th meeting. Think about all of the citizens coming up here to have access to the true minutes of the meeting and getting those from Rhonda. It is totally impractical. We have the internet these minutes should be published in their entirety on the internet and those people could go have access to the internet be able to come back up here and get them from Rhonda. Alderman Miles – I don't disagree with any of that. Alderman Welsh – We are going to work on that. You do understand that the Lotawana News is its own publication in the sense that we can't dictate that they publish every word. Ms. Wagner – Absolutely I had a discussion with Barb Cooley and I understand that. The public has a right to know what happened that day. Alderman Welsh – The public can always come to City Hall and get a copy of

those minutes. We are going to work of getting them on the website. Ms. Wagner – What happened at that meeting should not have happened.

IX. Alderman Concerns

Alderman Reed – Paul, in fact this is a question I would like to direct to you. I became aware that there's been an ethics commission charge made against our Mayor involving nepotism. From what I saw it was the first degree. Are you aware of that charge? The City Attorney, Paul indicated that he was aware of the charge. Alderman Reed – I'm a layman, I can just go to the internet and read about nepotism with the Attorney General's Office. What I can determine, his son is now serving on our Board of Adjustments and that goes back what three years ago. I'm concerned about two things. One is there is no official communication coming from our executive branch to us Aldermen, apparently you know about it and I just found out about it. I'm curious where does our City Attorney stand in terms in advising us as a charge that could lead to him being removed from office as I read the law; it is a constitutional issue, correct? Missouri constitution. It looks pretty serious at first glance. I'm not an attorney so I don't know; I was hoping the Mayor would be here tonight to discuss this. Considering how long it appears it has been actually filed I don't know what has actually happened with the Ethics Commission but I would like you to share with me and the Aldermen any strategy or discussion of the law or the seriousness of the offense that you could tell us about. Paul – Not really, I don't really have a role in that process Terry. Alderman Miles – What is the risk to the City though Paul? Paul – None, to the City as an entity none. The Ethics Commission will do their own investigation. It's held in their court. Any ethics complaints whether it is personal financial disclosure statement, conflict of interest, nepotism or whatever the case maybe is made against the elected official as an individual. You're not paying me money to represent anyone whether it is Howard or Terry, Dave, Scott, Dave, Carl, Chuck. If any of you got an ethics commission complaint, I would give you my two cents worth; at first glance then kind of tell you that you're on your own in defending yourself. I don't represent you in that capacity. Alderman Reed – From the reading and correct me if I'm wrong, the law is fairly clear, apparently it doesn't happen very frequently. It looks to me like none of those fatal laws if you violate it you leave office and the person that does the nomination, in this case the Mayor who brought his son to the council. Of course the Aldermen, myself included approved that. I believe that was before you became our City Attorney actually. I think it was just before you joined so we didn't really have any legal advice. I'm sure if you had been here you would have probably said. Paul – If I had seen the piece of paper that had the Mayoral appointments, I would hope I would have noted the same last name as the Mayor. It is something that wasn't shared with me prior to that meeting. That was either right before or right during the meeting that I got appointed. Alderman Reed – Even though your answer to Scott we have not exposure, from the case file I read anything that would deemed in conflict concerning the Mayors interaction with his son I presume, could be undone. That's what I read. I don't have the case here in front of me but these are cases that site, on the website if you go to the Attorney General's website, look at nepotism it jumps up about five or six cases. It goes back to basically review any conflict that may have existed. From my reading of that we're fine today because the Board of Adjustments hasn't had any meetings until

just recently. I think it was just last month and I don't believe Austin Chamberlin has voted on anything. I was just curious from a legal point of view what our ultimate exposure maybe or if we are going to be challenged on any of the Mayor's decision making above and beyond. I mean if there is conflict there is conflict. The law doesn't say a person has to rule on anything. It's just the appointment process from what I read is the violation of the constitution of the State of Missouri pretty clear. The penalty is the Mr. Chamberlin, the Mayor leaves office. Paul – The law is probably not as clear if may seem at first glance. If you read article three under nepotism, the remedy is you forfeit that office. Alderman Reed – The violator, not the person appointed. Paul – There is nothing that goes to Austin, I'm sorry. The cases are also saying, this is just my reading of them, each of you have a defined office, for the City of Lake Lotawana it has been set for you office is in two year terms. There are other cases that state you forfeit your office and your office is defined by your elected term. He is on 2009 to 2011 and 2011 to 2013 and this occurred in his first term. I don't have all of my notes in front of me and it has been a while since I looked at it, but my recollection was the actual appointing of Austin would have occurred from his first term. This act occurred in May of 2010 during that of term of office of 2009 to 2011. Mr. Reed – Are you saying that there is a statue of limitations on the constitution of Missouri? Paul – What I am saying ultimately the decision will be up to the Missouri Ethics Commission about whatever course of action they'll be taking. Alderman Reed – That seems like a very lawyer-ey statement you just made. The purpose of the law is to avoid seating government with people that are related. That relationship still exists regardless of what term. Alderman Welsh – Terry, I think you have made your point because the Ethics Commission is the one that has to determine the outcome. Paul doesn't. Aldermen Miles – It's conjecture at this time. Alderman Reed – It's not conjecture, it's knowledge. Alderman Welsh – Paul is not the person that is going to end up giving a response to this. It is going to come from the Ethics Commission. Alderman Miles – Then we will react to it. Alderman Welsh – Then we will react to it. Actually the Mayor will react to it because he is the one who will be given the communication from the Ethics Commission. Paul – Howard as any of you do if there is a complaint have the right to mouth a defense. That is just due process. You have that right. The Ethics Commission will make the decision. As I stated earlier I am not involved in the Ethics Commission decision making. I don't represent Howard in this particular matter. Other than the time sitting here talking about it you're not really paying me on that. You can take my advice for what it's worth the Ethics Commission could agree or disagree with my reading of the cases. Alderman Reed – Frank, were you aware of this? Mr. Davis – No, I don't even know what you're talking about. Alderman Reed – You see, I feel where the system has failed me as an Alderman is here we have a person that runs the Planning and Zoning Department he just had a meeting, now as I understand it Mr. Chamberlin, the younger Chamberlin wasn't here. I would think that we should all be aware of the charges to at least try to limit the liability. In this case his son didn't come to vote on anything but had there been a critical vote on annexation or something where we are going to spend public moneys, Paul, I just feel like and I am more upset at the Mayor than I am at you, I think that he has an obligation to inform us of these kinds of things. I think I do if I become charged, I think that I have an obligation to tell my fellow Aldermen. Paul – As I told you the nepotism clause does

not go to the appointee just the person that participates in the appointment process. Even if for the sake of discussion it happened during this term, it doesn't go back to the person appointed. That person stays. Alderman Reed – I am not discussing who's here. I'm discussing the decision making that may have been made a conflict and I'm discussing the liability for us. Alderman Miles – You're frustration is with Howard, if it's with Howard, you should go talk to him about it. Paul said our City's liability on this is very little or if any. If there's a charge against Howard if wants to tell us about that, which I think would be nice, that's up to him. Paul – The other thing to keep in mind, a similar situation played out in the City of Holden a few years ago with Mike Wakeman who was then the Mayor. He participated in appointing his brother-in-law as the fire chief; it was during his term of office, there was not dispute there. The Attorney General's Office came in and file what we call a quo warranto action to remove from office. There is a process there, Terry and that person has the right to defend themselves. You may come to your own conclusion about reading all of the cases or some of the cases or whatever. At the end of the day there is a process and my point then have a trail in circuit court. A Judge down in Warrensburg in Johnson County Court found against him and had the right to have that decision reviewed upon appeal. During the appeal he asked for and received for what we call a stay which means he stayed functioning as the mayor even though there was a trial court decision. It wasn't until that went all the way up to the Missouri Court of Appeals and there was an opinion issued by the judge panel down from the Missouri Court of Appeals. After that came out which was at trial court, he then sought, I believe, at the Missouri Supreme Court. They ultimately denied it, but the stay stayed in effect for that 12 to 15 month process as the process took its time. I think it would be imprudent and irresponsible for me to come to any conclusions when you don't even know what decision the Ethics Commission is going to take. In the investigation, I don't even know where they are because I'm not involved in it. It just seems that that process has yet to play out. Alderman Welsh – We're done, thank you. Alderman Reed – I have one more statement. I think you're way off base here. I think you are looking at it as an attorney and not what the law was designed for. The law was designed to eliminate conflict. The conflict still exists. Regardless of what we do in the next 18 months, two years, three years, I think it is a possibility that anything that is ruled upon by Austin, it's not removing Austin from office, it's his potential conflict in his rulings. That's the intent of the law here. Alderman Welsh – I think then, Terry if that is the case and that is your concern it is up to us to deal with the Mayor and then make the recommendation that the Mayor remove him from that Board. I think the City Attorney has done what he needed to do in this situation. Now the ball is in our court and the next time we meet with the Mayor we need to talk to him about it. Alderman Miles – He is telling us that our risk as a City is zero and that is what we pay this man to do. Alderman Reed – I disagree with that. If he had a critical vote right now and Austin cast the deciding vote. You go ahead and build your shopping center. Howard loses. Alderman Miles – It is a hypothetical. Alderman Welsh – I've got your point Terry. I think you've made your point. Thank you.

X. Unfinished Business

a. Consideration and approval of public speaks procedures/guidelines

Alderman Welsh - The next thing on the agenda is unfinished business, consideration and approval of the public speaks procedures/guidelines which we have discussed a number of times. I talked to the Mayor about it this morning and he is comfortable with the changes that we made the last time we discussed this. These are guidelines which are always in the hands of whom ever is running the meeting to modify and use as best possible. It just gives all of us something to go by when we are conducting public speaks. I would like to ask whether this group agrees with this at this stage in the game. The changes we made from the last time we discussed it just for review is these guidelines apply to the Board of Aldermen meetings, not to public hearings. Comments are limited to three minutes for individuals and ten minutes for a group. I think everything else is the same as we set it before when I read it once into the record and I don't think I to read them again. I would like a motion to accept them as they are and a simple voice yea or nay vote on it. The way they become adopted as guidelines. Alderman Miles – I do have a question. How are we going to communicate out to the public that these are the guidelines? Alderman Welsh – We are going to put it on the website. I am asking the Mayor to write about it in his column and we may even get it printed in the paper. We will always obviously have it here and it will always be on the bulletin board out there. They will be available when the meeting starts right at the door for people to pick up. We will talk about it for the first two or three meetings in order to make sure that when we start the meeting we will say by the way those of you who are showing up for public speaks, fill out the form and give it to the Mayor not to Rhonda, or whoever is presiding will receive the forms. Alderman Reed – I have a question Dave. This would apply like to meeting we just had meeting tonight where we were handed financial data for consideration, would the submission for that kind of material. What this says. Alderman Welsh – The financial data that the people came with from Olsson, they were already on the agenda, we had requested it. That is not public speaks. Anybody on the agenda that comes is with a handout they get to give that. Alderman Reed – I would have liked to have had that earlier. I really don't really like being handed something. Aldermen Welsh and Miles – That is a different issue. Alderman Reed – So the answer is no. What this says is, what we talking about to include the public here. It is to put a little more stability in the process. We are talking about any documents you want us to see, you would have to submit them on the Wednesday prior to the Aldermen meeting in time for Rhonda to include them in our packets for consideration. It also says that you would be limited to three minutes for individuals, ten minutes for a group to address a specific subject. Debbie to address your concerns it talks about you folks can't attack us and we can't attack you. We don't get to talk over each other. We have to wait. It is just some general guidelines of some rules here. Alderman Welsh – Can I hear a motion to adopt these? Alderman Miles made a motion to adopt the public speaks guidelines. The motion was seconded by Alderman Needles. The public speaks guidelines were adopted with a unanimous vote of Aye.

XI. New Business

a. Consideration and approval of the 2012 liquor license for the Marina Grog & Galley

Alderman Calcara made a motion to approve the 2012 liquor license for the Marina Grog & Galley. The motion was seconded by Alderman Needles. The 2012 liquor license was approved with the following votes:

Alderman Welsh – Aye	Alderman Calcara - Aye
Alderman Miles – Aye	Alderman Needles – Aye
Alderman Reed – Aye	Alderman Falkenberg – Absent

b. Update on the 2012 budget

Alderman Welsh - The update on the 2012 budget which I did mention a little bit earlier when we were talking about the financials. We really will get a chance to discuss it in greater detail at the November work shop prior to the approval of the first reading of the ordinance at in the November meeting. I don't want to do anymore discussion tonight unless you all want to, willing to but I don't think we need to tonight. The final budget will be considered at the work session.

Alderman Welsh – Aye	Alderman Calcara - Aye
Alderman Miles – Aye	Alderman Needles – Aye
Alderman Reed – Aye	Alderman Falkenberg – Aye

XII. A vote to close the meeting pursuant to Section 610.021.1, 610.021.3, and 610.021.13, RSMo.

Alderman Miles made a motion for the Board to go into executive session concerning employee relations and litigations. The motion was seconded by Alderman Needles. The Board went into executive session at 8:45 pm with the following votes:

Alderman Welsh – Aye	Alderman Calcara - Aye
Alderman Miles – Aye	Alderman Needles – Aye
Alderman Reed – Aye	Alderman Falkenberg – Absent

XIII. Adjournment

Alderman Miles made a motion to adjourn the meeting. The motion was seconded by Alderman Calcara. The meeting was adjourned at 9:30 pm with a unanimous vote of aye.

Minutes submitted by: _____
City Clerk Rhonda Littrell

Minutes approved by: _____
Mayor Howard Chamberlin