

**MINUTES of SPECIAL MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held JANUARY 24, 2011**

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 7:00 p.m. on January 24, 2011. 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 Bill Waltrip, 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.

RESOLUTION NO. 2011 - 1

**RESOLUTION SUPPORTING THE CONTINUATION OF THE
EXISTING OPERATIONS OF THE UNITED STATES POSTAL
SERVICE PROCESSING AND DISTRIBUTION FACILITY IN
BOWLING GREEN**

Summary of Resolution No. 2011 - 1 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Nash for consideration of said Resolution. Comm. Wilkerson indicated that this resolution was sponsored by all the members of the Board of Commissioners and represented the Board's show of support to retain the processing and distribution facility and its jobs in Bowling Green. He reminded the public that the Postal Service was requesting comments and would hold a public hearing at 7:00 p.m. on February 1, 2011. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Resolution No. 2011 - 1 was approved by unanimous vote.

**ORDINANCE NO. BG2011 - 5
(Second 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 second reading of said Ordinance. Comm. Denning inquired about the intent of the ordinance, including the types of establishments the ordinance pertained to, who could be cited and fined, and how the distance from an entrance was defined. Comm. Nash responded and explained that the ordinance did not apply to private club activities unless the general public was invited to participate. He also explained that the citations

issued would fall on the discretion of the enforcement officer depending on the circumstance, but a citation and fine could apply to both the owner of a business and the individual caught smoking. Comm. Nash further clarified that the ordinance specified a “reasonable distance” from the front door, however, he welcomed any suggestions on defining “reasonable.”

Attorney Alan Simpson, who has an office at 908 State Street, stated he was speaking on behalf of his father’s business located on 31-W Bypass and on behalf of the American Legion Post 23. He stated that he was most concerned with the expediency of the approval process and suggested more time was needed to determine if changing the rules would have an adverse affect on businesses. Mr. Simpson added that consideration should be given to exempt charitable gaming activities that take place indoors, such as bingo held in the American Legion hall, since any reduction in attendance due to a smoking ban would impact the ability to raise funds for charity.

There were several other individuals who spoke in opposition to the passage of a smoking ban. VFW Commander Dean Frazier expressed concerns with the potential loss of bingo participants to Franklin, Kentucky if this ban was passed. Michael Sherrell, with his business at 514 Morgantown Road, indicated a smoking ban was an infringement on his rights as a business owner and he advocated to let the businesses make their own decisions about being smoke-free. Bill Bohannon, owner of a business at 930 Searcy Way, voiced concern that there were still too many unanswered questions and he asked the Mayor to abstain from voting on this issue since she would only be in office for a few more days. Jim Bohannon, Jr. of 1342 Edgewood Avenue asserted that as a veteran who fought for the freedom of rights, he did not think it was right for the City to tell property owners that they cannot do what they want to do. Josh Woolbright of 1010 H.T. Downing Road remarked that people have the choice of where they want to eat and suggested the Board consider setting regulations for ventilation requirements instead of banning smoking altogether from restaurants. Robert Mills of 549 Denali Street also disagreed with the ordinance being rushed through and suggested an alternative solution that would require a facility to post a sign identifying if it was a smoking facility which would alert people to make a choice about the potential for exposure to secondhand smoke before entering. Attorney Matt Baker of 1324 Scottsville Road stated he was a non-smoker and did not like the smell of cigarette smoke, however, he believed it should be the businesses’ right to make the choice to go smoke-free not the Board of Commissioners.

Dr. Rick Voakes of 1328 College Street and Dr. Deborah Thorn of 1316 Mumford Lane both agreed that studies have proven asthma readmission rates would decline if this ban was put in place. Dr. Voakes also pointed out that the U.S. Constitution defended the rights of an individual not business rights. Dr. Thorn encouraged visionary leadership to improve the quality of life and to be proactive to help prevent secondhand smoke related disease. She also remarked about a 2004 court ruling which placed individual rights above property rights.

Greg Worcester of 1700 Catherine Drive explained that he had family members who were allergic to cigarette smoke and it was important to consider who was being affected by the secondhand smoke. He also said he would support exemptions for the VFW and American Legion, although he urged for a quantitative definition to “reasonable distance” to help avoid the potential for litigation based on an arbitrary interpretation. Walter Petit of 2105 Robin Road indicated that because of his allergy to smoke, he did not patron many Bowling Green restaurants since the smoking sections did not contain the smoke. Instead, he indicated that he often traveled back to his hometown in Mullenburg County to eat out where there was a smoking ban already in place. However, if this ordinance was approved, he would keep his business here.

Comm. Nash recounted that this issue had been discussed since 2007 and he did not think anyone's position would change if given more time to debate the issue. He pointed out that the Kentucky Supreme Court ruled local communities have the ability to make such a decision as this. He admitted that he was not a veteran and did not know what it was like to be a veteran; however, his education taught him that wars were engaged in the interest of democracy not an individuals rights. Although, people may disagree about the issue of smoking, Comm. Nash stated he understood those with dissenting opinions, but he was going to side with science.

Comm. Waltrip agreed this was a public health issue which the courts have settled. In just 24 days as an elected official, he remarked that he did not have the luxury of sitting on the fence and that he understood how decisions affected the community which he did not take lightly. He once again declared his support of the smoking ban as he had announced in 2009 when he decided to run for office.

Comm. Denning affirmed that his position on the issue had not changed. He believed it was not right to tell property owners what to do as long as it was not illegal. He inquired about where we (government) stop infringing on individual rights and privileges when people have the ability to choose which businesses to patron whether smoking or non-smoking.

With respect to the timing of the issue, Mayor Walker indicated she considered this a health issue which she has supported all along. She further pointed out that Comm. Nash had been reelected twice with people knowing his position about the issue and that there was extensive discussion in 2007. She admitted that she preferred not to have her last vote as Mayor be on a controversial issue, but she never shrunk from making a decision for the betterment of this community. In closing, she remarked that other places that enacted the smoking ban have seen businesses do better because people who were previously not going out due to exposure to smoke were now going out. With no further discussion, a roll call vote was taken.

ROLL CALL: Voting Yea: Nash, Waltrip and Walker
 Voting Nay: Denning and Wilkerson
Ordinance No. BG2011 - 5 was adopted by majority vote.

RECOGNITION

Mayor Walker recognized Boy Scouts from Troops 510 and 710 who were in the audience.

SPECIAL RECOGNITION

Since this was Mayor Walker's last official meeting of the Board of Commissioners before she was sworn in as the Governor's appointment to fill the vacancy of Secretary of State, she stated it had been an honor and privilege to serve the City of Bowling Green as Mayor. She also stated that she had always attempted to do what was in the best interest of the citizens and she expressed her appreciation to all the staff for their hard work and dedication to the community.

Commissioner Denning gave special recognition to Mayor Walker for her contributions over the past six years and wished her well in her new role with State government. He also personally thanked Ms. Walker for all the time she put into the job as Mayor.

(Minutes-Board of Commissioners-January 24, 2011)

On behalf of the Board of Commissioners, Comm. Denning proclaimed January 24th as “Mayor Elaine Walker Day” and presented the Mayor with the official proclamation, in addition to a few other acknowledgements and gifts from the City and staff. Mayor Walker presented a gift to Mayor Pro Tem Denning as he steps in to perform the duties of Mayor before the Board of Commissioners selects an official replacement.

ADJOURNMENT

This being a special meeting and with no further business to come before the Board of Commissioners, at approximately 8:05 p.m., Mayor Walker declared this meeting adjourned.

ADOPTED: _____

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

ATTEST: _____
City Clerk

Minutes prepared by Assistant City Manager/City Clerk Katie Schaller