

**MINUTES of REGULAR MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held MAY 3, 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 May 3, 2011. Mayor Joe W. Denning called the meeting to order. An invocation was given by Dr. Don Mathis, staff evangelist at Eastwood 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 Bill Waltrip, Commissioner Bruce Wilkerson, Commissioner Melinda M. Hill, Commissioner Brian "Slim" Nash and Mayor Joe W. Denning. Absent: none. There was a full quorum of the Board of Commissioners.

AWARDS & RECOGNITIONS

City Manager Kevin DeFebbo announced that the Public Works Department had successfully completed its reaccreditation this week through the American Public Works Association (APWA) and it remained the only agency in Kentucky to achieve this accreditation (initially received in 2007). He explained the reaccreditation process included a self-assessment of 358 standard Public Works' practices, including an on-site review of the practices by APWA. Mr. DeFebbo thanked the Public Works Department staff for making the City proud and for their commitment to continued improvement to better serve the community. Mayor Denning also expressed appreciation for the outstanding job that the Public Works staff does on a daily basis through all kinds of weather conditions.

CITY MANAGER

City Manager Kevin D. DeFebbo requested a closed session for the purpose of discussion about the future acquisition of real property by the City as publicity would likely affect the value of the specific piece of property to be acquired for public use, for proposed and pending litigation against the City, and for discussion which might lead to the discipline or dismissal of an individual employee without restricting that employee's right to a public hearing if requested. Motion was made by Wilkerson and seconded by Nash to convene in closed session following the regular meeting pursuant to KRS 61.810 (1) (b), (c) and (f). Denning called for roll call vote.

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

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

APPROVAL OF MINUTES

Minutes of Regular Meeting April 19, 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 Waltrip to approve said minutes as written. Mayor Denning asked for discussion, and with none, a roll call vote was taken.

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

Motion to approve the minutes of the regular meeting of April 19, 2011 was approved by unanimous vote.

PUBLIC COMMENTS

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

ORDINANCE NO. BG2011 - 19 (Second Reading) ORDINANCE REZONING REAL ESTATE

ORDINANCE REZONING A TRACT OF LAND CONTAINING 11.25 ACRES FROM HB (HIGHWAY BUSINESS) AND RE (RESIDENTIAL ESTATE) TO RM-3 (MULTI-FAMILY RESIDENTIAL) LOCATED AT 291 OLD SCOTTSVILLE ROAD, PRESENTLY OWNED BY RM3 PROPERTIES, LLC

Title and summary of Ordinance No. BG2011 - 19 was read by the Assistant City Manager/City Clerk. Motion was made by Waltrip and seconded by Wilkerson for second reading of said Ordinance. Suellen Carbin of 329 Deer Meadow Avenue and teacher at Cumberland Trace Elementary School expressed opposition to the rezoning because of a concern that the density of the development would be too strenuous on Cumberland Trace Road even with the State's road widening project.

At the request of Mayor Denning, City Attorney Gene Harmon outlined the actions that the Board of Commissioners could take regarding the recommended rezoning provided by the City-County Planning Commission. He reiterated that the Board of Commissioners could not simply vote against this rezoning unless the Board made its own independent findings of fact that were different from the Planning Commission's findings.

Since the Board had expressed unanimous approval at the first reading of the ordinance, Mayor Denning remarked that it did not appear the Board of Commissioners could determine there to be any difference from the outcome of the Planning Commission's decision. However, he did point out that it was the vote taken at the second reading of the ordinance that actually counted.

Comm. Wilkerson also indicated that the Board had received and read all of the materials from the public hearing held by the Planning Commission. In addition, he noted that during the last meeting of the Board on April 19th, the applicant was present and the Board explored the traffic concerns and was satisfied those issues would be addressed as best as possible. With no more discussion, a roll call vote was taken.

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

Ordinance No. BG2011 - 19 was adopted by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 82

MUNICIPAL ORDER APPROVING THE PROBATIONARY APPOINTMENT OF W. DERRICK SANDERS TO THE POSITION OF LABORER II IN THE PUBLIC WORKS DEPARTMENT

Summary of Municipal Order No. 2011 - 82 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Wilkerson for consideration of said Municipal Order. DeFebbo reported that a recent vacancy and subsequent promotion provided an opening for which he recommended hiring Mr. Sanders, who previously worked part-time in the Parks and Recreation Department. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2011 - 82 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 83

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID #2011-39 FOR THE PURCHASE AND INSTALLATION OF SLOAN CONVENTION CENTER MEETING ROOM ELECTRONIC DISPLAY BOARDS FROM JANUS DISPLAYS/MORROW TECHNOLOGIES CORPORATION OF ST. PETERSBURG, FLORIDA IN THE AMOUNT OF \$73,176.75

Summary of Municipal Order No. 2011 - 83 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Wilkerson for consideration of said Municipal Order. Mayor Denning recounted that this item was approved by the Convention Center Corporation Board of Directors earlier in the afternoon. Comm. Hill remarked that it was important to make needed improvements at the Convention Center to stay competitive. Mr. DeFebbo specified that this equipment would provide a more clean, crisp, modern look for the facility. Mayor Denning agreed it was vital to stay competitive in the region to keep the venue full. He asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2011 - 83 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 84

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID #2011-23 FOR THE FISCAL YEAR 2011 SIDEWALK REHABILITATION FROM JC BREWER CONSTRUCTION OF BOWLING GREEN, KENTUCKY IN THE AMOUNT OF \$66,445.73

Summary of Municipal Order No. 2011 - 84 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 annual rehabilitation project to make improvements to existing

sidewalks and he recommended approval for award to the lowest bidder. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2011 - 84 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 85

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING THE PURCHASE OF CLEARLANE ENHANCED DEICER FROM CARGILL DEICING TECHNOLOGY IN THE AMOUNT OF \$137,120

Summary of Municipal Order No. 2011 - 85 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 reported that on average the City received approximately nine inches of snow annually; however, this past winter the City received over 21 inches of snow which depleted the stock of salt product. Because the price was locked in at \$85.70 per ton until May 31st, he recommended approval of the purchase to restock up to 1,600 tons of deicer for next winter. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2011 - 85 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 86

MUNICIPAL ORDER APPROVING THE YEAR 8 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. 2011 - 86 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 stated this was the eighth year to receive entitlement funding. With the involvement of a Citizen Committee to review and recommend programs to receive funding, Mr. DeFebbo recommended approval of the Plan submission and noted that the actual amount of funding to be received was still not known at this time. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2011 - 86 was approved by majority vote. As an employee of Bellewood Presbyterian Home for Children, Inc. which was among the applicants recommended to receive funding, Comm. Nash abstained stating he had a conflict of interest.

MUNICIPAL ORDER NO. 2011 - 87

MUNICIPAL ORDER APPROVING A SUBSTANTIAL AMENDMENT TO THE ANNUAL ACTION PLAN FOR YEAR 3 FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT PROGRAM

Summary of Municipal Order No. 2011 - 87 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 that the City was able to reprogram old money from a prior year and to use it for community infrastructure improvements, specifically the Boatlanding Road Sidewalk Project. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2011 - 87 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 88

MUNICIPAL ORDER AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR FISCAL YEAR 2012 FEDERAL TRANSPORTATION ASSISTANCE UNDER THE SECTION 5307 PROGRAM

Summary of Municipal Order No. 2011 - 88 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 identified that the federal government enabled localities to operate transportation services. He further explained that the City could now go directly to the Federal Transit Administration to obtain funds instead of submitting an application to compete for State allocated funding.

Community Action of Southern Kentucky Executive Director Cheryl Allen responded to questions from Comm. Nash regarding the ability to create or expand bus routes, in particular a route that provided a stop further out Louisville Road near the office for Probation and Parole. Ms. Allen responded that there were a lot of areas in the City that they were not able to accommodate at the current level of funding. However, she indicated that a study was underway to analyze and redesign some routes to make them more efficient and to maximize available funding, as well as plan for future growth. She stated she would convey Comm. Nash's request to the study group and see how they could adapt to the needs of the growing community. Ms. Allen also noted that any additions to existing routes would also impact the amount of time it took for buses to reach each stop which would extend waiting periods. With no further discussion, a roll call vote was taken.

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

Municipal Order No. 2011 - 88 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 89

MUNICIPAL ORDER APPROVING AMENDMENT TO LEE SQUARE HOUSING PROJECT AGREEMENT AMONG THE CITY OF BOWLING GREEN, HOUSING ASSISTANCE AND DEVELOPMENT SERVICES (HANDS), INC., LIVE THE DREAM, INC. AND THE HOUSING AUTHORITY OF BOWLING GREEN RELATING TO REDESIGNATION OF BUILDING LOTS

Summary of Municipal Order No. 2011 - 89 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 reviewed the original agreement for the Lee Square Housing Project and the ability of the Housing Authority to move forward with construction on lots that were previously designated to HANDS. City Attorney Gene Harmon also noted that included in this amendment to the Agreement, HANDS was releasing its interests in a lot located at 321 Chestnut Street which was previously designated to it as surplus City property. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2011 - 89 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 90

MUNICIPAL ORDER APPROVING LEASE AGREEMENT WITH BRIZA AZUL LLC D/B/A BRIZA AZUL RESTAURANT FOR LEASE OF A PORTION OF THE PUBLIC SIDEWALK LOCATED AT 427 PARK ROW

Summary of Municipal Order No. 2011 - 90 was read by the Assistant City Manager/City Clerk. Motion was made by Waltrip and seconded by Nash for consideration of said Municipal Order. In regard to this item and the next two related items (Municipal Order Nos. 2011 - 91 and 2011 - 92) on the agenda, Mayor Denning indicated that he gets asked a lot about why individuals could not walk from one location on the downtown Square to another location with a beer in hand. City Attorney Gene Harmon explained Alcohol Beverage Control (ABC) laws prohibited taking alcoholic beverage off of the licensed premise. He further explained that these sidewalk lease agreements provided the ability for the businesses to expand their licensed premises to a restricted area of the public sidewalk in front of the business.

At the request of Comm. Hill, Mr. Harmon provided an overview of the lease agreement which set out certain requirements related to a \$1.00 per year leasing fee, the appropriate liability insurance, the cleaning of the sidewalk area, restrictions for loud noise and a designated number of tables and chairs permitted in the defined area. Following the discussion, a roll call vote was taken.

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

Municipal Order No. 2011 - 90 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 91

MUNICIPAL ORDER APPROVING LEASE AGREEMENT WITH CABANNA NIGHTCLUB, LLC D/B/A CLUB CABANNA NIGHTCLUB FOR LEASE OF A PORTION OF THE PUBLIC SIDEWALK LOCATED AT 423 PARK ROW

Summary of Municipal Order No. 2011 - 91 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Waltrip for consideration of said Municipal Order. This item was discussed in conjunction with Municipal Order No. 2011 - 90. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2011 - 91 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 - 92

MUNICIPAL ORDER APPROVING LEASE AGREEMENT WITH GREENER GROUNDZ, LLC D/B/A GREENER GROUNDZ COFFEE & CAFE FOR LEASE OF A PORTION OF THE PUBLIC SIDEWALK LOCATED AT 871 BROADWAY AVENUE

Summary of Municipal Order No. 2011 - 92 was read by the Assistant City Manager/City Clerk. Motion was made by Waltrip and seconded by Nash for consideration of said Municipal Order. With the discussion of Municipal Order No. 2011 - 90, owner of Greener Groundz Molly Kirby spoke in support of the lease which would provide a place for patrons to step outside with a beer and smoke a cigarette. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2011 - 92 was approved by unanimous vote.

ORDINANCE NO. BG2011 - 20

(First Reading)

ORDINANCE RELATING TO BUDGET AMENDMENT

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

Title and summary of Ordinance No. BG2011 - 20 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Waltrip for first reading of said Ordinance. DeFebbo indicated that the organizational spending was managed through a budget process and amendments were made to reflect various changes in revenues and expenditures throughout the year. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Waltrip, Wilkerson, Hill, Nash and Denning
 Voting Nay: None
First reading of Ordinance No. BG2011 - 20 was approved by unanimous vote.

CLOSED SESSION

Following a brief recess to clear the Commission Chamber, the Board of Commissioners met at approximately 7:45 p.m. in closed session pursuant to KRS 61.810 (1) (b), (c) and (f) as previously approved. Mr. DeFebbo stated there would not be any action to follow 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 8:25 p.m., Mayor Denning 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 the following subjects: 1) a proposed Fleet Management Division Equipment Technician Certification Program; 2) a presentation regarding putting green improvements needed for the two 9-hole golf courses, Paul Walker and Riverview; and 3) revisions to Ordinance No. BG2010-37 regarding Police services for special events sponsored by private and other public organizations. Consensus was expressed by Board members to support needed improvements to the greens at the golf courses to transition from the current Bentgrass to Bermudagrass. City Attorney Gene Harmon was directed by consensus of the Board to draft amendments to Ordinance No. BG2010-37 to grandfather special events that took place in 2009 (outlined in an interoffice memorandum regarding Special Events and Police Off-duty Employment from the Internal Auditor to the City Manager dated January 19, 2010) from being charged for Police services related to those specific events. The Board directed, however, that if any of the grandfathered events ceased to exist or significantly changed, the event would be removed from the grandfather list. Staff was also directed to place a cap on the annual cost for the grandfathered events and to include it as a separate line item in the budget.

ADOPTED: _____

APPROVED: _____
Mayor, Chairman of Board of Commissioners

ATTEST: _____
City Clerk