

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

RICHARD HILL,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 6:15-CV-3409
)	
CITY OF BOLIVAR, MISSOURI,)	
)	
Defendant.)	

COMPLAINT

Plaintiff Richard Hill alleges as follows:

INTRODUCTION

1. On March 24, 2015, the Board of Aldermen for the City of Bolivar, Missouri, enacted Ordinance No. 3188 §I, which was codified at § 611.010 of the Bolivar Municipal Code. (See Ex. 1.)
2. The Ordinance purports to completely ban “aggressive panhandling” and partially ban “passive panhandling.”
3. Bolivar resident Richard Hill wishes to engage in expressive conduct protected by the First Amendment to the United States Constitution but prohibited under the Ordinance, and he has been chilled from doing so.

PARTIES

4. Plaintiff, Richard Hill, is a citizen of Missouri who resides in Bolivar.
5. Defendant City of Bolivar is a municipal corporation.

JURISDICTION AND VENUE

6. Hill brings this claim pursuant to 42 U.S.C. § 1983 and the First Amendment to the United States Constitution, incorporated as against States and their municipal divisions through the Fourteenth Amendment to the United States Constitution.
7. This Court has jurisdiction under 28 U.S.C. § 1331 as this claim “arises under the Constitution of the United States.”
8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) & (2) because Defendant is located in Polk County, Missouri, and its actions giving rise to the claim in this suit occur in Polk County.
9. Venue is proper in the Southern Division pursuant to Local Rule 3.1(a)(3)(a).

FACTS

10. Before March 24, 2015, Bolivar did not prohibit so-called panhandling or soliciting.
11. The Ordinance now codified at § 611.010 is the first City of Bolivar ordinance to prohibit this kind of expressive conduct.
12. Under Bolivar Municipal Code § 100.220(A), violations of the Ordinance carry a penalty of up to a \$500 fine and/or imprisonment for up to 90 days. (*See Ex. 2.*)
13. In April 2015, Hill contacted the Bolivar Police Department through its Facebook page and asked when and how the Ordinance would be enforced.
14. The Bolivar Police Department, through its Facebook account, responded to Hill’s Facebook message. The Police Department told Hill that the police would only enforce the Ordinance’s prohibition of “aggressive panhandling.”
15. The Police Department also told Hill the police would not enforce the Ordinance until 30 to 90 days after its enactment.

16. The Police Department invited Hill to visit in person and discuss further how and when the Ordinance would be enforced.
17. At that meeting on or around April 8, 2015, Lt. Zach Palmer of the Bolivar Police Department contradicted the representation by the Bolivar Police Department through its Facebook page. Lt. Palmer informed Hill that the police would enforce all of the provisions of the Ordinance.
18. Lt. Palmer suggested Hill meet with Bolivar City Prosecutor Melanie Myears.
19. Hill scheduled a meeting with Prosecutor Myears in April or May 2015.
20. When Hill met with Prosecutor Myears, she told him she had not read the Ordinance.
21. Nonetheless, during that same conversation, Prosecutor Myears informed Hill that she would prosecute any violation of the Ordinance.
22. During that meeting, Prosecutor Myears also advised Hill to seek redress with the Board of Aldermen.
23. But until the Board of Aldermen changed its policy on May 26, 2015, Bolivar citizens were not permitted to speak at Board of Aldermen meetings about a topic related to an ordinance already passed by the Board. (*See* Ex. 4, p. 4.)
24. Because he was not permitted to speak at Board of Aldermen meetings, Hill sought redress with the Board of Aldermen through an Internet communication but received no response.
25. Hill protested the enactment of the Ordinance by engaging in expressive conduct protected by the First Amendment but prohibited under the ordinance during the grace period.

26. During the grace period, Hill walked through the City of Bolivar carrying a sign that read “I NEED MONEY.”
27. Hill used his expressive conduct to educate other citizens of Bolivar about the enactment of the Ordinance, the Ordinance’s impermissibly broad scope, its unconstitutionality, and his belief that it is contrary to the interests of the citizens of Bolivar.
28. Hill engaged in multiple conversations with other citizens of Bolivar who were curious about why he was carrying his “I NEED MONEY” sign.
29. Hill ceased his expressive conduct when the grace period ended.
30. Because of the City of Bolivar’s intention, as expressed by its officials and employees, to enforce and prosecute all violations of the Ordinance, Hill has been chilled from engaging in protected expressive conduct because he reasonably fears arrest and prosecution.
31. At all times and incidents relevant to this Complaint, Defendant acted under color of law.

THE ORDINANCE

32. The Ordinance is attached to this Complaint and incorporated herein. (*See Ex. 1.*)
33. The Ordinance comprises four sections entitled *Purpose, Definitions, Prohibitions, and Measurement*; the last section relates to how distances should be measured for purpose of determining whether particular types of expression are prohibited by the Ordinance.
34. The Ordinance defines “PANHANDLING” as:

Any verbal or non-verbal solicitation made in person upon any public street, sidewalk, alley, park or other public place, in which a person requests an immediate donation of any item of value, monetary or otherwise, from another person, and includes but is not limited to seeking donations of any item of value, monetary or otherwise:

1. By a spoken, written or printed appeal or for music, singing, or other street performance; and

2. Where the person being solicited receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.
35. The Ordinance explicitly covers expressive conduct in public fora, including public streets, sidewalks, alleys, parks or other public places.
36. The Ordinance prohibits all “aggressive” panhandling.
37. The Ordinance defines “PASSIVE MANNER” as:

Standing, sitting or performing music, singing or other street performance with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.
38. The Ordinance prohibits “passive panhandling” within twenty feet of the exit or entrance of any office, office building, or commercial establishment without first obtaining the written consent of every tenant in that building.
39. The Ordinance prohibits “passive panhandling” within twenty feet of any financial institution, residential building or single- or multifamily residence, outdoor restaurant or café, or automatic teller machine, with no prior written consent exception.
40. The Ordinance prohibits aggressive and passive panhandling or “any solicitation of the sale of goods or services, at any time of any day” that is done “[w]ithin five (5) feet of a curb or edge of a street.”
41. The Ordinance prohibits panhandling or soliciting on any public transportation vehicle or at any designated place for waiting for a public transportation vehicle.
42. The Ordinance prohibits panhandling or “any solicitation of the sale of goods or services, at any time of any day” that “involve[es] any operator or occupant of a motor vehicle on a public street,” unless the City of Bolivar provides the would-be panhandler or solicitor with a “peddler”-type identification permit ahead of time.

43. The Ordinance allows even panhandlers or solicitors with permits to conduct “public solicitations” only at intersections with stop signs or traffic lights and for no more than six days at a time, no more than twice per calendar year.
44. The Ordinance does not permit anyone under the age of 18 to solicit or panhandle.
45. The Ordinance prohibits both verbal and nonverbal solicitation or panhandling.
46. The Ordinance does not prohibit persons from engaging in other expressive exchanges with willing occupants of motor vehicles.
47. The Ordinance does not prohibit other expressive exchanges between persons in public fora.
48. The Ordinance does not prohibit persons from soliciting for non-immediate donations or items of monetary value, such as signatures or pledges to attend a fundraiser at a later date.
49. The Ordinance regulates the solicitation of signatures or votes differently from the solicitation of immediate donations.
50. For example, a person canvassing within five feet of a public street for signatures or votes need only seek a solicitor identification permit, which is free, and not a peddler identification permit, which costs money.

PEDDLER IDENTIFICATION PERMITS

51. To gain a “peddler”-type permit, a would-be solicitor or panhandler “must arrange to have a uniformed public safety officer at each solicitation site.”
52. The Ordinance completely prohibits panhandling or soliciting within five feet of a curb or edge of a street.

53. Nonetheless, the Ordinance requires would-be solicitors or passive panhandlers who wish to engage in expressive conduct with willing occupants of motor vehicles to gain a peddler-type identification permit in accordance with Bolivar Municipal Code Sections 610.030 to 610.140. (*See Ex. 2.*)
54. For a person or organization not acting on behalf of a licensed merchant, a peddler-type identification permit costs \$5.00 per day per person, with a minimum of \$25.00, according to Code Section 610.040.
55. Although the Code already provides for a “solicitor”-type identification permit that requires no fee be paid, the Ordinance specifies that would-be solicitors or panhandlers seeking to engage in conduct regulated by the Ordinance must gain a peddler-type identification permit.
56. A peddler-type identification permit requires a would-be panhandler or solicitor to complete an application during business hours, in accordance with Code Section 610.050.
57. To complete such an application for a peddler identification permit, a would-be panhandler or solicitor must provide his or her name, physical description, photograph, permanent and local addresses, description of his or her proposed activity, date and place of birth and, if available, social security number, a list of all infractions, offenses, misdemeanors, ordinance violations and felony convictions for the past seven years, an indication of whether the applicant is a sex offender, detailed information about the applicant’s vehicle, name and permanent address of the peddler’s “principal,” and that principal’s sales tax license.
58. Section 610.060 does not provide an alternative for a peddler that is not acting on behalf of a principal.

59. Under Section 610.070, no identification permit will be issued to a would-be panhandler or solicitor who “has been convicted of a felony, a misdemeanor or ordinance violation involving moral turpitude within the past seven (7) years.”
60. A peddler identification permit issued is valid for the period requested or 90 days, whichever is less.

COUNT I: FIRST AMENDMENT

*Bolivar Municipal Code § 611.010 is Unconstitutional
under the Free Speech Clause of the First Amendment*

61. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.
62. The Ordinance violates the Free Speech Clause of the First Amendment to the Constitution, on its face and as applied, because it impermissibly curtails Plaintiff’s free-speech rights.
63. Solicitation of immediate donations for money or other items of value is an expressive communication subject to First Amendment free-speech protections.
64. Because of the onerous and cost-prohibitive prerequisites to gaining a peddler identification permit, as well as the restrictions within the Ordinance itself, the Ordinance effectively bans all “passive panhandling.”
65. The Ordinance is a content-based regulation because it prohibits certain types of speech based on the content thereof and makes impermissible distinctions based on the function or purpose of the regulated speech.
66. The Ordinance applies, by its own plain language, to traditional and designated public fora, as well as nonpublic fora, and private property.

67. The Ordinance applies to certain types of solicitation (for example, for money) but not to other types of solicitation (for example, to be included on a mailing list).
68. The Ordinance is subject to strict scrutiny under the First Amendment, particularly in light of *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015) and its application to *Thayer v. City of Worcester*, 755 F.3d 60 (1st Cir. 2014), *vacated for reconsideration*, 135 S. Ct. 2887 (2015).
69. Plaintiff Hill has been chilled from engaging in any solicitation or passive panhandling because of his reasonable fear of arrest and/or prosecution.
70. The City of Bolivar has no significant or compelling interest that can justify the necessity of the Ordinance.
71. The purported interests listed in the *Purposes* section of the Ordinance are not significant or compelling.
72. The Ordinance is not narrowly tailored to achieve a significant government interest.
73. The Ordinance is not the least restrictive means to achieve a compelling government interest.
74. In the alternative or in addition, the Ordinance does not leave open ample alternative avenues of communication for Hill to convey his message.
75. The Ordinance is underinclusive because, for example, it does not restrict other types of expressive conduct between pedestrians and occupants of motor vehicles.
76. The Ordinance is overinclusive because, for example, it covers some types of communication, based on its content, function and/or purpose, in all public fora within the City.
77. The Ordinance impermissibly infringes upon Hill's speech.

COUNT II: PRIOR RESTRAINT

*Bolivar Municipal Code § 610.030-§ 610.040, as incorporated into § 611.010,
Constitutes an Impermissible Prior Restraint on Free Speech*

78. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this Complaint as fully set forth herein.
79. The permitting requirements associated with the Ordinance, codified at Code §§ 610.030 to 610.040, constitute a prior restraint on First Amendment-protected expression and therefore are unconstitutional on their face and as applied.
80. Under the Ordinance and associated peddler permit section of the Bolivar Municipal Code, some speakers—those who wish to solicit immediate donations of items of value—must first apply to the government for a permit.
81. The government is empowered to determine if the content of a speaker’s expression is allowed or prohibited.
82. The government’s decision to issue or refuse a permit involves appraisal of facts, the exercise of judgment, and the formation of an opinion.
83. The Ordinance and associated peddler permit requirement establish a system of prior restraint under which persons may not speak or receive information and ideas without prior government approval.

COUNT III: DUE PROCESS

84. The Ordinance is unconstitutionally vague on its face and thereby violates Hill’s right to due process under the Fourteenth Amendment to the U.S. Constitution.
85. The Ordinance does not define the criminal offenses within its purview with sufficient definiteness that an ordinary person can understand what conduct is prohibited.

86. For example, the Ordinance apparently criminalizes ordinary daily activities, such as a child selling lemonade at a roadside stand and Plaintiff Hill's wearing of his protest T-shirt reading "I NEED MONEY."
87. The Ordinance encourages arbitrary and discriminatory enforcement.
88. For example, according to a local news story, City Administrator Darin Chappell stated the City wanted to ensure "legitimate charities" could still solicit donations. (*See Ex. 5.*)
89. In addition, according to minutes from a Board of Aldermen meeting, administrator Chappell also stated that the Ordinance was not designed to hinder non-aggressive fundraising efforts. (*See Ex. 6.*)
90. In addition, the Bolivar Police Department, through its Facebook page, told Plaintiff Hill that the Ordinance would not be enforced on its terms while Lt. Zach Palmer and Prosecutor Myears told Hill all the provisions of the Ordinance would be enforced.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays this Court:

- a. Upon motion, grant a preliminary injunction preventing the enforcement of the Ordinance;
- b. Grant a permanent injunction preventing the enforcement of the Ordinance;
- c. Enter a declaration that the Ordinance is unconstitutional on its face and as applied to Plaintiff Hill;
- d. Award Plaintiff nominal damages;
- e. Award costs and attorneys' fees pursuant to 42 U.S.C. Sect. 1988; and
- f. Allow such other and further relief as this Court finds just.

Respectfully submitted,

/s/ Anthony E. Rothert
Anthony E. Rothert, #44827
Jessie Steffan, #64861
ACLU of Missouri Foundation
454 Whittier Street
St. Louis, Missouri 63108
Phone: (314) 652-3114
arothert@aclu-mo.org
amcnulty@aclu-mo.org
jsteffan@aclu-mo.org

Gillian R. Wilcox, #61278
ACLU of Missouri Foundation
3601 Main Street
Kansas City, Missouri 64111
Phone: (816) 470-9938
gwilcox@aclu-mo.org

Attorneys for Plaintiff

JS 44 (Rev 09/10)

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI****CIVIL COVER SHEET**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Western District of Missouri.

The completed cover sheet must be saved as a pdf document and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s):**First Listed Plaintiff:**

Richard Hill ;

County of Residence: Polk County**Defendant(s):****First Listed Defendant:**

Bolivar, Missouri, City of ;

County of Residence: Polk County**County Where Claim For Relief Arose:** Polk County**Plaintiff's Attorney(s):**

Anthony E Rothert (Richard Hill)

ACLU of Missouri Foundation

454 Whittier Street

St. Louis, Missouri 63108

Phone: 3146523114**Fax:** 314-652-3112**Email:** trothert@aclu-mo.org

Gillian R. Wilcox (Richard Hill)

ACLU of Missouri Foundation

3601 Main Street

Kansas City, Missouri 64111

Phone: 8164709938**Fax:** 314-652-3112**Email:** gwilcox@aclu-mo.org

Jessie Steffan (Richard Hill)

ACLU of Missouri Foundation

454 Whittier Street

St. Louis, Missouri 63108

Phone: 3146693422**Fax:** 314-652-3112**Email:** jsteffan@aclu-mo.org**Defendant's Attorney(s):****Basis of Jurisdiction:** 3. Federal Question (U.S. not a party)**Citizenship of Principal Parties (Diversity Cases Only)**

Case 6:15-cv-03409-MDH Document 1-1 Filed 09/18/15 Page 1 of 2

Plaintiff: N/A

Defendant: N/A

Origin: 1. Original Proceeding

Nature of Suit: 440 All Other Civil Rights

Cause of Action: 42 USC 1983 - Challenge to municipal ordinance criminalizing passive panhandling

Requested in Complaint

Class Action: Not filed as a Class Action

Monetary Demand (in Thousands):

Jury Demand: No

Related Cases: Is NOT a refiling of a previously dismissed action

Signature: /s/ Anthony E. Rothert

Date: 9/18/2015

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.

Chapter 611: Panhandling and Solicitations

Section 611.010 Prohibition in Certain Areas.

[Ord. No. 3188 §, 3-24-2015]

- A. *Purpose.* The purpose of this Section is to regulate and punish acts of aggressive panhandling or solicitation and acts of panhandling or solicitation that occur at locations or under circumstances specified herein. The purpose of this Section is not to punish the status or condition of any person. Regulation is required because aggressive panhandling anywhere in the City contributes to the loss of access to and enjoyment of public places and creates a sense of fear, intimidation and disorder. Regulation is further required because panhandling in certain areas threatens the economic vitality of those areas, impairing the City's long-term goals of attracting citizens, businesses and tourists to these certain areas and, consequently, the City overall. The City has substantial interests in the protection of public safety, the safe and unobstructed flow of traffic on its public streets, the preservation of the safe use of public areas, protecting the aesthetics of historic areas within the City, protecting the City's investment in certain areas, protecting tourism and protecting the City's economy. The regulations in this Section further these substantial interests. This Section is not intended to proscribe any demand for payment for services rendered or goods delivered, nor is this Section intended to prohibit acts authorized as an exercise of a person's constitutional right to legally picket, protest or speak.
- B. *Definitions.* As used in this chapter, the following terms shall have the meanings indicated:

AGGRESSIVE MANNER

1. *Threatening approaches.* Approaching the person being solicited in a manner that:
 - a. Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. Is intended to or is likely to intimidate the person being solicited into responding affirmatively to the solicitation.
2. *Following.* By following behind, ahead or alongside a person who walks or drives away from the person soliciting or who gives notice or demonstrates verbally or physically that such solicitation is offensive, unwelcome or that the solicitation should cease.
3. *Physical contact.* Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation, or approaching within an arm's length of the person, except with the person's consent.
4. *Continuing to solicit.* Continuing to solicit a person after the person has made a negative response.
5. *Verbal threats.* Intentionally or recklessly using words:
 - a. Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. Likely to intimidate the person into responding affirmatively to the solicitation.
6. *Blocking sidewalks or streets.* Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation.

AUTOMATED TELLER MACHINE

A device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries and mortgage and loan payments.

AUTOMATED TELLER MACHINE FACILITY

The area comprised of one (1) or more automatic teller machines, and any adjacent space, which is made available to banking customers.

INTIMIDATE

To engage in conduct which would make a reasonable person feel threatened or fearful of harm to the person's personal safety or property.

PANHANDLING

Any verbal or non-verbal solicitation made in person upon any public street, sidewalk, alley, park or other public place, in which a person requests an immediate donation of any item of value, monetary or otherwise, from another person, and includes but is not limited to seeking donations of any item of value, monetary or otherwise:

1. By a spoken, written or printed appeal or for music, singing, or other street performance; and
2. Where the person being solicited receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.

PASSIVE MANNER

Standing, sitting or performing music, singing or other street performance with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.

PUBLIC AREA

An area open to use by the general public, including, but not limited to, alleys, bridges, buildings, driveways, parking lots, parks, sidewalks and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

PUBLIC SAFETY OFFICER

Any uniformed law enforcement officer or firefighter.

TO PANHANDLE

To engage in any act of panhandling.

TO SOLICIT

Includes, without limitation, the spoken, written or printed word or such other acts or bodily gestures as are conducted in furtherance of the purposes of soliciting or asking for any item of value, monetary or otherwise.

C. *Prohibitions.*

1. *Aggressive panhandling.* It shall be unlawful for any person to panhandle, or to solicit the sale of goods or services, in an aggressive manner in a public area.
2. *Passive panhandling in certain places.* Except as specifically prohibited by this Section, it shall not be unlawful to panhandle in a public area in a passive manner, unless such passive panhandling or passive solicitation is conducted within twenty (20) feet, in any direction, from any entrance or exit to any:
 - a. Office or office building without first obtaining the written consent of each affected tenant renting or owning space in such building;
 - b. Commercial establishment engaged in the sale of goods or services without first obtaining the written consent of each affected tenant renting or owning space in such establishment;
 - c. Bank, credit union or other financial institution;
 - d. Single- or multifamily residence or residential complex; or
 - e. Within twenty (20) feet of any outdoor dining area, outdoor restaurant, or outdoor cafe.

3. *Automated teller machine.* It shall be unlawful to panhandle, or to solicit the sale of goods or services, within twenty (20) feet, in any direction, of an automated teller machine or automated teller machine facility.
 4. *Motor vehicles and streets.* Except as otherwise provided in this Section, it shall be unlawful to engage in any act of panhandling or any solicitation of the sale of goods or services, at any time of any day:
 - a. In exchange for cleaning motor vehicle windows while the vehicle is in traffic on or entering any street, a street intersection, alley or other public passageway; and/or
 - b. In exchange for protecting, watching, washing, cleaning, repairing, or painting a motor vehicle or bicycle while it is parked on a public street.
 - c. Within five (5) feet of a curb or edge of a street.
 - d. Involving any operator or occupant of a motor vehicle that is in traffic on or entering any street, street intersection, alley or other public passageway; or involving any operator or occupant of a motor vehicle on a public street, unless issued a permit and pursuant to the following restrictions:
Persons and organizations may engage in public solicitations, including the use of sound-amplification devices, if the person or organization meets all of the following conditions:
 - (1) The person or organization applies for and is granted a permit from the City to conduct its solicitation activities based upon the requirements of this Section;
 - (2) Solicitations may only be conducted at intersections controlled by electronic signal lights or by stop signs;
 - (3) No person or organization may conduct its solicitation activities for a period of more than six (6) calendar days and on no more than two (2) occasions in any calendar year;
 - (4) All individuals participating in such solicitation activities must be at least eighteen (18) years of age; and
 - (5) The person or organization engaged in the solicitation must arrange to have a uniformed public safety officer at each solicitation site.
 5. *Private property.* Notwithstanding any provision of Chapter 610 of the Bolivar Municipal Code to the contrary, it shall be unlawful to panhandle, or to solicit the sale of goods or services, on private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property.
 6. *Public transportation.* It shall be unlawful to panhandle, or to solicit the sale of goods or services, in any public transportation vehicle or from an area marked and designated as a place to wait for a bus, train, or any other public transportation vehicle that is operated on a scheduled route with passengers paying fares on an individual basis.
 7. *Walk-up or drive-up teller window.* It shall be unlawful to panhandle, or to solicit the sale of goods or services, if the person making the solicitation knows or reasonably should know that the solicitation is occurring within twenty (20) feet in any direction from a walk-up or drive-up teller window located on the exterior of the building of a financial institution which is made available to its banking customers.
 8. *Panhandling in groups.* It shall be unlawful to panhandle in groups of more than three (3) persons.
- D. *Measurement.* For purposes of Subsection (C)(2), (3), and (7) hereof, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest point at which an unlawful act is conducted to the nearest portion of any doorway, entrance, outdoor dining area, outdoor restaurant, outdoor cafe, automatic teller machine or automatic teller facility.

Section 611.020 Permits.

[Ord. No. 3188 §, 3-24-2015]

Any permits authorized by this Chapter will be obtained pursuant to the procedures of and will be subject to the provisions of Sections **610.040** through **610.130** of the Bolivar Municipal Code, with permit fees as applicable to "peddlers."

Section 611.030 Violations.

[Ord. No. 3188 §1, 3-24-2015]

Violations of this Chapter will be deemed as Code violations, subject to punishment pursuant to the provisions of Section **100.220** of the Bolivar Municipal Code.

Chapter 100: General Provisions**Article III: Penalty****Section 100.220 General Penalty.**

- A. Whenever in this Code or any other ordinance of the City, or in any rule, regulation, notice or order promulgated by any officer or agency of the City under authority duly vested in him/her or it, any act is prohibited or is declared to be unlawful or an offense, misdemeanor or ordinance violation or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor or ordinance violation, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Code or of any such ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the City or County Jail not exceeding ninety (90) days, or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a Statute of the State, the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the County Jail or other penal institution, whether public or private, with whom the City may contract from time to time for the imprisonment of its prisoners.
- B. Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.
- C. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

Chapter 610: Peddlers and Solicitors

Section 610.010 Definitions.

As used in this Chapter, the following words have the meaning indicated:

CANVASSER

A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of,

1. Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or
2. Distributing a handbill or flyer advertising a non-commercial event or service.

PEDDLER

A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of attempting to sell a good or service. A "peddler" does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a "solicitor".

SOLICITOR

A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of,

1. Attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or
2. Distributing a handbill or flyer advertising a commercial event or service.

Section 610.020 Exception.

This Chapter shall not apply to a Federal, State or local government employee or a public utility employee in the performance of his/her duty for his/her employer.

Section 610.030 Identification Permit Required For Peddlers and Solicitors, Available For Canvassers.

No person shall act as a peddler or as a solicitor within the City without first obtaining an identification permit in accordance with this Chapter. A canvasser is not required to have an identification permit but any canvasser wanting an identification permit for the purpose of reassuring City residents of the canvasser's good faith shall be issued one upon request.

Section 610.040 Fee.

A. The fee for the issuance of each identification permit shall be:

1. For a peddler acting on behalf of a merchant otherwise licensed to do business within the City: No fee.
2. For a peddler acting on behalf of a merchant not otherwise licensed to do business within the City: A fee of five dollars (\$5.00) per day per person with a minimum of twenty-five dollars (\$25.00).
3. For a solicitor, including a commercial solicitor advertising an event, activity, good or service for purchase at a location away from the residence: No fee.

4. For a canvasser requesting an identification permit: No fee.

Section 610.050 Application For Identification Permit.

Any person or organization, formal or informal, may apply for one (1) or more identification permits by completing an application form at the office of the issuing officer during regular office hours.

Section 610.060 Contents of Application.

[Ord. No. 2930 §I, 5-13-2010]

- A. The applicant, person or organization shall provide the following information:
 1. Name of applicant.
 2. Number of identification permits required.
 3. The name, physical description and photograph of each person for which a permit is requested. In lieu of this information, a driver's license, State identification card, passport or other government-issued identification card issued by a government within the United States containing this information may be provided and a photocopy taken.
 4. The permanent and, if any, local address of the applicant.
 5. The permanent and, if any, local address of each person for whom a permit is requested.
 6. A brief description of the proposed activity related to this identification permit. Copies of literature to be distributed may be substituted for this description at the option of the applicant.
 7. Date and place of birth for each person for whom a permit is requested and, if available, the social security number of such person.
 8. A list of all infractions, offenses, misdemeanors, ordinance violations and felony convictions of each person for whom a permit is requested for the seven (7) years immediately prior to the application, and a statement as to whether any person for whom a permit is requested is a registered sex offender under Section 589.400, RSMo. as now in effect or such Section may hereafter be amended from time to time.
 9. The motor vehicle make, model, year, color and State license plate number of any vehicle which will be used by each person for whom a permit is requested.
 10. If a permit is requested for a peddler:
 - a. The name and permanent address of the business offering the event, activity, good or service, i.e., the peddler's principal.
 - b. A copy of the principal's sales tax license as issued by the State of Missouri, provided that no copy of a license shall be required of any business which appears on the City's annual report of sales tax payees as provided by the Missouri Department of Revenue.
 - c. The location where books and records are kept of sales which occur within the City and which are available for City inspection to determine that all City sales taxes have been paid.
 11. If a permit is requested for a solicitor:
 - a. The name and permanent address of the organization, person or group for whom donations or proceeds are accepted.
 - b. The web address for this organization, person or group or other address where residents having subsequent questions can go for more information.

12. Any other information the applicant wishes to provide, perhaps including copies of literature to be distributed, references to other municipalities where similar activities have occurred, etc.

Section 610.070 Issuance of Identification Permit.

[Ord. No. 2930 §1, 5-13-2010]

- A. The identification permit(s) shall be issued promptly after application but in all cases within eight (8) business hours of completion of an application, unless it is determined within that time that:
 1. The applicant has been convicted of a felony, a misdemeanor or ordinance violation involving moral turpitude within the past seven (7) years, or is a registered sex offender,
 2. With respect to a particular permit, the individual for whom a permit is requested has been convicted of any felony or misdemeanors or ordinance violations involving moral turpitude within the past seven (7) years or is a registered sex offender, or
 3. Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

Section 610.080 Investigation.

During the period of time following the application for one (1) or more identification permits and its issuance, the City shall investigate as to the truth and accuracy of the information contained in the application. If the City has not completed this investigation within the eight (8) business hours provided in Section **610.070**, the identification permit will nonetheless be issued subject, however, to administrative revocation upon completion of the investigation. If a canvasser requests an identification permit, the investigation will proceed as described above, but if the City refuses to issue the identification permit (or revokes it after issuance), the canvasser will be advised that the failure to procure an identification permit does not prevent him/her from canvassing the residents of the City.

Section 610.090 Denial — Administrative Revocation.

If the issuing officer denies, or upon completion of an investigation revokes, the identification permit to one (1) or more persons, he/she shall immediately convey the decision to the applicant orally and shall within sixteen (16) working hours after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant. Upon receipt of the oral notification and even before the preparation of the written report, the applicant shall have at his/her option an appeal of the denial of his/her application before the Municipal Court of the City. The applicant shall file this appeal within ten (10) days.

Section 610.100 Hearing On Appeal.

If the applicant requests a hearing under Section **610.090**, the hearing shall be held in Municipal Court and review from the decision (on the record of the hearing) shall be had to the Circuit Court of Polk County. The hearing shall also be subject to the Missouri open meetings and records law.

Section 610.110 Display of Identification Permit.

Each identification permit shall be, when the individual for whom it was issued is acting as a peddler or solicitor, worn on the outer clothing of the individual as so to be reasonably visible to any person who might be approached by said person.

Section 610.120 Validity of Identification Permit.

An identification permit shall be valid within the meaning of this Chapter for a period of ninety (90) days from its date of issuance or the term requested, whichever is less.

Section 610.130 Revocation of Permit.

[Ord. No. 2930 §I, 5-13-2010]

- A. In addition to the administrative revocation of an identification permit, a permit may be revoked for any of the following reasons:
1. Any violation of this Chapter by the applicant or by the person for whom the particular permit was issued.
 2. Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity.
 3. Conviction of any felony or misdemeanors or ordinance violations involving moral turpitude within the last seven (7) years, or the occurrence of any event that requires the permit holder to become a registered sex offender.
 4. Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

The revocation procedure shall be initiated by the filing of a complaint by the City Attorney or the issuing officer and a hearing before the Municipal Judge.

Section 610.140 Distribution of Handbills and Commercial Flyers.

- A. In addition to the other regulations contained herein, a solicitor or canvasser leaving handbills or commercial flyers about the community shall observe the following regulations:
1. No handbill or flyer shall be left at or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way. The Police are authorized to remove any handbill or flyer found within the right-of-way.
 2. No handbill or flyer shall be left at or attached to any privately owned property in a manner that causes damage to such privately owned property.
 3. No handbill or flyer shall be left at or attached to any of the property having a "no solicitor" sign of the type described in Section 610.150(1) and (2).
 4. Any person observed distributing handbills or flyers shall be required to identify himself/herself to the Police (either by producing an identification permit or other form of identification). This is for the purpose of knowing the likely identity of the perpetrator if the City receives a complaint of damage caused to private property during the distribution of handbills or flyers.

Section 610.150 General Prohibitions.

- A. No peddler, solicitor or canvasser shall:
1. Enter upon any private property where the property has clearly posted a sign indicating a prohibition against peddling, soliciting and/or canvassing. Such sign need not exceed one (1) square foot in size and may contain words such as "no soliciting" or "no solicitors" in letters of at least two (2) inches in height. The phrase "no soliciting" or "no solicitors" shall also prohibit peddlers and canvassers.
 2. Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting" or "no solicitors" and which is clearly visible to the peddler, solicitor or canvasser.
 3. Enter upon any private property where the current occupant has posted the property on the City's "no visit" list, except where the posting form indicates the occupant has given permission for this type of visit, regardless of whether a front yard sign is posted.
 4. Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property.
 5. Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does

not invite visitors.

6. Enter upon the property of another except between the hours of 9:00 A.M. and 8:00 P.M. or sunset if earlier.
Except that the above prohibitions shall not apply when the peddler, solicitor or canvassers has an express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any posted property.

Section 610.160 Violation To Be Prosecuted As Trespass.

Any person violating any part of this Chapter shall have committed a trespass on such property and shall be prosecuted under the general trespass ordinance of the City. The penalty for such violation shall be the same as for any other trespass.

**CITY OF BOLIVAR
REGULAR COUNCIL MEETING
May 26th, 2015**

Call to Order: Mayor Best called the Regular Council Meeting to order at 6:30p.m.

Present: Mayor John Best, Aldermen Vicky Routh, Chris Warwick, Thane Kifer, Darren Crowder, John Credille by video skype, Justin Ballard, Steve Skopec and Terry Cornell.

City Administrator Darin Chappell, City Clerk Natalie Scrivner, City Attorney Donald Brown, Public Works Director Jerry Hamby, Joe Cornell, Spencer Welch, Tracy Slagle Resource Director, Police Chief Mark Webb, Fire Chief Jim Ludden, Deputy City Clerk Paula Henderson and many other visitors from the public.

Prayer: Darin Chappell.

Pledge of Allegiance: Led by Darren Crowder.

Motion to adopt agenda

Alderman Warwick made a motion to adopt the agenda. Alderman Crowder seconded the motion which carried unanimously.

Approval of the Minutes: Alderman Crowder for made a motion to approve minutes of April 14th, 2015 Work Session & Executive Session, April 28th, 2015 Regular Session minutes as presented. Alderman Warwick seconded the motion, which was approved unanimously.

Bills and Financial Reports:

Alderman Crowder made the motion to approve the bills as presented. Alderman Skopec seconded the motion, which was approved unanimously.

Alderman Credille made the motion to approve the financial reports as presented. Alderman Crowder seconded the motion, which was approved unanimously.

Administrative Report: City Administrator Darin Chappell monthly report. Reports of the activity of the departments are included in the packet. The City Auditor-KPM, CPAs will be presenting the annual review at the regular meeting in June. Based on current numbers, it is estimated that the city has 33% in reserves. The current department's budget reports are reflecting a better year than last year this time. The expenses are running at 28% below the estimated rate.

The staff has been working on mowing around the city. Part time seasonal help is coming. Street improvement to Buffalo and Main is a concern. There is a need for a new culvert. The old one has collapsed. An estimated cost for contract work to repair it is \$15,000, or the crew could do the repairs, concrete \$8,500.but taking 3-4 weeks. A bid for alumimin culvert from state bid \$6,426. If the board would consider to approve the purchase of the culvert.

Police Department is now using body cameras. A Policy has been set in place for the use of the body cameras. The National Standards are not out yet.

The City Wide cleanup has gone good so far, recommendations to plan earlier next year.

The Fire Department received a call recently from a resident that recently received a smoke detector from the Fire Department. Vehicle driver training for the new fire crew is the reason some of the fire trucks are seen out, which is standard operating procedure.

Alderman Cornell made a motion to approve the verbal report from the City Administrator. Alderman Cornell seconded the motion.

Roll Call.

Ayes: Skopec, Warwick, Cornell, Crowder, Credille, Kifer, Routh, Ballard.

Nays: None.

Absent: None.

Buffalo Road & Main Culvert.

Alderman Warwick made a motion to approve the culvert and paving for the repairs to Buffalo & Main Street for the collapsed culvert. Alderman Cornell seconded the motion.

Roll Call.

Ayes: Ballard, Credille, Crowder, Warwick, Routh, Kifer, Skopec, Cornell.

Nays: None.

Absent: None.

Old Business:

Bill No. 2015-26. AN ORDINANCE APPROVING A MUTUAL AID AGREEMENT – FIRE DEPARTMENT. Alderman Warwick made a motion to read the first reading of Bill No. 2015-26. Alderman Crowder seconded the motion. The City Attorney read Bill No. 2015-26.

“AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO A CONTRACT FOR POLK COUNTY FIRE, RESCUE & TRAINING ASSOCIATION MULTI-DISTRICT MUTUAL AID”

Alderman Crowder made a motion for the second reading of Bill No. 2015-26. Alderman Ballard seconded the motion. The City Attorney read Bill No. 2015-26, Ordinance 3205.

“AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO A CONTRACT FOR POLK COUNTY FIRE, RESCUE & TRAINING ASSOCIATION MULTI-DISTRICT MUTUAL AID.”

The Clerk called the Roll:

Ayes: Ballard, Crowder, Skopec, Routh, Cornell, Warwick, Credille.

Nays: None.

Absent: Kifer-During this vote, step out.

Bill No. 2015-27 An Ordinance Approving a Long Term Warranty Agreement with Caterpillar for an Extended Warranty for the City of Bolivar Missouri's WWTP.

Alderman Warrick made a motion to read the first reading of Bill No. 2015-27. Alderman Ballard seconded the motion. The City Attorney read Bill No. 2015-27.

“AN ORDINANCE APPROVING A LONG TERM WARRANTY AGREEMENT WITH CATERPILLAR FOR AN EXTENDED WARRANTY FOR THE CITY OF BOLIVAR MISSOURI'S WWTP.”

Alderman Crowder made a motion to read the second reading of Bill No. 2015-27. Alderman Warwick seconded the motion. The City Attorney read Bill No. 2015-27, Ordinance 3208.

“AN ORDINANCE APPROVING A LONG TERM WARRANTY AGREEMENT WITH CATERPILLAR FOR AN EXTENDED WARRANTY FOR THE CITY OF BOLIVAR MISSOURI'S WWTP.”

The Clerk called the Roll:

Ayes: None.

Nays: Routh, Crowder, Kifer, Warwick, Credille, Ballard, Cornell, Skopec.

Absent: None.

Bill No. 2015-28. An Ordinance Authorizing the City of Bolivar, Missouri to enter into an agreement with Donelson Construction Company, LLC.

Alderman Crowder made a motion for the first reading of Bill No. 2015-28. Alderman Ballard seconded the motion. The City Attorney read Bill No. 2015-28.

“AN ORDINANCE AUTHORIZING THE CITY OF BOLIVAR, MISSOURI TO ENTER INTO AN AGREEMENT WITH DONELSON CONSTRUCTION COMPANY, LLC.”

Alderman Skopec made a motion for the second reading of Bill No. 2015-28. Alderman Ballard seconded the motion. The City Attorney read Bill No. 2015-28, Ordinance 3209.

“AN ORDINANCE AUTHORIZING THE CITY OF BOLIVAR, MISSOURI TO ENTER INTO AN AGREEMENT WITH DONELSON CONSTRUCTION COMPANY, LLC.”

The Clerk called the Roll:

Ayes: Routh, Crowder, Skopec, Kifer.

Nays: Warwick, Credille, Ballard, Cornell.

Abstain: None.

Mayor: Yes.

Discussion: Business License Procedure's

City Administrator Darin Chappell discussed an option to streamline the process of collecting the yearly business renewals for the brick and mortar businesses, at a \$2.00 a month fee on the water bill card, instead of an annual bill. A proposed ordinance will be brought to the board for review.

Discussion: Request to Address Council Procedure's.

Alderman Kifer presented a draft policy for the council to review to address the city council with a form to utilize for meetings.

Alderman Skopec made a motion to approve the Policy to "Address the Council Procedure's"
Alderman Kifer seconded the motion.

Roll Call:

Yes: Skopec, Ballard, Routh, Crowder, Kifer, Warwick.

No: Credille, Cornell.

Absent: None.

New Business:

Bill No. 2015-31. An Ordinance Amending the City Code for the City of Bolivar, Missouri by amending Section 105.060; Relating to the Office of the City Collector. Alderman Cornell made a motion to approve the first reading of Bill No. 2015-31. Alderman Routh seconded the motion. The City Attorney read Bill No. 2015-31.

"AN ORDINANCE AMENDING THE CITY CODE FOR THE CITY OF BOLIVAR, MISSOURI BY AMENDING SECTION 105.060; RELATING TO THE OFFICE OF CITY COLLECTOR."

Alderman Routh made a motion to approve the second reading of Bill No. 2015-31. Alderman Ballard seconded the motion. The City Attorney read Bill No. 2015-31.

"AN ORDINANCE AMENDING THE CITY CODE FOR THE CITY OF BOLIVAR, MISSOURI BY AMENDING SECTION 105.060; RELATING TO THE OFFICE OF CITY COLLECTOR."

Roll Call:

Yes: Routh.

No: Credille, Cornell, Skopec, Kifer, Warwick, Crowder, Ballard.

Absent: None

Discussion: Inoperable or Unlicensed Motor Vehicle Storage.

The Planning and Zoning Commission has recommended that an ordinance be passed for inoperable or unlicensed motor vehicle storage, with a permit process added. A draft ordinance will be presented at the next meeting.

Discussion: Garage Sale Time Length Limitation.

Discussion pertaining to amending the existing ordinance to put a limit and enforcement of garage sales inside the city limits. An ordinance will be presented to the city at the next meeting.

Discussion: Section 235.010 Public Nuisances:

A draft ordinance will be presented to the city council for review to update the wording and clearly spell out the rules for residents who habitually do not mow their yards.

Approval: Funds for Repair of Aerator Motor WWTP \$10,000 cost.

Alderman Kifer made a motion for the approval to repair the aerator motor at the WWTP at an estimated cost of \$10,000. Alderman Ballard seconded the motion.

Roll Call.

Ayes: Routh, Warwick, Credille, Crowder, Cornell, Kifer, Skopec, Ballard.

Nays: None.

Absent: None.

Approval: Aquatic Center Vent Pipe Repairs:

Alderman Kifer made a motion to approve the repairs to the Aquatic Center Vent Pipe Repairs at an estimated cost of \$6,200. Alderman Skopec seconded the motion.

Roll Call.

Ayes: Routh, Credille, Crowder, Cornell, Kifer, Skopec, Ballard, Warwick.

Nays: None.

Absent: None.

Approval: HGAC Inter local Cooperative Purchasing Agreement.

Alderman Crowder made a motion to approve the City to enter into an HGAC Inter local Cooperative Purchasing Agreement. Alderman Warwick seconded the motion.

Roll Call.

Ayes: Warwick, Routh, Credille, Crowder, Cornell, Kifer, Skopec, Ballard.

Nays: None.

Absent: None.

Approval: LED Lighting for the City Property.

City Administrator Chappell will be seeking Request for Proposals on light bulbs for the city buildings, using LED lights, an option to go green and utilizing cost saving technology using polybrite tubs.

Approval: IBS 2015 Building Codes.

It was discussed that Planning and Zoning has recommended the city proceed with amending the city code to proceed with passage of the IBS 2015 Building Codes.

Calendar:

June 9th, 2015 Work Session, June 23rd, 2015 Regular Session, June 18th, 2015 Planning & Zoning Meeting. June 19, 2015 Park & Recreation Board Meeting.

Adjournment

Alderman Crowder made a motion to adjourn the regular session meeting at 8:50 p.m. Alderman Warwick seconded the motion. Unanimously approved.

John F. Best, Mayor

ATTEST:

Natalie Scrivner, City Clerk



 **CLASSIC BARBER SERVICES TO HELP YOU STAY SHARP.™** [BOOK ONLINE](#)

- Home
- KTTS Insiders
- News
- Weather
- Country Hits
- Contact
- Closings
- Lost Pets

Shows
Events

#KTTTS

Search

News
Sports

KTTS

94.7 FM

NEWS



Bolivar Discusses Ban On Panhandling

By David Mesey. CREATED Mar 11, 2015


KTTs Coverage of Bolivar's Ban on Panhandling
SOUNDCLOUD
Share



[Cookie policy](#) 3

A ban on panhandling was one of the topics discussed at this week's **Bolivar** Board of Alderman meeting. The City Administrator says it wasn't voted on because a last minute change was made to the ordinance. He says they want to make sure legitimate charities can still ask for money. The board will vote on the measure in two weeks. He says he is confident that it will pass.

[share](#) [tweet](#) [+1](#)
[comment](#)

Get news or weather in your inbox

[Sign Up »](#)

[Latest](#)

Latest News

[Terror Attack Prevented On 9/11 Event In Kansas City](#) [St. Louis Cardinals Shutout By The Reds 11-0](#)
[Read »](#) [Read »](#)



[Cold Front Brings Heavy Rain And High Speed Winds To The Ozarks](#)
[Read »](#)

[New Head Coach Dave Steckel Talks Missouri State Bears Football](#)
[Read »](#)

[Drury University Student Diagnosed With Viral Meningitis](#)
[Read »](#)

[Guilty Plea For Man Who Killed Friend After A Day Of Drinking And Shooting](#)
[Read »](#)

[No Cause Yet For Fatal Springfield House Fire](#)
[Read »](#)



Springfield, MO



Today's Outlook »

72°

Broken Clouds
Precip 20%
Humidity 66%
Wind N at 17 mph
Alerts 0



Radar »

Headlines

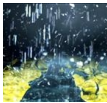
12 minutes ago



Brief Lockdown At Republic Schools



Terror Attack Prevented On 9/11 Event In Kansas City



Cold Front Brings Heavy Rain And High Speed Winds To The Ozarks



New Head Coach Dave Steckel Talks Missouri State Bears Football

KTTS SPECIAL
50% OFF
 STANDARD OIL CHANGE UP TO 5 QTS.
SCHEDULE AN APPOINTMENT

A-1 Custom Car Care
 SINCE 1990

25 YEARS
 OF QUALITY SERVICE

NashvilleEdge.com



Dierks Bentley to open second restaurant location in Arizona



[Video](#)

Brad Paisley, Carrie Underwood show off Dubsmash skills



2015 CMA Awards: Steven Tyler, Kelsea Ballerini announce final nominees

 **SCRIPPS** [Show Links](#) 

[Scripps TV Group](#) [© 2015 The E.W. Scripps Co.](#) [Privacy](#) [Rights](#) [Terms of Use](#) [Contact Us](#)

Copyright 2015 KTTS 94.7 FM

CITY OF BOLIVAR
WORK SESSION
DRAFT MINUTES
March 10th, 2015

Present: Mayor John F. Best, Aldermen Vicky Routh, Darren Crowder, Terry Cornell, Justin Ballard, John Credille via Skype, Steve Skopec, Chris Warwick, and Thane Kifer; City Administrator Darin Chappell, Economic Development Coordinator Tracy Slagle, City Attorney Don Brown, Acting Assistant City Clerk Sarah Honey, Police Chief Mark Webb, Public Works Director Jerry Hamby; Brent Watkins, James Bradshaw, Spencer Welch, Chelle Roellig, Steve Hubbert, Paula Hubbert, Haley Magnuson, Mindy Mitchell, Scott Burton, Arleen Ferguson, Larry Ferguson, Heather Cline, Tiffany Long, Tammie Martin, Susan Sparks, Ethel Mae Tennis, and others not listed on the sign in sheet.

Call to Order: Mayor John Best called the Work Session to order at 6:31 p.m.

Discussion:

Dunnegan Park – Peacock Issue

Tim Francka, Administrator of Parkview Healthcare Facility, spoke on behalf of the residents from said facility on their concerns of containing the peacocks to Dunnegan Memorial Park. Mr. Francka wanted to address the issues occurring at the Healthcare Facility and the peacocks. Mr. Francka brought pictures of the problem the residents of the Healthcare facility are facing each morning when they step out their doors. With the multitude of peacocks, the issues that occur have included feces at the residents front doors, the damage to property including roofs and vehicles from the birds, and also plants being grown by residents including tomatoes and flowers that have been damaged &/or destroyed as a result of the growing population of peacocks at the park. It was reported an estimate of twenty (20) to twenty-five (25) birds are currently residing at the park. Ethel Mae Tennis reported she has spoken with a few individuals that are interested in accepting a donation of several of the birds to thin the population, but City Administrator Darin Chappell suggested he look into possibly selling several of the birds. Alderman Warwick agreed the Administrator should check to see if the City could benefit from the sale of the birds. Mr. Chappell is to report back to Council at the next meeting with his findings.

Jason Dial – R1 School Board Bond Issue

Mr. Dial was unable to speak at the meeting due to School Basketball games in progress, but Chairman of 'Keep Our Kids Safe' Bond Issue, Paula Hubbert and Bolivar R-1 School Assistant Superintendent, T.C. Wall spoke on the Bond Issue and requested the support of the Board of Aldermen on the Bond Issue. Mrs. Hubbert spoke of her days as a first grade social studies teacher and the impact it had on the class she was teaching when the tragic Columbine High School massacre. She wanted to bring light to the efforts of the Bond to improve upon the security and wellbeing of the Bolivar School system's occupants. The top four (4) issues to be addressed would include efforts to secure the main entrances of the Primary, Intermediate, Middle and High School; relocate and renovate the Primary School kitchen, district wide HVAC upgrades, and refinancing of debt that would free up \$750,000.00 in the school's general revenue fund. Mrs. Hubbert also reported Bolivar is the 9th lowest levy within the area districts, and if this bond were to be passed, Bolivar would still be the 9th lowest levy within the area districts. Mrs. Hubbert requested Council pass a Resolution of support to the proposed bond issue.

Alderman Cornell made the motion for a Resolution to support for the April 7, 2015 Bond Issue. Alderman Routh seconded the motion.

The Acting Assistant City Clerk called the roll:

Ayes: Aldermen Skopec, Routh, Warwick, Credille, Kifer, Cornell, and Ballard.

Nays: Alderman Crowder.

Absent: None.

EB-V

Discussion of this issue was moved to follow the Panhandling Ordinance discussion.

Section for Panhandling – Bill No. 2015- 08: An Ordinance amending the Bolivar Municipal Code by adding a new Chapter 611, providing for panhandling and solicitation regulations was presented. Multiple Aldermen had concerns with this ordinance in regards to fund raising efforts. City Administrator Darin Chappell clarified this ordinance would assist with eliminating aggressive panhandling, and wasn't designed to hinder non-aggressive fund raising efforts. The City Attorney was to send out possible verbiage changes for future review.

Aldermen Crowder made a motion to table Bill Number 2015-08 until next meeting after receiving revisions. Alderman Warwick seconded the motion, which carried unanimously.

EB-V

The EB-5 visa provides a method of obtaining a green card for foreign nationals who invest money in the United States economy. To obtain the visa, foreign entities would need to invest a designated amount to money and create a designated amount of jobs for U.S. citizens to qualify. This would generally take place in areas with high unemployment rates. Bolivar does not meet the high unemployment threshold. City Staff was asked if there would be an interest in becoming a Regional Center for the efforts.

Neighboring Barton County was reported as participating as a Regional Center and if investors were interested in developing in Bolivar, the Barton County Regional Center would be able to assist with these requests. Other concerns brought to the attention of the Board were the issues with security, legal fees, paperwork requirements, and the possibility of money laundering by terrorist groups. It was the consensus of the Board that Mr. Chappell was not to pursue the City becoming a Regional Center.

Proposal for Fullerton Sports Complex – Bill No. 2015-09: Alderman Skopec made a motion for first reading of Bill No. 2015-09, Alderman Cornell seconded the motion. The City Attorney read Bill No. 2015-09:

**“AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN
AGREEMENT WITH THE BOLIVAR COMMUNITY SPORTS ASSOCIATION,
FOR THE USE OF AND SERVICES ASSOCIATED WITH THE CITY’S
FULLERTON SPORTS COMPLEX FOR 2015 EVENTS.”**

Discussion concerning the quality of the road to the Fullerton Sports Complex was brought up in concern with the agreement presented. The City Attorney suggested possibly declaring the road a City Street as to enable the City to make improvements. Public Works Director Jerry Hamby suggested that he check on the cost to improve upon the road.

Alderman Cornell made a motion to table Bill No. 2015-09 until information concerning the road to the complex be brought before the Board. Alderman Crowder seconded the motion.

The Acting Assistant City Clerk called the roll:

Ayes: Aldermen Routh, Warwick, Kifer, Crowder, Credille, Ballard, Skopec, and Cornell

Nays: None

Absent: None

Proposal for Concessions & Vending – Bill No. 2015-10: An Ordinance authorizing the City to enter into an agreement with Fritz and Fudds Fun Foods Concessions and Vending LLC, for concession and vending services at City Venues was brought before the Board. Alderman Warwick wanted to see the proposal revised with a shorter time span rather than the five (5) year contract offered. Alderman Crowder made the motion to table Bill No. 2015-10. Alderman Kifer seconded the motion.

The Acting Assistant City Clerk called the roll:

Ayes: Aldermen Skopec, Routh, Warwick, Crowder, Credille, Kifer, Cornell, and Ballard

Nays: None

Absent: None

Review and Approve Selected Bidder for Sewer Easement Machine: Bids were received from Elliott Equipment Co, Key Equipment & Supply Co, and Mahoney's Equipment for selection of the Sewer Easement Machinery. Public Works Director Jerry Hamby suggested the lowest bidder as the City's best option in this selection.

Alderman Skopec made a motion to select Elliott Equipment Co.'s Bid for the sale of machinery with delivery and training included for \$52,775.00. Alderman Crowder seconded the motion, which carried unanimously.

Uniform Contract – Bill No. 2015-11, Ordinance No. 3187: Alderman Cornell made a motion for first reading of Bill No. 2015-11, Alderman Warwick seconded the motion. The City Attorney read Bill No. 2015-11:

“AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH CINTAS, FOR THE CITY’S UNIFORM SERVICES.”

Alderman Skopec made a motion for the second reading of Bill No. 2015-11 and Alderman Routh seconded the motion. The City Attorney read Bill No. 2015-11, Ordinance No. 3187:

“AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH CINTAS, FOR THE CITY’S UNIFORM SERVICES.”

The Acting Assistant City Clerk called the Roll:

Ayes: Aldermen Skopec, Routh, Warwick, Crowder, Credille, Kifer, Cornell, and Ballard
Nays: None
Absent: None

Lease of Water Tower Space – Bill No. 2015-12: Alderman Crowder made a motion for first reading of Bill No. 2015-12, Alderman Cornell seconded the motion. The City Attorney read Bill No. 2015-12:

“AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH U-LINK, LLC, FOR LEASE OF WATER TOWER SPACE FOR WIRELESS INTERNET EQUIPMENT.”

Alderman Crowder made a motion to table Bill No. 2015-12 until the finalized agreement was disbursed to the Board. Alderman Cornell seconded the motion, which carried unanimously.

Elliott Equipment Co Contract - Bill No. 2015-13, Ordinance No. 3189: Alderman Skopec made a motion for first reading of Bill No. 2015-13, Alderman Warwick seconded the motion. The City Attorney read Bill No. 2015-13:

“AN ORDINANCE AUTHORIZING THE CITY TO ACCEPT THE BID OF ELLIOTT EQUIPMENT CO AND TO PURCHASE A SEWER EASEMENT MACHINE.”

Alderman Warwick made a motion for the second reading of Bill No. 2015-13, Alderman Cornell seconded the motion. The City Attorney read Bill No. 2015-13, Ordinance No. 3189:

“AN ORDINANCE AUTHORIZING THE CITY TO ACCEPT THE BID OF ELLIOTT EQUIPMENT CO AND TO PURCHASE A SEWER EASEMENT MACHINE.”

The Acting Assistant City Clerk called the Roll:

Ayes: Aldermen Credille, Kifer, Cornell, Ballard, Skopec, Routh, Warwick, and Crowder
Nays: None
Absent: None

Municipal Airport Agreement – Bill No. 2015-14: Alderman Crowder made a motion for first reading of Bill No. 2015-14, Alderman Cornell seconded the motion. The City Attorney read Bill No. 2015-14:

“AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH SERVICE ORIENTED AVIATION READINESS, INC., FOR AIRPORT FIXED BASE OPERATIONS AND LEASE OF REAL ESTATE.”

Alderman Crowder was concerned with the verbiage of the agreement in regards to the combination of the service agreement and the lease of the Phillips Building Property. The City Attorney was requested to revise the agreement.

Alderman Crowder made a motion to table Bill No. 2015-14 until the requested revisions were made to the agreement. Alderman Skopec seconded the motion, which carried unanimously.

Previously Approved Ordinance Readings and Review: Alderman Cornell had requested the City Attorney review with current members and new members of the Board some of the previously passed Ordinances. The City Attorney read aloud the following:

Chapter 105.035 City Officers, City Administrator (Paragraph H)

Interference by Members of the Board of Aldermen or Mayor. No members of the Board of Aldermen or the Mayor shall directly interfere with the conduct of any department of duties of employees subordinate to the City Administrator except at the express direction of the Board of Aldermen or with the approval of the City Administrator.

Chapter 100.260 General Provisions, General Division of Responsibilities and Authority – Local City Government (Paragraph C)

In addition to the provisions of Chapter 105 and all subsequent Chapters in the Bolivar Municipal City Code dealing with specific duties of the Board of Aldermen, the said Board of Aldermen is intended to generally serve the function of consideration and making of policy decisions for the City. In fulfilling its obligations in making policy decisions for the City, the Board, as a whole, may act as a single unit through majority vote (or majority vote of a quorum, as the case may be); and no single member of the Board of Aldermen will have the authority to guide or direct the day-to-day operations of the City or its employees.

Chapter 100.250 General Provisions, Nepotism Policy for Board of Aldermen (Paragraphs A-E)

The Mayor and the Board of Aldermen of the City of Bolivar declare that a nepotism policy should be enacted for the members of the Board of Aldermen. This Section is intended to complement the provisions of Section 100.240 of the City Code; however, to the extent that any provisions of this Section conflict with the provisions of Section 100.240 of the City Code, the provisions of this Section will control.

Wherever and whenever this Section mentions or references the term "family member" or "relative", the same refers to: spouse; child; grandchild; or foster children.

Promotion of Existing Employees. No member of the Board of Aldermen may participate in the promotion process, or any other personnel matter, of any City employee who is a relative or family member of such member of the Board of Aldermen.

Appointments. No relative or family member of a member of the Board of Aldermen shall be appointed to the position of any board or commission which has more than an advisory role or one in which the members receive compensation.

Contracts and Hiring Of Professionals. No member of the Board of Aldermen shall take part in the vote to approve or approval of any contract, the hiring of any non-employee professional/ independent contractor, or any other matter under circumstances where a family member or relative of such member of the Board of Aldermen will benefit from the approval of the contract, hiring, or other matter.

Chapter 105.120 City Officers – Suspension and Removal of Officers (Paragraphs B-C)

The Mayor or any member of the Board of Aldermen may, at any meeting of the Board of Aldermen, prefer charges in writing against any elective officer of the City. Upon such charges being preferred, a day shall be set for the hearing of same and notice of such charges shall be served upon each elective officer at least five (5) days before the day set for hearing of same, such service to be delivering to such officer a written notice of such charges or in case he/she is absent from the City or cannot be found, then by having a copy of such charges at his/her last known place of business with the person in charge thereof or at his/her residence with some member of the family over the age of fifteen (15) years.

During the pendency of such charges, such officer may be temporarily suspended from office in the same manner as provided in the preceding paragraph and notice in writing of such temporary suspension shall be at once given to such officer and during such suspension, such officer shall have no right to perform any of the duties relating to the office to which he/she was elected.

The meeting adjourned at 8:02 p.m.

ATTEST:

John F. Best, Mayor

Sarah Honey, Acting Assistant City Clerk