

**MINUTES of SPECIAL MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held AUGUST 25, 2005**

The Board of Commissioners of the City of Bowling Green, Kentucky met in special session in the Commission Chamber of City Hall, Bowling Green, Kentucky at 5:00 p.m. on August 25, 2005. Mayor Elaine N. Walker called the meeting to order. City Clerk Katie Schaller called the roll, and the following members were present: Commissioner Delane Simpson, Commissioner Brian K. Strow, Commissioner Mark D. Alcott, Commissioner Brian "Slim" Nash and Mayor Elaine N. Walker. Absent: none. There was a full quorum of the Board of Commissioners.

ORDINANCE NO. BG2005 - 39

(First Reading)

ORDINANCE AMENDING CODE OF ORDINANCES

**ORDINANCE AMENDING CHAPTER 25 (CODE OF ETHICS) OF
THE CITY OF BOWLING GREEN CODE OF ORDINANCES TO
CREATE A NEW SECTION REGARDING CONFLICTS OF
INTEREST IN THE PROVISION OF LEGAL SERVICES**

Title and summary of Ordinance No. BG2005 - 39 was read by City Clerk Katie Schaller. Mayor Walker indicated that when City funds are directly used to pay for legal services, even if for an agency of the City, the attorney being paid should not take action against the City. City Attorney Gene Harmon reviewed the ordinance language, which would apply to those agencies whose board of directors are appointed entirely by the City and that receive funding directly from the City, i.e. Code Enforcement Board, Library Board of Trustees, Enterprise Community Board of Directors, Hobson House Commission and Board of Ethics.

Code Enforcement Board Attorney David Broderick expressed concerns with the ordinance and its appearance on a special meeting agenda as if an emergency. Mr. Broderick stated that he received an opinion from the Kentucky Bar Association in November 2000 that stated his client was the Code Enforcement Board (CEB) and not the City, regardless of who makes payment. He also stated that this ordinance reduced the independence of the CEB and regulated attorneys. He noted that the CEB did not agree that there was any conflict with his services. He requested that the Board allow for more discussion of the matter before taking action.

Interim City Manager Ken Thompson reviewed two options for requesting advisory opinions that are available for the Board to pursue with the Kentucky Bar Association. In addition, he suggested that a ruling was needed from the Ethics Commission rather than just an advisory opinion. He stated that this ordinance reflects a policy direction for the City. Mayor Walker stated that an attorney has the choice to select which client he wants to represent to avoid a conflict.

There was further discussion regarding the distinction between agencies who fall under the jurisdiction of this ordinance and the reason not all of the agencies who receive City funds fall under this jurisdiction, the direct use of taxpayer dollars for legal services to an attorney who has also taken an adversarial position against the City, and an hourly rate restriction for agencies. Comm. Strow

stated that all agencies who receive City funds should be included to maintain consistency. Comm. Simpson expressed concern with moving too quickly and with potentially jeopardizing an upcoming CEB hearing.

There being no further discussion, motion was made by Nash and seconded by Alcott for first reading of said Ordinance. Mayor Walker called for roll call vote.

ROLL CALL: Voting Yea: Alcott, Nash and Walker
 Voting Nay: Simpson and Strow

First reading of Ordinance No. BG2005 - 39 was approved by majority vote.

CLOSED SESSION

City Clerk read the purpose of a closed session pursuant to KRS 61.810 (c) for discussing proposed litigation on behalf of the City and (f) for discussion which might lead to the dismissal of an individual employee without restricting that employee's right to a public hearing if requested. Motion was made by Simpson and seconded by Strow to immediately convene in closed session pursuant to KRS 61.810 (c) and (f). Mayor Walker called for roll call vote.

ROLL CALL: Voting Yea: Simpson, Strow, Alcott, Nash and Walker
 Voting Nay: None

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

OPEN SESSION

Once all discussion concluded in closed session, the Board of Commissioners reconvened in open session for consideration of action. Motion was made by Alcott and seconded by Nash to add Municipal Order No. 2005 - 229 to the agenda for consideration. With no discussion, a roll call vote was taken.

ROLL CALL: Voting Yea: Simpson, Strow, Alcott, Nash and Walker
 Voting Nay: None

Motion to add Municipal Order No. 2005 - 229 to the agenda was approved by unanimous vote.

MUNICIPAL ORDER NO. 2005 - 229

MUNICIPAL ORDER CONFIRMING THE IMMEDIATE TERMINATION OF DAVIS A. COOPER, CHIEF FINANCIAL OFFICER, FINANCE DEPARTMENT, AND APPROVING AN AGREEMENT, TRUST AGREEMENT AND OTHER DOCUMENTS RELATED TO DISTRIBUTION OF DAVIS COOPER'S RETIREMENT

Summary of Municipal Order No. 2005 - 229 was read by the City Clerk. Motion was made by Nash and seconded by Simpson for consideration of said Municipal Order. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Simpson, Strow, Alcott, Nash and Walker
 Voting Nay: None

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Municipal Order No. 2005 - 229 was approved by unanimous vote.

ADJOURNMENT

This being a special meeting and with no further business to come before the Board of Commissioners, at approximately 6:15 p.m., Mayor Walker declared this meeting adjourned.

ADOPTED: _____

APPROVED: _____
Mayor, Chairman of Board of Commissioners

ATTEST: _____
City Clerk

Minutes prepared by City Clerk Katie Schaller