

**MINUTES of REGULAR MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held MAY 6, 2014**

The Board of Commissioners of the City of Bowling Green, Kentucky met in regular session in the Commission Chamber of City Hall, Bowling Green, Kentucky at 7:00 p.m. on May 6, 2014. Mayor Bruce Wilkerson called the meeting to order. An invocation was given by Mrs. Diana Wilson with WKU Fellowship Christian Athletics, and two members of Boy Scout Troop 555 led the Pledge of Allegiance. Assistant City Manager/City Clerk Katie Schaller called the roll, and the following members were present: Commissioner Rick Williams, Commissioner Joe W. Denning, Commissioner Melinda M. Hill, Commissioner Bill Waltrip and Mayor Bruce Wilkerson. Absent: none. There was a full quorum of the Board of Commissioners.

CITY MANAGER

City Manager Kevin D. DeFebbo requested a closed session for the purpose of discussion about proposed litigation and pending litigation on behalf of the City. Motion was made by Hill and seconded by Waltrip to convene in closed session following the regular meeting pursuant to KRS 61.810 (1) (c). Mayor Wilkerson called for roll call vote.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None

Motion to convene in closed session pursuant to KRS 61.810 (1) (c) was approved by unanimous vote.

APPROVAL OF MINUTES

Minutes of Regular Meeting April 15, 2014

Minutes of the above-referenced meeting were distributed to the Board of Commissioners with the Agenda for their review. Motion was made by Hill and seconded by Denning to approve said minutes as written. Mayor Wilkerson asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None

Motion to approve the minutes of the regular meeting of April 15, 2014 was approved by unanimous vote.

PUBLIC COMMENTS

Mayor Wilkerson opened the floor for any public comments and there were none.

REGULAR AGENDA

**ORDINANCE NO. BG2014 - 7
(Second Reading)
ORDINANCE RENAMING STREET**

**ORDINANCE APPROVING THE RENAMING OF FIRST STREET
TO LEGACY DRIVE**

Title and summary of Ordinance No. BG2014 - 7 was read by the Assistant City Manager/City Clerk. Motion was made by Waltrip and seconded by Hill for second reading of said Ordinance. At the request of Commissioner Denning, Public Works Director Jeff Lashlee described the location of First Street which was off Garvin Lane and outside the downtown area. Mayor Wilkerson asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None

Ordinance No. BG2014 - 7 was adopted by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 70

**MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID
#2014-23 FOR UNIFORMS FOR THE FIRE DEPARTMENT FROM
BLUEGRASS UNIFORMS AND EQUIPMENT OF BOWLING
GREEN, KENTUCKY AND NAT'S OUTDOOR SPORTS OF
BOWLING GREEN, KENTUCKY**

Summary of Municipal Order No. 2014 - 70 was read by the Assistant City Manager/City Clerk. Motion was made by Williams and seconded by Hill for consideration of said Municipal Order. DeFebbo reviewed and recommended the bid award. Mayor Wilkerson asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None

Municipal Order No. 2014 - 70 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 71

**MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID
#2014-25 FOR THE PURCHASE OF A TRAILER MOUNTED
ASPHALT HOT BOX FROM K M INTERNATIONAL OF NORTH
BRANCH, MICHIGAN IN THE AMOUNT OF \$40,887.50**

Summary of Municipal Order No. 2014 - 71 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Williams for consideration of said Municipal Order. DeFebbo indicated that patching pot holes required the right equipment and he recommended the bid be awarded to the only respondent that met specifications. Mayor Wilkerson asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None

Municipal Order No. 2014 - 71 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 72

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID #2014-27 FOR THE PURCHASE OF A THREE QUARTER TON, 4 X 4 TRUCK FROM MID-TENN FORD OF NASHVILLE, TENNESSEE IN THE AMOUNT OF \$27,281.60

Summary of Municipal Order No. 2014 - 72 was read by the Assistant City Manager/City Clerk. Motion was made by Denning and seconded by Waltrip for consideration of said Municipal Order. DeFebbo indicated this vehicle would be used by the Fire Department and he recommended its purchase. Mayor Wilkerson asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson

Voting Nay: None

Municipal Order No. 2014 - 72 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 73

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID #2014-28 FOR THE PURCHASE OF A MID-SIZE SPORT UTILITY VEHICLE FROM JIM JOHNSON HYUNDAI OF BOWLING GREEN, KENTUCKY IN THE AMOUNT OF \$23,889.00

Summary of Municipal Order No. 2014 - 73 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Waltrip for consideration of said Municipal Order. DeFebbo indicated this vehicle would replace an existing unit used in the Neighborhood and Community Services Department. Mayor Wilkerson asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Denning, Hill, Waltrip and Wilkerson

Voting Nay: None

Abstaining: Williams

Municipal Order No. 2014 - 73 was approved by majority vote. Commissioner Williams abstained because he is employed by Jim Johnson.

MUNICIPAL ORDER NO. 2014 - 74

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID #2014-29 FOR CONCRETE FROM KENWAY CONCRETE OF KY LLC OF BOWLING GREEN, KENTUCKY FOR DESIGNATED UNIT PRICES PER CUBIC YARD

Summary of Municipal Order No. 2014 - 74 was read by the Assistant City Manager/City Clerk. Motion was made by Waltrip and seconded by Williams for consideration of said Municipal Order. DeFebbo stated that only one bid was received and he recommended it be awarded to purchase concrete as needed by various departments. Mayor Wilkerson asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None
Municipal Order No. 2014 - 74 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 75

MUNICIPAL ORDER AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE U. S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE FOR THE PURCHASE OF BULLETPROOF VESTS FOR THE POLICE DEPARTMENT IN THE AMOUNT OF \$5,880

Summary of Municipal Order No. 2014 - 75 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Williams for consideration of said Municipal Order. DeFebbo reviewed the opportunity to receive partial reimbursement through grant funding for the purchase of fourteen new vests. Commissioner Waltrip noted there was a shelf life on bulletproof vests which required periodic replacement. Mayor Wilkerson asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None
Municipal Order No. 2014 - 75 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 76

MUNICIPAL ORDER APPROVING THE YEAR 11 ANNUAL ACTION PLAN OF THE CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT FUNDING AND AUTHORIZING ITS SUBMISSION TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Summary of Municipal Order No. 2014 - 76 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Denning for consideration of said Municipal Order. DeFebbo reviewed the process undertaken to develop the Annual Plan and he recommended its approval. Mayor Wilkerson asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None
Municipal Order No. 2014 - 76 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 77

MUNICIPAL ORDER APPROVING AND AUTHORIZING THE EXECUTION OF AN ENCROACHMENT PERMIT AGREEMENT BETWEEN THE CITY OF BOWLING GREEN AND LA GALA, LLC

Summary of Municipal Order No. 2014 - 77 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Williams for consideration of said Municipal Order. DeFebbo explained the City was approached by the tenant at 601 State Street who requested that an emergency exit door be permissible to meet building code requirements and which would open onto Heritage Trail. He indicated that an agreement was developed to establish the appropriate parameters to be followed for the installation and use of the door. Even though the door would serve as an emergency exit only, Mayor Wilkerson noted this agreement was necessary since the door would open onto a public right-of-way. Once the discussion ended, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None

Municipal Order No. 2014 - 77 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 78

MUNICIPAL ORDER APPROVING PARKS AND RECREATION FEES

Summary of Municipal Order No. 2014 - 78 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Williams for consideration of said Municipal Order. DeFebbo identified that twelve new fees were being added and twelve others were being adjusted. Parks and Recreation Department Director Brent Belcher stated there was a total of 360 fees and he highlighted the more significant recommended changes. Commissioner Hill expressed her appreciation. With no other discussion, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None

Municipal Order No. 2014 - 78 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 79

MUNICIPAL ORDER ACCEPTING DONATION FROM JOHN AND LINDA KELLY FAMILY CHARITABLE FOUNDATION TO EXPAND THE SCOPE OF SERVICE OF CAMP HAPPY DAYS

Summary of Municipal Order No. 2014 - 79 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Williams for consideration of said Municipal Order. DeFebbo stated this was the seventh year to receive this donation which expands the Camp Happy Days program to include campers over the age of eighteen. Mayor Wilkerson expressed appreciation to the Kelly Family for their continued support. With no further discussion, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None

Municipal Order No. 2014 - 79 was approved by unanimous vote.

ORDINANCE NO. BG2014 - 8

(First Reading)

ORDINANCE RELATING TO BUDGET AMENDMENT

ORDINANCE APPROVING AMENDMENT NUMBER THREE TO
THE CITY OF BOWLING GREEN, KENTUCKY ANNUAL
OPERATING BUDGET FOR FISCAL YEAR 2014

Title and summary of Ordinance No. BG2014 - 8 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Denning for first reading of said Ordinance. DeFebbo commented about the periodic need to amend the budget and the requirement for the Board's approval. Mayor Wilkerson thanked staff for keeping the Board informed of the status of the budget. With no additional discussion, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None

First reading of Ordinance No. BG2014 - 8 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 80

MUNICIPAL ORDER APPROVING A JOB DEVELOPMENT
INCENTIVE PROGRAM EMPLOYEE WITHHOLDINGS CREDIT
AGREEMENT WITH AEP INDUSTRIES, INC.

Summary of Municipal Order No. 2014 - 80 was read by the Assistant City Manager/City Clerk. Motion was made by Denning and seconded by Hill for consideration of said Municipal Order. DeFebbo reported 35 new jobs were expected to be created with the expansion of the company and a 1% incentive credit would be provided for the next ten years. Mayor Wilkerson asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson
 Voting Nay: None

Municipal Order No. 2014 - 80 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 81

MUNICIPAL ORDER AUTHORIZING WARREN COUNTY
DOWNTOWN ECONOMIC DEVELOPMENT AUTHORITY, INC.
TO DRAFT AND FINALIZE AN AMENDMENT TO THE WKU
GATEWAY TO DOWNTOWN BOWLING GREEN TAX
INCREMENT FINANCING (TIF) PROJECT GRANT AGREEMENT
RELATED TO THE REMOVAL OF LLET INCREMENTAL
REVENUES FROM THE AGREEMENT

Summary of Municipal Order No. 2014 - 81 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Williams for consideration of said Municipal Order. City Attorney Gene Harmon explained that after receiving the first disbursement check from the State it was discovered that LLET (Limited Liability Entity Tax) money was included in the calculations for TIF funds as old and new revenue. However, due to statutory changes, he noted the LLET new revenue was much lower. He also reported that staff and Authority members met with State officials who agreed to amend the Grant Agreement to exclude this revenue source in the TIF calculations moving forward. Even though the City was not a party to the Grant Agreement, Mr. Harmon clarified that this action provided the City's support to the Authority for making the

amendment. Commissioner Hill thanked staff for taking the time to meet with State officials and helping to effectuate the change. Once the discussion ended, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill, Waltrip and Wilkerson

Voting Nay: None

Municipal Order No. 2014 - 81 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2014 - 82

MUNICIPAL ORDER AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN GEORGE M. COVINGTON AND THE CITY OF BOWLING GREEN RELATED TO THE CITY'S ACCEPTANCE OF A DONATION OF A FAMILY CEMETERY

Summary of Municipal Order No. 2014 - 82 was read by the Assistant City Manager/City Clerk. Motion was made by Waltrip and seconded by Hill for consideration of said Municipal Order. DeFebbo noted that this issue has been discussed at previous work sessions and was being presented for final consideration by the Board. Neighborhood and Community Services Director Brent Childers indicated that the original intent of the agreement was to receive a donation from Mr. Covington to assist with the cleanup costs for the cemetery. However, he explained that a change was made for the City to assume the cleanup costs and for the donation to be used for the perpetual care of the property. He also explained that goats would be utilized to assist with the initial cleanup and then staff would go in to clear the undergrowth and remove any safety hazards before turning the property into a nature-like preserve. Mr. Childers reiterated that the property was not intended to be maintained like Fairview Cemetery, but would instead be kept in a more natural state requiring limited on-going maintenance responsibilities. He also responded to questions about the existing fence and additional plantings proposed along the fence line facing Lois Lane, and he clarified the extent to which existing trees may be removed from the property to prevent future issues.

Mayor Wilkerson began by saying he commended those trying to find a solution to a neighborhood complaint. He indicated there were about four things everyone could agree on including: 1) State law appears to have conflicting statutes about requiring family cemeteries within the corporate limits to be maintained; 2) the City interrupted a logical solution to the neighbors' concerns by prohibiting an adjacent property owner's maintenance solution by use of a goat and we now find ourselves here attempting to address it with a similar solution again; 3) although these particular neighbors do not seem to appreciate the natural growth, there are many places around the City where natural growth parks are accepted and even desired, such as Lost River Cave Preserve and Chuck Crume Nature Park; and 4) none of the neighbors moved into the area unaware of their surroundings. He went on to say that regardless of these facts, the neighbors are requesting that the City address the situation. Therefore, he outlined the following options, which each had their own pros and cons:

1. Let the owner of the family cemetery remain responsible for it and hope that he has a change of heart and begin to maintain the cemetery;
2. Let the City maintain it in perpetuity;
3. Let the neighbor who took it upon himself to care for the property return to his practice;

4. Let the City, with the owner's permission, move the graves to a location where they can be viewed and honored with perpetual care at Fairview Cemetery;
5. Let the City, with the owners' permission, subdivide the lot, dividing it among adjacent property owners for care;
6. Encourage the Grider Pond neighborhood to begin a homeowner's association to, among other things, care for the cemetery;
7. Work toward a clarification in state law allowing enforcement of cemetery maintenance within city limits; or,
8. Create a City maintained cemetery on the property.

Mayor Wilkerson also referred to KRS 381.697 for cemeteries maintained by legal owners and KRS 381.700 for care of burial grounds by owners, and indicated that he has had preliminary discussions with State lawmakers about the ability to address the conflicting language between the two statutes. Although, he noted it was too late to get anything introduced for this year's Legislative Session. He commented that everyone who had contacted him about the issue did not want the City to take over ownership of a family cemetery. He expressed willingness to work with the neighborhood and property owner to address the situation, but stopped at the City taking over responsibility forever. He stated he thought that was the responsibility of the current property owner.

Commissioner Waltrip stated that he agreed with many points made by the Mayor; however, he disagreed that it was not the City's problem. He believed the City should correct the issue and staff had done exactly what they were asked to do with a not so cut and dry situation to provide the best proposal possible. He reiterated that the issue needed to be resolved now while Mr. Covington was still available.

There was additional discussion about a potential conflict with KRS 381.697 if the City took over the property and did not maintain it to the level of standard required by law. Commissioner Waltrip indicated that he thought the City would be in good standing to do as proposed. Mayor Wilkerson disagreed. City Attorney Gene Harmon remarked there was no case law or opinions of the Attorney General regarding this particular statute, and therefore, he could only repeat what the statute said, "every cemetery in Kentucky . . . shall be maintained by its legal owner . . . in such a manner so as to keep the burial grounds or cemetery free of growth of weeds, free from accumulated debris, displaced tombstones, or other signs and indication of vandalism or gross neglect." Mr. Harmon also opined that a higher standard of care than what was being proposed may be required if future burials were permitted, which was why he added language to the agreement that would prohibit any more burials at this location.

Commissioner Waltrip characterized the situation as trying to do the best we can to solve a problem for the neighborhood. Mayor Wilkerson responded that he thought this was setting a terrible precedent and he could not vote for it. Once all discussion concluded, a roll call vote was taken.

ROLL CALL: Voting Yea: Williams, Denning, Hill and Waltrip
 Voting Nay: Wilkerson

Municipal Order No. 2014 - 82 was approved by majority vote.

CLOSED SESSION

Following a brief recess to clear the Commission Chamber, the Board of Commissioners met at approximately 8:10 p.m. in closed session pursuant to KRS 61.810 (1) (c) as previously approved. Mr. DeFebbo confirmed that no action by the Board was expected to following the discussion.

ADJOURNMENT

Once all discussion concluded in closed session and there being no further business to come before the Board of Commissioners, at approximately 8:45 p.m., Mayor Wilkerson declared this meeting adjourned.

WORK SESSION

Prior to the regular meeting and with no action taken, the Board of Commissioners convened at 4:00 p.m. in the Commission Chamber of City Hall for a regular work session to discuss proposed enhancement options for the City's Public Transportation Services, GObg Transit.

ADOPTED: _____

APPROVED: _____
Mayor, Chairman of Board of Commissioners

ATTEST: _____
City Clerk

Minutes prepared by Assistant City Manager/City Clerk Katie Schaller