

**MINUTES of SPECIAL MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held JULY 3, 2012**

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 4:00 p.m. on July 3, 2012. Mayor Pro Tem Bill Waltrip called the meeting to order. Assistant City Manager/City Clerk Katie Schaller called the roll, and the following members were present: Commissioner Melinda M. Hill, Commissioner Brian "Slim" Nash, Commissioner Joe W. Denning and Mayor Pro Tem/Commissioner Bill Waltrip. Absent: Mayor Bruce Wilkerson. There was a quorum of the Board of Commissioners.

Mayor Pro Tem Waltrip explained that as a special meeting, the Board of Commissioners was limited to discuss only those items that were included on the agenda. In addition, he noted that this special meeting took the place of the regular meeting that would have normally been held at 7:00 p.m. on this date.

APPROVAL OF MINUTES

Minutes of Regular Meeting June 19, 2012

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 Nash to approve said minutes as written. Mayor Pro Tem Waltrip asked for discussion, and with none, a roll call vote was taken.

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

Motion to approve the minutes of the regular meeting of June 19, 2012 was approved by unanimous vote.

AGENDA

**ORDINANCE NO. BG2012 - 22
(Second Reading)**

ORDINANCE RELATING TO BUDGET AMENDMENT

**ORDINANCE APPROVING AMENDMENT NUMBER FOUR TO
THE CITY OF BOWLING GREEN, KENTUCKY ANNUAL
OPERATING BUDGET FOR FISCAL YEAR 2012**

Title and summary of Ordinance No. BG2012 - 22 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Nash for second reading of said Ordinance. Mayor Pro Tem Waltrip asked for discussion, and with none, a roll call vote was taken.

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

Ordinance No. BG2012 - 22 was adopted by unanimous vote.

MUNICIPAL ORDER NO. 2012 - 124

MUNICIPAL ORDER APPROVING THE APPOINTMENT OF JOE L. DAVIS TO THE BOWLING GREEN AREA CONVENTION AND VISITORS BUREAU

Summary of Municipal Order No. 2012 - 124 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Nash for consideration of said Municipal Order. Mayor Pro Tem Waltrip asked for discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2012 - 124 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2012 - 125

MUNICIPAL ORDER APPROVING THE PROMOTION OF ANDREW S. WILLIAN TO THE POSITION OF IRRIGATION/SPRAY TECHNICIAN IN THE PARKS AND RECREATION DEPARTMENT

Summary of Municipal Order No. 2012 - 125 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Hill for consideration of said Municipal Order. Parks and Recreation Director Ernie Gouvas reviewed the qualifications of the individual recommended for promotion. Mayor Pro Tem Waltrip asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2012 - 125 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2012 - 126

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID #2012-47 FOR SONY HXC-D70H STUDIO CAMERA PACKAGE FROM PERLMUTTER PURCHASING POWER OF SAN DIEGO, CALIFORNIA IN THE AMOUNT OF \$25,033.10

Summary of Municipal Order No. 2012 - 126 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Nash for consideration of said Municipal Order. DeFebbo recommended the bid award to update camera equipment for video production of various meetings held in the Commission Chamber. Mayor Pro Tem Waltrip asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2012 - 126 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2012 - 127

MUNICIPAL ORDER AUTHORIZING PAYMENT TO THE
WARREN COUNTY PROPERTY VALUATION ADMINISTRATOR
FOR FISCAL YEAR 2013

Summary of Municipal Order No. 2012 - 127 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 Pro Tem Waltrip asked for discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2012 - 127 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2012 - 128

MUNICIPAL ORDER AUTHORIZING THE SUBMISSION OF AN
APPLICATION FOR HOMELAND SECURITY GRANT FUNDS
THROUGH THE KENTUCKY OFFICE OF HOMELAND SECURITY
FOR THE PURCHASE OF MOBILE RADIOS FOR THE POLICE
DEPARTMENT IN THE AMOUNT OF \$312,426

Summary of Municipal Order No. 2012 - 128 was read by the Assistant City Manager/City Clerk. Motion was made by Denning and seconded by Nash for consideration of said Municipal Order. DeFebbo explained that as public safety moved toward a digital platform for its radio system, digital ready radios were also needed. He recommended approval to submit the grant application, with no match required, to request funds for the purchase of 51 digital ready mobile radios. Police Chief Doug Hawkins indicated that the application process took several months and that notification about award was expected later this fall. Mayor Pro Tem Waltrip asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2012 - 128 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2012 - 129

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 UP TO \$3,780

Summary of Municipal Order No. 2012 - 129 was read by the Assistant City Manager/City Clerk. Motion was made by Hill and seconded by Nash for consideration of said Municipal Order. DeFebbo recommended submission of the grant application to help cover 50% of the cost to replace nine bulletproof vests. Mayor Pro Tem Waltrip asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Hill, Nash, Denning and Waltrip
 Voting Nay: None
Municipal Order No. 2012 - 129 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2012 - 130

MUNICIPAL ORDER AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR HOMELAND SECURITY GRANT FUNDS THROUGH THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) ASSISTANCE FOR FIREFIGHTERS GRANT PROGRAM FOR THE PURCHASE OF NINE THERMAL IMAGING DEVICES FOR THE FIRE DEPARTMENT IN THE TOTAL AMOUNT NOT TO EXCEED \$57,600

Summary of Municipal Order No. 2012 - 130 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Denning for consideration of said Municipal Order. DeFebbo recommended submitting the grant application to seek funding to assist with the purchase of equipment to be placed on each of the frontline fire trucks. He noted there was a 20% match required and the monies would come from the Fire Improvement Fund. Mayor Pro Tem Waltrip asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Hill, Nash, Denning and Waltrip
 Voting Nay: None
Municipal Order No. 2012 - 130 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2012 - 131

MUNICIPAL ORDER APPROVING THE CONTRACT TO PURCHASE BETWEEN THE CITY OF BOWLING GREEN AND SMALLHOUSE ROAD PARTNERS, LLC AND APPROVING THE SMALLHOUSE ROAD REALIGNMENT PROJECT REIMBURSEMENT AGREEMENT BETWEEN THE CITY AND WARREN COUNTY, BOTH RELATED TO THE REALIGNMENT OF SMALLHOUSE ROAD AND IMPROVEMENTS TO CAVE MILL ROAD

Summary of Municipal Order No. 2012 - 131 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Hill for consideration of said Municipal Order. DeFebbo asked the City Attorney to outline the elements of the agreements. City Attorney Gene Harmon provided an overview of the agreement with the developer, Smallhouse Road Partners, LLC. He explained that the developer of a single-family housing project (located outside the City limits) had agreed to build the new roadway to the City's specifications which would realign Smallhouse Road at the intersection with Cave Mill Road, including the acquisition of all necessary land, relocation of utilities, drainage improvements and installation of traffic signals. He further explained that the agreement stipulated the road be completed by the end of this calendar year, and once complete, the City would pay \$2.15 million to the developer.

With regard to the second agreement between the City and Warren County, Mr. Harmon stated that within 30 days of the closing to purchase the property (a completed turnkey roadway), Warren County would reimburse the City 50% of the total cost (\$1,075,000) since this was a joint City/County project.

Public Works Director Jeff Lashlee identified that the project was needed to help address traffic issues impacting residents living in and outside the City limits. He also noted that the project included the installation of turning lanes and signals as well as address drainage issues. In response to questions about the impact of the new road to Beddington Park neighborhood, Mr. Lashlee clarified that Sassafras Street would dead end at the new portion of Smallhouse Road and could not be used as a cut-thru for vehicle traffic. In addition, Mr. Harmon pointed out that the former portion of Smallhouse Road would also be closed once the new Smallhouse Road was officially opened.

There was additional discussion about the temporary impact to the area residents and traffic flow while construction was underway. Mr. Lashlee confirmed that there would be some detours required and agreed to use the City's website to help notify the public of those changes (similar to project updates provided during construction of Old Morgantown Road). Comm. Nash requested the use of the Neighborhood and Community Services Department to help notify area residents of the potential for increased traffic to occur during the construction.

Mayor Pro Tem Waltrip inquired about the initial planning study that was completed several years ago and whether or not area residents were included in the process. Mr. Lashlee recounted that several alternative proposals were presented to the Board of Commissioners in 2009 regarding changes that might assist with addressing traffic concerns. However, he disclosed that the residents were not specifically consulted or included in the planning study. Mayor Pro Tem Waltrip suggested that residents be included in future projects at the front end of the planning process similar to the process undertaken with the Old Morgantown Road project.

Comm. Nash commented that this particular project had been around for several years and he was pleased that all the parties came together to develop a solution that would improve the flow of traffic. He remarked this was a great public/private partnership and he thanked everyone involved. Mayor Pro Tem Waltrip also thanked Warren County Public Works Director Mac Yowell who would be responsible for acting as the City's agent during the construction of the roadway.

Prior to the vote, Mayor Pro Tem Waltrip clarified that the action to be taken by the City only dealt with the road and had no connection to the single family housing development which would be located outside the City limits. He also remarked that the City had previously set aside the money needed for its share of the project cost in the FY2012 and FY2013 budgets and would not issue any new debt for the purchase of the completed road. With no other discussion, a roll call vote was taken.

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

Voting Nay: None

Municipal Order No. 2012 - 131 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2012 - 132

MUNICIPAL ORDER APPROVING GREENWAYS MAINTENANCE AGREEMENT

Summary of Municipal Order No. 2012 - 132 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Hill for consideration of said Municipal Order. DeFebbo reviewed and recommended approval of the agreement to assist with maintenance of the greenways' paths located within the City limits. Comm. Nash introduced Greenways Coordinator Rachel Hetzler and he expressed appreciation for her work with the Greenways Commission. Once discussion ended, a roll call vote was taken.

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

Municipal Order No. 2012 - 132 was approved by unanimous vote.

DISCUSSION OF PROPOSED CITY-WIDE BAN FOR USE OF FIREWORKS

In an effort to prevent fires under the current drought conditions and to give a measure of security to neighbors, Comm. Nash proposed that a fireworks ban be issued immediately. Recognizing the lateness of his proposal, Comm. Nash stated that he had preferred the City follow the action taken by Warren County on Tuesday, June 26th when it issued a burn ban which included banning the use of fireworks. Although the City already had a permanent burn ban in place within the City limits, he explained that the City's fireworks ordinance permitted the discharge of fireworks between June 27th and July 5th. Since he was under the impression that a majority of the Board of Commissioners previously supported a ban, he expressed disappointment that Mayor Wilkerson had not already declared a state of emergency due to the drought conditions and issued a ban on the use of fireworks within the City. He noted that most fireworks being discharged were illegal anyway since there were not many areas in the City that met the State's 200 foot rule requirement.

Howard Bailey of 1567 Chenoweth Circle inquired about the enforcement of such a ban in the community which could steer police away from crime having a greater need. He stated he would hate to have a policy that was unenforceable. In response, Comm. Nash indicated that it was his hope a ban eliminating the ability to discharge fireworks would strengthen enforcement because there would be no question about whether or not the 200 foot rule was met.

There was additional discussion about the current enforcement procedures. Police Chief Doug Hawkins explained the difficulty police have with engaging in enforcement if they do not actually witness the violation occur. He confirmed that the police did not seek out opportunities for enforcement action as a practical matter, but rather, chose to respond through a complaint driven process. However, Chief Hawkins stated that the police were not precluded from automatically responding to violations and that they could be more proactive if a ban was in place.

Fire Chief Greg Johnson noted that conditions were better today since it had rained the day before. He also noted that there would continue to be issues with the potential for fires even with a ban. Chief Johnson indicated that the Fire Department would continue to be proactive and support the Board in whichever decision it made.

Comm. Hill thanked everyone for doing a great job. She stated that she also wanted to prevent fires, but she did not see anything about preventing cigarettes from being thrown which was more likely to cause a fire than fireworks. She interpreted that the proposal was more about banning people

from using fireworks with less than three days left to go versus preventing fires. Comm. Hill admitted that she would have supported a ban if it had not just rained the previous day.

Following continued debate about the enforcement of the current ordinance, Mayor Pro Tem Waltrip commented that he shared Comm. Nash's concerns and appreciated his efforts to look into it further. He remarked that he would have preferred to include the City in Warren County's ban the previous week. However, with the recent rain and with fireworks no longer permitted after 10:00 p.m. on July 5th, he concluded that a ban at this point was too late. He also concurred that there were already a lot of law abiding citizens violating the fireworks ordinance for which the state put the City in a precarious position by establishing the 200 foot requirement. Comm. Hill stressed the use of safety and common sense when discharging fireworks and she hoped that all citizens would take that into consideration.

Once discussion concluded, Comm. Nash made a motion to add Municipal Order No. 2012 - 133 to the agenda. The motion was seconded by Comm. Denning. With no additional discussion, a roll call vote was taken.

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

Motion to add Municipal Order No. 2012 - 133 to the agenda was approved by unanimous vote.

MUNICIPAL ORDER NO. 2012 - 133

MUNICIPAL ORDER BANNING USE OF FIREWORKS IN THE CITY OF BOWLING GREEN

Summary of Municipal Order No. 2012 - 133 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 Pro Tem Waltrip asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash and Denning
 Voting Nay: Hill and Waltrip

Municipal Order No. 2012 - 133 was defeated for lack of a majority vote. Ms. Schaller confirmed that a tie vote meant the motion to approve the ban did not pass.

ADJOURNMENT

This being a special meeting and with no further business to come before the Board of Commissioners, at approximately 4:55 p.m., Mayor Pro Tem Waltrip declared this meeting adjourned.

(Minutes-Board of Commissioners-July 3, 2012)

ADOPTED: _____

APPROVED: _____
Mayor, Chairman of Board of Commissioners

ATTEST: _____
City Clerk

Minutes prepared by Assistant City Manager/City Clerk Katie Schaller