

**MINUTES of SPECIAL MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held MAY 10, 2007**

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 8:30 a.m. on Thursday, May 10, 2007. Mayor Elaine N. Walker called the meeting to order. Assistant City Manager/City Clerk Katie Schaller called the roll, and the following members were present: Commissioner Brian K. Strow, Commissioner Bruce Wilkerson, Commissioner Joe W. Denning, Commissioner Brian "Slim" Nash and Mayor Elaine N. Walker. Absent: none. There was a full quorum of the Board of Commissioners.

PERSONNEL HEARING

City Attorney Gene Harmon noted that a personnel hearing was previously held on June 1, 2005 regarding the same charges as presented at this hearing against Police Officer Michael Bradley Fulks. However, the former decision of the Board of Commissioners was appealed to Warren Circuit Court and Judge Steve Wilson ordered that a new hearing be held.

Mayor Walker inquired if Officer Fulks preferred for this hearing to be closed to the public pursuant to KRS 61.810 (f), and Officer Fulks declined a closed hearing. Mayor Walker stated that she would preside over the hearing, but would not participate in the deliberations or vote on any action taken during the personnel hearing. Following a review of the proceedings by City Attorney Gene Harmon, Attorney Dixie Satterfield, representing the Police Department, presented the prosecution's case through the testimony of Deputy Police Chief John Stewart (Assistant Chief in 2005), and witness testimony of Police Captain James Hyde (Sergeant in 2005), Sergeant Penny Bowles, Police Officers Nathan Johnson, Matthew Davis and Alex Wright (Cadets in 2005), and Jonathon Wall (formerly a Police Cadet). Attorney Alan Simpson, representing Police Officer Michael Bradley (Brad) Fulks, was afforded an opportunity to present a defense through the witness testimony of Police Officers Tyler Chamings and Michael Nade, and through the testimony of Officer Brad Fulks.

CLOSED SESSION

Once all testimony was presented and each side was given an opportunity to provide closing arguments, Assistant City Manager/City Clerk Katie Schaller read the purpose of a closed session pursuant to KRS 61.810 (f) 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 Strow to convene in closed session pursuant to KRS 61.810 (f) for deliberation of the charges presented against Police Officer Brad Fulks. Walker called for roll call vote.

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

Motion to convene in closed session pursuant to KRS 61.810 (f) was approved by unanimous vote. The Board of Commissioners, excluding Mayor Walker, commenced its deliberations regarding the charges against Police Officer Brad Fulks.

RECONVENE IN OPEN SESSION

Following the deliberation in closed session, the Board of Commissioners reconvened in open session for consideration of the following charges against Police Officer Brad Fulks:

The Assistant City Manager/City Clerk read CHARGE 1: Failing to conform with law pursuant to Section 2.10.2.2.7 (Conformance to Laws) of the Bowling Green Police Department Policy and Procedures Manual, whereby it was alleged that Police Officer Brad Fulks permitted under age individuals to consume alcohol while in his apartment and while he was present. Motion was made by Nash and seconded by Strow to find Officer Fulks guilty pursuant to Section 2.10.2.2.7 (Conformance to Laws) of the Bowling Green Police Department Policy and Procedures Manual. Walker called for roll call vote.

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

Motion to find Officer Fulks guilty of permitting under age individuals to consume alcohol while in his apartment and while he was present was approved by unanimous vote.

The Assistant City Manager/City Clerk read CHARGE 2: Violation of Section 2.10.2.2.33 (Use of Department Owned Equipment) as it relates to a PBT device being administered to others at the apartment of Police Officer Brad Fulks. Motion was made by Nash and seconded by Wilkerson to find Officer Fulks guilty pursuant to Section 2.10.2.2.33 (Use of Department Owned Equipment) of the Bowling Green Police Department Policy and Procedures Manual. Walker called for roll call vote.

ROLL CALL: Voting Yea: Wilkerson and Nash
 Voting Nay: Strow and Denning

Motion to find Officer Fulks guilty of improper use of Police Department issued equipment failed for lack of a majority vote.

The Assistant City Manager/City Clerk read CHARGE 3: Violation of Section 2.10.3.5 (Insubordination) of the Bowling Green Police Department Policy and Procedures Manual. It was alleged that Police Officer Brad Fulks disobeyed a direct order given by supervisors. Motion was made by Nash and seconded by Wilkerson to find Officer Fulks guilty pursuant to Section 2.10.3.5 (Insubordination) of the Bowling Green Police Department Policy and Procedures Manual. Mayor Walker called for roll call vote.

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

Motion to find Officer Fulks guilty of insubordination by disobeying a direct order was approved by unanimous vote.

The Assistant City Manager/City Clerk read CHARGE 4: Violation of Paragraph 6-11.2 (Workplace Violence) of the City of Bowling Green Administrative Personnel Policy and Procedures Manual for Classified Employees, for an assault upon a Bowling Green Police Cadet, harassing behavior and other acts bordering on stalking. Motion was made by Nash and seconded by Wilkerson to find Officer Fulks guilty pursuant to Paragraph 6-11.2 (Workplace Violence) of the City of Bowling Green Administrative Personnel Policy and Procedures Manual for Classified Employees. Mayor Walker called for roll call vote.

ROLL CALL: Voting Yea: Wilkerson and Nash
 Voting Nay: Strow and Denning

Motion to find Officer Fulks guilty of work place violence by an assault upon a Bowling Green Police Cadet, harassing behavior and other acts bordering on stalking failed for lack of a majority vote.

Since two of the charges provided a finding of guilt, the proceedings continued to determine an appropriate penalty to be sought. Mr. Satterfield and Mr. Simpson were each afforded an opportunity to present a case for the appropriate penalty through the testimony of Police Chief Doug Hawkins (prosecution) and Police Officer Brad Fulks (defense). City Attorney Gene Harmon outlined the disciplinary options as stated in KRS 95.450(6) of the Police Officers Bill of Rights.

CLOSED SESSION

Following all testimony and statements regarding an appropriate penalty to be sought for Police Officer Brad Fulks, Assistant City Manager/City Clerk Katie Schaller read the purpose of a closed session pursuant to KRS 61.810 (f) 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 Nash and seconded by Strow to reconvene in closed session pursuant to KRS 61.810 (f) for deliberation of the appropriate penalty to be sought for Police Officer Brad Fulks. Walker called for roll call vote.

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

Motion to reconvene in closed session pursuant to KRS 61.810 (f) was approved by unanimous vote. The Board of Commissioners, excluding Mayor Walker, commenced its deliberations regarding a penalty for Police Officer Brad Fulks.

RECONVENE IN OPEN SESSION

Following deliberation in closed session regarding an appropriate penalty to be sought for Police Officer Brad Fulks, the Board of Commissioners once again reconvened in open session. Motion was made by Nash and seconded by Wilkerson that based upon being found guilty of Charges 1 and 3, the Board of Commissioners determines that Police Officer Brad Fulks shall be dismissed (terminated) from employment with the City of Bowling Green Police Department. Walker called for roll call vote.

ROLL CALL: Voting Yea: Wilkerson and Nash
 Voting Nay: Strow and Denning

Motion to dismiss Officer Fulks from employment with the City of Bowling Green failed for a lack of a majority vote.

Motion was made by Strow and seconded by Denning that based upon being found guilty of Charges 1 and 3, the Board of Commissioners determines that Police Officer Brad Fulks shall be suspended for six (6) months, with time already served, and receive a reduction in pay. Walker called for roll call vote.

ROLL CALL: Voting Yea: Strow, Wilkerson and Denning
 Voting Nay: Nash

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Motion to suspend Police Officer Brad Fulks for six (6) months, with time already served, and to reduce Officer Fulks pay was approved by majority vote.

ADJOURNMENT

Once all discussion concluded, and there being no further business to come before the Board of Commissioners, at approximately 6:40 p.m., Mayor Walker declared this meeting adjourned.

ADOPTED: _____

APPROVED: _____
Mayor, Chairman of Board of Commissioners

ATTEST: _____
City Clerk

Minutes prepared by Assistant City Manager/City Clerk Katie Schaller