

**MINUTES of REGULAR MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held JANUARY 18, 2011**

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 January 18, 2011. Mayor Elaine N. Walker called the meeting to order. An invocation was given by Rev. Freddie Brown of State Street Baptist Church, and all present recited the Pledge of Allegiance. Assistant City Manager/City Clerk Katie Schaller called the roll, and the following members were present: Commissioner Brian "Slim" Nash, Commissioner Bill Waltrip, Commissioner Bruce Wilkerson, Commissioner Joe W. Denning and Mayor Elaine N. Walker. Absent: none. There was a full quorum of the Board of Commissioners.

AWARDS & RECOGNITIONS

Operation P.R.I.D.E. Executive Director Ray Lackey presented P.R.I.D.E.'s February residential award to Dewayne and Rhonda Hatler for improvements made to their property located at 2143 Smallhouse Road. Dr. John Erskine accepted the commercial award for improvements made to 720 State Street, Erskine Chiropractic offices. Mr. Lackey also announced that Camden Place Homeowners Association was the recipient of this month's Neighborhood P.R.I.D.E. Award and Jerry Stone accepted the award on behalf of the Homeowners Association. In addition, Mr. Lackey gave special recognition to Mayor Walker for her service on the Operation P.R.I.D.E. Board of Directors.

CITY MANAGER

City Manager Kevin D. DeFebbo requested a closed session for the purpose of discussion which might lead to the appointment of an individual employee. Motion was made by Wilkerson and seconded by Nash to convene in closed session following the regular meeting pursuant to KRS 61.810 (1) (f). Walker called for roll call vote.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None

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

APPROVAL OF MINUTES

Minutes of Regular Meeting January 4, 2011

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

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None

Motion to approve the minutes of the regular meeting of January 4, 2011 was approved by unanimous vote.

PUBLIC COMMENTS

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

BOARD OF COMMISSIONERS COMMENTS

Comm. Denning announced that Mayor Walker was appointed by Governor Steve Beshear to fill the vacancy of Secretary of State following the resignation of Trey Grayson at the end of January. He requested that the Board give formal recognition to Mayor Walker at the special meeting scheduled on January 24, 2011 and to declare that day as “Mayor Elaine Walker Day” in her honor. With no objections, Mayor Walker said she was humbled by the request.

Comm. Wilkerson reported that several months back the U.S. Postal Service (USPS) requested a study of the processing and distribution center located in Bowling Green and at that time the Board passed a resolution supporting the retention of that facility. Since the USPS was again looking at the issue and would be holding a public hearing at the same time as the next regular meeting of the Board of Commissioners at 7:00 p.m. on February 1, 2011, Comm. Wilkerson requested to have the previous action (Resolution No. 2009 – 5) resent to all of Bowling Green’s state and federal legislative officials, as well as the local Postmaster. Mayor Walker suggested that since Comm. Waltrip was not here at the time of the previous action, maybe a new resolution could be added to the special meeting agenda for the Board to consider. There was agreement expressed by the Board members to add the item to the upcoming special agenda.

ORDINANCE NO. BG2011 – 1

(Second Reading)

ORDINANCE REZONING REAL ESTATE

ORDINANCE REZONING A TRACT OF LAND CONTAINING 1.39 ACRES FROM HB (HIGHWAY BUSINESS) TO LI (LIGHT INDUSTRIAL) LOCATED AT 1401 AND 1405 MAGNOLIA STREET PRESENTLY OWNED BY LET’S CHAT, LLC

Title and summary of Ordinance No. BG2011 - 1 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Denning for second reading of said Ordinance. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None

Ordinance No. BG2011 - 1 was adopted by unanimous vote.

ORDINANCE NO. BG2011 – 2

(Second Reading)

ORDINANCE REZONING REAL ESTATE

ORDINANCE REZONING A TRACT OF LAND CONTAINING 0.77 ACRE FROM AG (AGRICULTURE) TO LI (LIGHT INDUSTRIAL) LOCATED AT 1202 BOATLANDING ROAD PRESENTLY OWNED BY VIKING GAS PIPELINE, LLC D/B/A KENTUCKY BLUE GAS COMPANY

Title and summary of Ordinance No. BG2011 - 2 was read by the Assistant City Manager/City Clerk. Motion was made by Waltrip and seconded by Wilkerson for second reading of said Ordinance. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
Voting Nay: None

Ordinance No. BG2011 - 2 was adopted by unanimous vote.

ORDINANCE NO. BG2011 - 3

(Second Reading)

ORDINANCE RELATING TO BUDGET AMENDMENT

**ORDINANCE APPROVING AMENDMENT NUMBER TWO TO
THE CITY OF BOWLING GREEN, KENTUCKY ANNUAL
OPERATING BUDGET FOR FISCAL YEAR 2011**

Title and summary of Ordinance No. BG2011 - 3 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Denning for second reading of said Ordinance. Mayor Walker pointed out that a slight revision was made to the ordinance to allow the membership funds for the US Conference of Mayors to go toward any municipal related agency and not be restricted. Commissioners Waltrip and Denning commented about the ability to use the membership and travel funds at some point during the year. She asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Waltrip, Wilkerson, Denning and Walker
Voting Nay: Nash

Ordinance No. BG2011 - 3 was adopted by majority vote.

MUNICIPAL ORDER NO. 2011 - 15

**MUNICIPAL ORDER APPROVING THE APPOINTMENT OF
ALICE ROCKHOLD TO THE HOBSON HOUSE COMMISSION**

Summary of Municipal Order No. 2011 - 15 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Nash for consideration of said Municipal Order. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
Voting Nay: None

Municipal Order No. 2011 - 15 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 16

**MUNICIPAL ORDER APPROVING THE APPOINTMENT OF
BUNNY OWSLEY TO THE CITY OF BOWLING GREEN BOARD
OF ETHICS**

Summary of Municipal Order No. 2011 - 16 was read by the Assistant City Manager/City Clerk. Motion was made by Denning and seconded by Wilkerson for consideration of said Municipal Order. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None
Municipal Order No. 2011 - 16 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 17

MUNICIPAL ORDER APPROVING THE PROBATIONARY APPOINTMENTS OF BARRY G. BASHAM, B. KAELIN BYRD AND DAVID K. WOOD TO THE POSITION OF LABORER II IN THE PUBLIC WORKS DEPARTMENT

Summary of Municipal Order No. 2011 - 17 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Nash for consideration of said Municipal Order. DeFebbo reviewed the two current vacancies and one upcoming vacancy following a retirement at the end of February, and he recommended the appointments. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None
Municipal Order No. 2011 - 17 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 13

MUNICIPAL ORDER APPROVING THE 2011 REVISED EMERGENCY OPERATIONS PLAN AND AUTHORIZING THE MAYOR TO EXECUTE ALL NECESSARY DOCUMENTS TO CARRY OUT THIS APPROVAL

Summary of Municipal Order No. 2011 - 13 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Waltrip for consideration of said Municipal Order. DeFebbo indicated that all communities were required to have an Emergency Operations Plan in place. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None
Municipal Order No. 2011 - 13 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 18

MUNICIPAL ORDER ACCEPTING TRAVEL EXPENSES FOR MAYOR ELAINE N. WALKER TO ATTEND THE NATIONAL LEAGUE OF CITIES CONFERENCE IN DENVER, COLORADO AND ACKNOWLEDGING REIMBURSEMENT OF EXPENSES

Summary of Municipal Order No. 2011 - 18 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Waltrip for consideration of said Municipal Order. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson and Denning
 Voting Nay: None
 Abstain: Walker

Municipal Order No. 2011 - 18 was approved by majority vote.

MUNICIPAL ORDER NO. 2011 - 19

MUNICIPAL ORDER APPROVING ONLINE TRANSACTION
CONVENIENCE FEE AND AUTHORIZING THE CITY MANAGER
TO ADJUST AND EXTEND THE ONLINE FEE TO OTHER
APPLICATIONS

Summary of Municipal Order No. 2011 - 19 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 explained that departments were increasingly moving into technology and utilizing the internet to share information and provide ease of access to forms and applications. He recommended approval of the convenience fee, similar to other organizations, to cover the cost of this additional service. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None

Municipal Order No. 2011 - 19 was approved by unanimous vote.

ORDINANCE NO. BG2011 - 4

(First Reading)

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 26 (PUBLIC TREES) OF THE
CODE OF ORDINANCES TO MAKE CHANGES RECOMMENDED
BY THE LANDSCAPE DIVISION OF THE PARKS AND
RECREATION DEPARTMENT

Title and summary of Ordinance No. BG2011 - 4 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Denning for first reading of said Ordinance. DeFebbo reviewed and recommended the changes proposed by staff. City Arborist Jared Weaver responded to questions about trees in public rights-of-way, the addition of the term vegetation, and notification to property owners that need to address overgrown vegetation or trees that present a safety hazard to motorists. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None

First reading of Ordinance No. BG2011 - 4 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 20

MUNICIPAL ORDER APPROVING CONSTRUCTION AND
ACCEPTING MAINTENANCE OF VARIOUS STREETS IN THE
LOST RIVER COVE SUBDIVISION, SECTION I, II AND III;

FIELDSTONE FARMS SUBDIVISION, SECTION I; AND
FIELDSTONE FARMS COMMERCIAL SUBDIVISION

Summary of Municipal Order No. 2011 - 20 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Waltrip for consideration of said Municipal Order. DeFebbo explained it was the City's standing protocol to accept street maintenance once a development was completed and all specifications were met. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
Voting Nay: None

Municipal Order No. 2011 - 20 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 21

MUNICIPAL ORDER AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR HOMELAND SECURITY GRANT FUNDS THROUGH THE FEDERAL EMERGENCY MANAGEMENT AGENCY ASSISTANCE FOR FIREFIGHTERS GRANT PROGRAM FOR THE PURCHASE OF AN ARSON INVESTIGATION VEHICLE FOR THE FIRE DEPARTMENT IN THE TOTAL AMOUNT NOT TO EXCEED \$300,000

Summary of Municipal Order No. 2011 - 21 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Nash for consideration of said Municipal Order. DeFebbo reviewed the request by the Fire Department to apply for grant funds to assist the fire investigation functions. Comm. Wilkerson clarified that although this was a regional grant, it did not change the existing protocol when responding to incidents outside the City limits. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
Voting Nay: None

Municipal Order No. 2011 - 21 was approved by unanimous vote.

ORDINANCE NO. BG2011 - 5

(First Reading)

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 13 (HEALTH) OF THE CITY OF BOWLING GREEN CODE OF ORDINANCES REGULATING SMOKING IN PUBLIC PLACES AND WORK PLACES, ESTABLISHING CIVIL FINES FOR THE VIOLATION OF THIS ORDINANCE AND ESTABLISHING ENFORCEMENT PROCEDURES

Title and summary of Ordinance No. BG2011 - 5 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Waltrip for first reading of said Ordinance. Comm. Nash indicated he sponsored the Clean Indoor Air Act and it was the same ordinance that was considered in 2007. He requested the discussion be opened at this time to allow public comments.

Mayor Walker stipulated that each person who wanted to speak would be given three minutes and she asked the speakers to state their name and address for the record.

Jim Waters of the Bluegrass Institute stated he was opposed to the ordinance and he disagreed with the hurried nature to hold a special meeting to consider second reading of the ordinance in less than a week. Nasco Human Resources Manager Greg George also expressed opposition to the smoking ban and its impact on manufacturing businesses that had already established separate rooms in the facility to allow smoking. He suggested these type of facilities be exempted from having to make other changes.

In support of the ban, Cargill employee Alison Iroz remarked about the previous community in which she lived which had passed a smoking ban that did not experience any negative economic impact.

American Legion Post 23 Commander Roger Miller opposed the ban because he believed it would cause a decline in available donations for community support received through bingo activities since 70% of the players smoked. He also requested that the item be tabled until a new Mayor was in place. Jim Ackzien of 3609 Richpond Road inquired about the City's lack of efforts to notify businesses and ask for input or to ask for voluntary compliance. Tom Dorman with Satellite World claimed the City was impacting his civil rights and encouraged the Board to let businesses choose what to do.

Kim Lindgren of 2707 Smallhouse Road presented a petition with approximately 1,700 signatures in support of a smoke-free community. Since the ordinance was last introduced, she noted that times have changed and that it was appropriate to bring it back for consideration again. She asserted that she has the right to not be subject to smoke while dining in a non-smoking section of a restaurant. Ms. Lindgren thanked the Board for allowing the public to exercise its freedom of speech about the issue.

Randy Keller of 267 Farley Lane indicated that as a smoker he chooses to modify his personal behavior when around others and he believed that businesses should be allowed to choose as well. Although, hostile to the tobacco industry, Robin Calamaio of 162 Rays Branch Road disagreed with the procedure of how the issue was being passed. He commented that more time was needed to examine the issue.

Dr. Mike Zachek of 1417 Overlook Court spoke in support of the smoking ban as a lung doctor who has witnessed the affects of secondhand smoke. He also spoke on behalf of the rights of the workers who are exposed, not by choice, to smoke due to the type of job they hold and the significant risk to their health.

Bob Talley of 1776 Patrick Way remarked that the Board of Commissioners were unwilling to keep its own house clean and straight, but were willing to legislate to others on how to do it. He asked Comm. Waltrip to be conscientious and to consider that there were dozens of places that have already chosen to be smoke-free providing options for people to select. Mr. Talley suggested that there were several other issues that should be of more concern and he asked the Board to postpone its vote.

Denise King who resides on KY Hwy 185 also remarked that the decision to be smoke-free should be made by the business. He expressed concern that smokers may be forced to quite their jobs.

As a public health issue, Dr. Rick Voakes of 1328 College Street supported the ban. He also remarked that cities with smoke-free policies experience better tourism results. However, Joan Krenzin of 1330 South Lee and Melva Pescor of 77 East Heights Avenue both disagreed that this was a health issue.

Respiratory Therapist Jan Dillon of 2430 Richpond Rockfield Road clarified that she was not telling people not to smoke, rather she encouraged the Board to act to protect the citizens of Bowling Green from being affected by secondhand smoke. Janie Pitcock of 324 Sequoia Court also agreed this was a health issue that needed to be addressed. On behalf of his children, Chris Gregory of 2541 Claypool Boyce Road asked the Board to look toward the future for a clean and healthy environment.

Comm. Nash explained he proposed the ordinance to regulate where smoking occurred not to make people quit smoking. Because this issue was previously deliberated for several months in 2007, he further explained that a special meeting for second reading of the ordinance only shortened the window between readings by seven days.

Comm. Waltrip indicated that he thought long and hard about this issue which he has openly supported since filing for office. He agreed there were several sides to each story; however, if he changed his mind when the facts had not changed, he would be seen as hypocritical. Comm. Waltrip stated he believed this was a public health issue and it would be wrong for him to vote for the convenience of being reelected.

Comm. Wilkerson stated that he supported smoke-free facilities, but he also supported businesses being able to make that decision themselves. Although, he agreed that it was a greater problem to those who work in a smoking environment, the method to address that was beyond the ability of government to act. He also reported that the market place seemed to be moving the issue forward with approximately 69% of businesses in Bowling Green already having gone smoke-free.

Comm. Denning stated that he had been consistent in his thought process that property owners' rights overrode the Board of Commissioners involvement to supersede. He indicated he had a problem with legislating to businesses and respected the businesses' decision. He also specified that his decision to oppose the ban was not based on his reelection, but rather what he feels inside about the issue.

Mayor Walker addressed why the item could not be placed on a ballot. She reported that she has seen and conducted many surveys identifying that 63-70% of individuals in the City prefer a smoking ban and wanted government to enact it. She, too, believed it was a public health issue and that smokers had a right to smoke but did not have the right to impact the air that others breath. Although she admitted that she would not have chosen to vote on this issue right before leaving office, she pointed out that governments enact regulations on businesses all the time to protect the health of citizens. As a matter of conscience, Mayor Walker affirmed that she would not change her vote.

Because he understood that businesses would need some time to adjust to the change, Comm. Nash suggested establishing an effective date 60 days from the ordinances publication. Comm.

Waltrip asked if it could be 90 days and made a motion, seconded by Nash, to amend the ordinance to establish a revised effective date. With no discussion, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None

Motion to amend Ordinance No. BG2011 - 5 to stipulate the effective date of the ordinance would be 90 days from its publication was approved by unanimous vote.

With no other discussion, a roll call vote was taken on the ordinance as amended.

ROLL CALL: Voting Yea: Nash, Waltrip and Walker
 Voting Nay: Wilkerson and Denning

First reading of Ordinance No. BG2011 - 5 as amended was approved by majority vote. Mayor Walker announced that a special meeting would be held at 7:00 p.m. on Monday, January 24, 2011 to consider second reading of the ordinance.

CLOSED SESSION

Following a brief recess to clear the Commission Chamber, the Board of Commissioners met at approximately 8:30 p.m. in closed session pursuant to KRS 61.810 (1) (f) as previously approved. Mr. DeFebbo confirmed that action may follow the discussion.

RECONVENE IN OPEN SESSION

Once all discussion concluded in closed session, the Board of Commissioners reconvened in open session at approximately 9:00 p.m. to consider action. Motion was made by Denning and seconded by Nash to add Municipal Order No. 2011 - 22 to the agenda for consideration. With no discussion, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None

Motion to add Municipal Order No. 2011 - 22 to the agenda was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 22

MUNICIPAL ORDER APPROVING THE PROMOTION OF JEFFREY T. LASHLEE TO THE POSITION OF PUBLIC WORKS DIRECTOR IN THE PUBLIC WORKS DEPARTMENT

Summary of Municipal Order No. 2011 - 22 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Denning for consideration of said Municipal Order. Mayor Walker commended Ms. Schaller for taking on the role of Interim Public Works Director among all of her other responsibilities and she congratulated Mr. Lashlee. She asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip, Wilkerson, Denning and Walker
 Voting Nay: None

Municipal Order No. 2011 - 22 was approved by unanimous vote.

ADJOURNMENT

There being no further business to come before the Board of Commissioners, at approximately 9:05 p.m., Mayor Walker declared this meeting adjourned.

WORK SESSION

Prior to the regular meeting and with no action taken, the Board of Commissioners, excluding Mayor Walker, convened at 4:00 p.m. in the Commission Chamber of City Hall for a regular work session to discuss proposed changes to the Neighborhood Traffic Control Policy.

ADOPTED: _____

APPROVED: _____
Mayor Pro Tem, Chairman of Board of Commissioners

ATTEST: _____
City Clerk

Minutes prepared by Assistant City Manager/City Clerk Katie Schaller