

# JEFFERSON COUNTY, MISSOURI – JOURNAL

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September 5, 2017  
Special Meeting  
Jefferson County Administration Center, Hillsboro, MO  
Assembly Room  
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The Jefferson County, Missouri, Council conducted a special meeting on Tuesday, September 5, 2017, at 6:30 p.m. in the Assembly Room of the Jefferson County Administration Center, located at 729 Maple Street, Hillsboro, Missouri.

**I. CALL TO ORDER**

Council Chair Renee Reuter called the meeting to order at 6:30 p.m.

**II. INVOCATION**

Council Member Reuter called for a moment of silence for the victims of Hurricane Harvey in the Houston, Texas area.

**III. PLEDGE OF ALLEGIANCE**

Recited.

**IV. ROLL CALL**

|                               |         |
|-------------------------------|---------|
| County Executive Waller:      | Absent  |
| District 1- Don Bickowski:    | Present |
| District 2- Renee Reuter:     | Present |
| District 3- Vacant:           | N/A     |
| District 4- Charles Groeteke: | Present |
| District 5- Jim Kasten:       | Absent  |
| District 6- Dan Stallman:     | Present |
| District 7- Jim Terry:        | Present |

**V. PUBLIC COMMENTS**

None

**VI. APPROVAL OF THE AGENDA**

Council Member Groeteke made a motion to approve the Agenda as presented, seconded by Council Member Bickowski.

**Vote:**

|  |        |
|--|--------|
| District 1 - Council Member Bickowski: | Yes    |
| District 2 - Council Member Reuter:    | Yes    |
| District 3 – Vacant                    | N/A    |
| District 4 - Council Member Groeteke:  | Yes    |
| District 5 - Council Member Kasten:    | Absent |
| District 6 - Council Member Stallman:  | Yes    |
| District 7 - Council Member Terry:     | Yes    |

Motion carried.

**VII. APPROVAL OF THE JOURNAL**

None

**VIII. PUBLIC HEARING**

None

**IX. REPORTS FROM COUNTY EXECUTIVE**

None

**X. RECONSIDERATION OF BILLS**

None

**XI. CONSIDERATION OF VETOED BILLS**

None

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## XII. CONSENT AGENDA

None

## XIII. CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA

None

## XIV. CONSIDERATION OF RESOLUTIONS

### Resolution R17-0901 – Council District 3 Vacancy Appointment of Phil Hendrickson

Council Member Bickowski made a motion to place Resolution R17-0901 on its first and final reading by title, seconded by Council Member Groeteke. Council Member Stallman read R17-0901 by title.

Council Member Terry noted a scrivener error on Page 2, Line 6, the word care should be changed to car.

Council Member Terry made a motion to correct the scrivener error on Page 2, Line 6, replacing the word Care to Car, seconded by Council Member Bickowski.

#### Vote:

|  |        |
|--|--------|
| District 1 - Council Member Bickowski: | Yes    |
| District 2 - Council Member Reuter:    | Yes    |
| District 3 – Vacant                    | N/A    |
| District 4 - Council Member Groeteke:  | Yes    |
| District 5 - Council Member Kasten:    | Absent |
| District 6 - Council Member Stallman:  | Yes    |
| District 7 - Council Member Terry:     | Yes    |

Motion carried.

Council Member Bickowski made a motion to approve R17-0901 as amended with A1 seconded by Council Member Groeteke.

#### Vote:

|  |        |
|--|--------|
| District 1 - Council Member Bickowski: | Yes    |
| District 2 - Council Member Reuter:    | Yes    |
| District 3 – Vacant:                   | N/A    |
| District 4 - Council Member Groeteke:  | Yes    |
| District 5 - Council Member Kasten:    | Absent |
| District 6 - Council Member Stallman:  | Yes    |
| District 7 - Council Member Terry:     | Yes    |

Motion carried.

County Clerk Randy Holman appeared and swore in Phil Hendrickson, appointing him as Jefferson County Council Member for District 3 effective September 5, 2017.

Council Member Hendrickson thanked Council for their support and faith and introduced his wife Sheila Hendrickson and co-worker Kelly Jones from Air Conditioning Contractors of America and Gateway ACC.

## XV. INTRODUCTION OF BILLS

None

## XVI. PERFECTION OF BILLS

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None

## XVII. FINAL PASSAGE OF BILLS

Bill No. 17-0803 A1

**Council Member Bickowski made a motion to place Bill No. 17-0803 A1 on its third and final reading by title, seconded by Council Member Groeteke. Council Member Stallman read the Bill.**

**Council Member Bickowski made a motion to approve and finally pass Bill No. 17-0803 A1, seconded by Council Member Groeteke.**

### Vote:

|  |         |
|--|---------|
| District 1 - Council Member Bickowski:   | Yes     |
| District 2 - Council Member Reuter:      | Yes     |
| District 3 - Council Member Hendrickson: | Abstain |
| District 4 - Council Member Groeteke:    | Yes     |
| District 5 - Council Member Kasten:      | Absent  |
| District 6 - Council Member Stallman:    | Yes     |
| District 7 - Council Member Terry:       | Yes     |

Motion carried.

## XVIII. OTHER MATTERS

**Council Member Groeteke requested a Closed Session for Litigation be placed on the September 11, 2017 Regular Meeting Agenda, seconded by Council Member Reuter.**

### Vote:

|  |        |
|--|--------|
| District 1 - Council Member Bickowski:   | Yes    |
| District 2 - Council Member Reuter:      | Yes    |
| District 3 - Council Member Hendrickson: | Yes    |
| District 4 - Council Member Groeteke:    | Yes    |
| District 5 - Council Member Kasten:      | Absent |
| District 6 - Council Member Stallman:    | Yes    |
| District 7 - Council Member Terry:       | Yes    |

Motion carried.

## XIX. REPORTS AND COMMENTS FROM COUNCIL MEMBERS

District 1 - Council Member Bickowski:

- Thanked Phil Hendrickson for stepping into the role of Councilmember.
- Reported he is working behind the scenes on a citizen complaint about lighting issues.

District 2 – Council Member Reuter:

- Reported on a recent visit to Texas where continued prayers for flooding victims are appreciated, and those in uniform stationed at Ft. Hood are doing fine.

District 3 – Council Member Hendrickson: No report.

District 4 – Council Member Groeteke:

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- Reported the first meeting of the Ad Hoc Committee to review the recommended changes to the Electrical Code was held on August 29<sup>th</sup> and committee member questions have been submitted to Director of County Services Eric Larson.

District 5 – Council Member Kasten: Absent

District 6 – Council Member Stallman:

- Welcomed Phil Hendrickson to the Council.

District 7 – Council Member Terry:

- Welcomed Phil Hendrickson to the Council.
- Invited all to the Highway W/MM Task Force meeting on Thursday, September 7<sup>th</sup> at 7:00 p.m., to be held at the Peace Pantry, 8100 South Industrial where Neal Breitweiser, Executive Director of the Port Authority will give an update.

XX. **CLOSED SESSION**  
None

XXI. **ADJOURNMENT**

**Council Member Bickowski made a motion to adjourn the meeting, seconded by Council Member Groeteke.**

**Vote:**

|  |        |
|--|--------|
| District 1 - Council Member Bickowski:   | Yes    |
| District 2 - Council Member Reuter:      | Yes    |
| District 3 - Council Member Hendrickson: | Yes    |
| District 4 - Council Member Groeteke:    | Yes    |
| District 5 - Council Member Kasten:      | Absent |
| District 6 - Council Member Stallman:    | Yes    |
| District 7 - Council Member Terry:       | Yes    |

Motion carried and the meeting adjourned at 6:43 p.m.

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RESOLUTION NO.: R17-0901 A1

**RESOLUTION AND ORDER OF THE JEFFERSON COUNTY, MISSOURI, COUNTY COUNCIL TO APPOINT PHIL HENDRICKSON, REPUBLICAN, FOR THE VACANT COUNTY COUNCIL POSITION OF COUNTY COUNCIL DISTRICT 3.**

**WHEREAS**, Article XIII, Section 13.3.4 of the Home Rule Charter of Jefferson County, Missouri authorizes the County Council to appoint a vacant council position by a majority vote of the remaining serving Council Members until the end of the term of the vacant Council Member; and,

**WHEREAS**, on September 1, 2017, there will become a vacancy in County Council District 3 as the Councilman from said district, Robert Boyer, will be resigning from said district effective August 31, 2017; and,

**WHEREAS**, The County Council District 3 representative, Robert Boyer, was a duly elected Republican candidate, and it is necessary that the County Council replace Mr. Boyer with an individual that is a Republican; and,

**WHEREAS**, Phil Hendrickson is affiliated and identifies himself as a Republican, and resides in Jefferson County, Missouri, County Council District 3; and,

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**WHEREAS**, Phil Hendrickson has been a resident of Jefferson County Council District 3 for more Forty-Three (43) years; and,

**WHEREAS**, Phil Hendrickson is currently serving his 15<sup>th</sup> year on the Board of Directors and is past President of the St. Louis Chapter of ACCA (Air Conditioning Contractors of America, a national HVAC/Mechanical Contractors Trade Organization), locally Re-Branded in 2015 as Gateway Air Conditioning Contractors; and,

**WHEREAS**, Phil Hendrickson is currently serving his 7<sup>th</sup> year as member of the Jefferson County Code Commission; and,

**WHEREAS**, Phil Hendrickson is the Treasurer and active member of the HYWAY Rockers Classic Car Club, Festus Missouri, primary emphasis to enjoy the hobby of restoring, owning and driving antique, classic and/or hot rod cars. Secondary emphasis is to donate our annual proceeds to help one or more local families; and,

**WHEREAS**, Phil Hendrickson is the Treasurer and active member of both the Missouri-Illinois Gateway Chapter of the Studebaker Drivers Club International and the Missouri-Illinois Chapter of the Avanti Owners Association International; and

**WHEREAS**, Phil Hendrickson has served on contractor review committees for both The American Trade School and Rankin Technical University to review course curriculum of their HVAC and Refrigeration programs; and,

**WHEREAS**, the County Council feels that Phil Hendrickson's civic and extra-curricular activities will help bring the Council a diverse point of view that accurately reflects those of Council District 3; and,

**WHEREAS**, the County Council, by a Majority Vote, hereby appoints Phil Hendrickson as the best qualified candidate for the appointment of Council Member for Council District 3.

**NOW THEREFORE, BE IT RESOLVED BY THE JEFFERSON COUNTY, MISSOURI, COUNTY COUNCIL, AS FOLLOWS:**

**Section 1.** The Jefferson County, Missouri, County Council, pursuant to Article XIII, Section 13.3.4 of the Home Rule Charter of Jefferson County, Missouri appoints Phil Hendrickson to the vacant council position, County Council District 3, immediately until the end of the term of the vacant Council Member which shall be December 31, 2018; and,

**Section 2:** Phil Hendrickson is appointed to serve as the Councilman of County Council District 3 consistent with the requirements of the Home Rule Charter of Jefferson County, Missouri.

**Section 3:** This Resolution shall be in full force and effect from and after the date of its enactment. If any part of this Resolution and Order is invalid for any reason, such invalidity shall not affect the remainder of the Resolution and Order.

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BILL NO.: 17-0803 A1

**AN ORDINANCE TO AMEND THE EFFECTIVE DATE OF THE DULY MADE APPROPRIATIONS INCLUDED IN BILL NUMBER 17-0533 WHICH AUTHORIZED AN AMENDMENT OF THE 2017 BUDGET PURSUANT TO THE HOME RULE CHARTER OF JEFFERSON COUNTY, MISSOURI, TO REFLECT THE TRANSFER OF BUDGET FUNDS FROM THE GENERAL REVENUE RESERVE ACCOUNT TO THE GENERAL REVENUE RESERVE FUNDS REVENUE ACCOUNT FOR THE PURPOSE OF CORRECTING TIMING ISSUES AND ADDRESSING UNEXPECTED AND EMERGENCY CONDITIONS REQUIRED TO DEFEND JEFFERSON COUNTY, MISSOURI AND THE JEFFERSON COUNTY, MISSOURI COUNCIL IN LITIGATION FOR WHICH THE COUNTY COUNSELOR'S OFFICE WAS UNABLE TO DEFEND DUE TO PROFESSIONAL CONFLICT.**

**WHEREAS**, Jefferson County is the defendant in two lawsuits, Bruce King v. Jefferson County, Missouri, et al. Cause No. 16JE-CC00004 (hereinafter, the King Case) and Kenneth Waller v. Jefferson County, Missouri, et al. Cause No. 17JE-CC00261 (hereinafter the Waller Case); and

**WHEREAS**, the County Executive voluntarily joined as a Plaintiff to the King Case in January, 2017 and voluntarily filed the Waller Case against the Jefferson County, Missouri Council (hereinafter, the Council Council) in March, 2017; and

**WHEREAS**, the County Counselor has determined and announced that he has a conflict of interest in representing the County in the aforesaid cases, for reasons including that pursuant to Article V, Section 5.10.3 of the Home Rule Charter of Jefferson County,

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Missouri (hereinafter, the Charter), the County Counselor “is to be appointed by the County Executive with the advice and consent of the County Council and is to serve at the pleasure of the County Executive.”; and

**WHEREAS**, the County Counselor also has recused himself from all participation in the King and Waller Cases matters; and

**WHEREAS**, the County and the County Council may not lawfully represent themselves in the King Case or the Waller Case, but must appear by counsel; and

**WHEREAS**, Jefferson County, Missouri was required to file a response in the King Case no later than April 19, 2017 or be held in default; and

**WHEREAS**, Jefferson County, Missouri was required to file a response in the Waller Case no later than May 4, 2017 or be held in default; and

**WHEREAS**, the County Council was unable to accurately ascertain the anticipated costs of litigation prior to adoption of the Jefferson County, Missouri annual budget during the normal budgetary process; and

**WHEREAS**, to protect the interests of the County, the County, acting through its duly appointed County Council and in compliance with the Charter and the Ordinances of Jefferson County, selected counsel to represent Jefferson County, Missouri and the County Council in pending litigation on April 13, 2017 which was memorialized by Ordinance 17-293; and

**WHEREAS**, the counsel selected by the County Council has a previous and still existing valid written contract with the County which includes these services, which made the additional appointment of Ordinance 17-293 merely for the purpose of clarifying that the firm would specifically be representing the County in the litigation as opposed to the general appointment which had previously occurred and to direct the County Executive and other officials to make the necessary arrangements for payment; and

**WHEREAS**, the County has incurred fees as a result of counsel’s defense of the interests of the County in the King and Waller cases; and

**WHEREAS**, by Ordinance 17-293, the County Executive was authorized to take all necessary steps to carry out the intent of that ordinance and such necessary steps would clearly include transferring money within the budget to pay the costs of the County’s counsel, but he has failed to do so; and

**WHEREAS**, the County Executive has failed to pay the obligations of the County on the pretext that no money has been appropriated for such purpose; and

**WHEREAS**, Jefferson County, Missouri had funds available as of April 1, 2017, which were held in accounts other than the account newly created and funded by Ordinance 17-0297; and

**WHEREAS**, to further assist the implementation and funding of Ordinance 293, the Council passed Bill 17-0533 (Ordinance 17-0297) specifically creating and funding an account from which the aforesaid indebtedness could be paid notwithstanding the authority to do so already granted in Ordinance 17-293; and

**WHEREAS**, the Auditor of Jefferson County has refused payment for services relating to the defense of Jefferson County, Missouri and the County Council on the pretext that legal services were conducted prior to final passage of Ordinance 17-0297 despite there having been an existing written agreement in place; and

**WHEREAS**, the actions of the County Executive and the Auditor of Jefferson County, both of whom may benefit should the litigation be decided against the County, have created an emergency whereby the County and the County Council are unable to protect the interests of the County; and

**WHEREAS**, Article VII, Section 7.2.13 of the Charter, permits the County Council to transfer unencumbered funds or balances and Section 7.2.14 permits the County Council to make supplemental appropriations or reductions by further Ordinance; and

**WHEREAS**, the County Council acted in the best interests of the citizens of Jefferson County, Missouri by moving forward with legal representation to defend both Jefferson County taxpayers and the County Council, and the intent of this Ordinance is to assure that the interests of all parties be fairly litigated with the interests of the County Council, the County, and the Taxpayers being fairly represented by counsel; and

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**WHEREAS**, the Jefferson County, Missouri Council is entitled to, in emergency circumstances in which failure to timely act would be adverse to the legal defense of the Jefferson County citizens and the County Council, take action to amend Bill No. 17-0533 to have retroactive effect *nunc pro tunc*; and

**WHEREAS**, nothing prohibits the payment of these lawful debts of the County out of current funds; and

**WHEREAS**, the County Council finds it is in the best interests of the County and the citizens of Jefferson County, Missouri to amend Ordinance 17-0297; and

**WHEREAS**, although believing this amendment to be unnecessary and surplusage, the County Council desires to restate and reaffirm its prior actions while eliminating any spurious legal or factual arguments purporting to question the unequivocal actions of the County Council to engage legal counsel for the County's defense and provide for payment of that counsel.

## **BE IT ENACTED BY THE JEFFERSON COUNTY, MISSOURI, COUNCIL, AS FOLLOWS:**

**Section 1.** The Budget of General Revenue for Jefferson County, Missouri, subject to any and all budget limitations, shall be amended to reflect the appropriating and transferring funds as follows: One hundred thousand dollars (**\$100,000.00**) be moved from the General Revenue Reserve Account (101-9999-1015) to the General Revenue Reserve Funds Revenue Account, (101-9999-4002) to be allocated as follows: Creating a new sub account known as "General Revenue Fund, County Council Division, Professional Services (101-0527-5219), line item - Outside legal counsel fees for pending lawsuits", in the amount of One hundred thousand dollars (\$100,000.00) to be used for legal fees in the defense of Jefferson County and the County Council.

**Section 2.** Pursuant to the emergency powers granted to the County Council, or such other lawful authority as may be appropriate, said transfer and appropriation to be considered effective and duly made no later than April 1, 2017.

**Section 3.** The County Executive, and all other elected officials, are authorized and directed to pay, and take all the necessary actions to accomplish payment of, the existing outstanding bills of the law firm of Cunningham, Vogel and Rost, P.C. (hereinafter, bills), as of the date of this Ordinance and until such time as Section 1 of this Ordinance has been effectuated, from any existing funds which may be used for that purpose or to transfer sums from any other account to the maximum extent it is lawful to do so to pay such bills.

**Section 4.** The amounts in this Budget Amendment Ordinance shall only be used for the purposes, accounts and account strings as identified herein and for no other purpose.

**Section 5.** This Ordinance shall be in full force and effect from and after its date of approval. If any part of this Ordinance is invalid for any reason, such invalidity shall not affect the remainder of this Ordinance.

**Section 6.** The County Executive shall forthwith take all steps necessary to carry out the terms of this Ordinance and shall report in writing within five business days the status of the matter.

**Section 7.** This Ordinance is to be interpreted liberally to accomplish the intents of the County Council.

**Section 8.** Nothing herein shall be construed as an admission by the County or County Council as to the legality and procedural integrity of its prior actions regarding its procurement and engagement of legal services for the defense of the King and Waller cases.

**Section 9.** Should any provisions of this Ordinance be declared invalid by a court of this State, the remaining provisions thereof shall remain in full force and effect as if such invalidation has not occurred.

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**JEFFERSON COUNTY, MISSOURI**  
**COUNTY COUNCIL**  
**AMENDMENT # 1 to BILL NO. 17-0803**

Offered By Council Member: *Kasten*

An Amendment to delete certain WHEREAS clauses. Specifically:

The WHEREAS clause starting on Line 9 of Page 3 and continuing through Line 12 of Page 3 shall be stricken in its entirety.

The WHEREAS clause starting on Line 13 of Page 3 and continuing through Line 14 of Page 3 shall be stricken in its entirety.

The WHEREAS clause starting on Line 1 of Page 4 and continuing through Line 4 of Page 4 shall be stricken in its entirety.

The WHEREAS clause starting on Line 5 of Page 4 and continuing through Line 8 of Page 4 shall be stricken in its entirety.


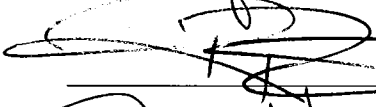
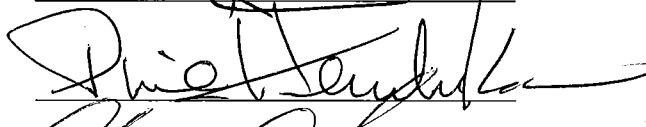

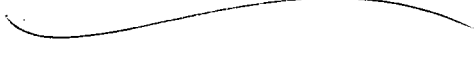
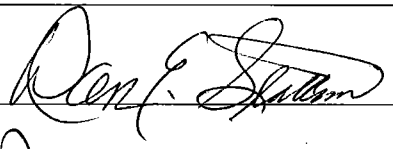
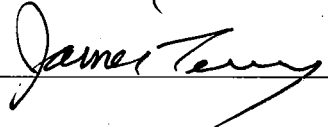
This Amendment shall be attached to or incorporated in the final codified version of said Bill and made a part thereof.



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*Examined, and Approved at the Council Meeting on September 11, 2017*

|                                | <i>Vote</i>   | <i>Signature</i>  |
|--------------------------------|---------------|---|
| District 1, Don Bickowski      | <u>yes</u>    | <u></u>   |
| District 2, Renee Reuter       | <u>yes</u>    | <u></u>    |
| District 3, Phil Hendrickson   | <u>yes</u>    | <u></u>   |
| District 4, Charles Groeteke   | <u>yes</u>    | <u></u>  |
| District 5, Oscar "Jim" Kasten | <u>absent</u> | <u></u> |
| District 6, Dan Stallman       | <u>yes</u>    | <u></u> |
| District 7, Jim Terry          | <u>yes</u>    | <u></u> |



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