

**MINUTES of SPECIAL MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held MAY 6, 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 9:30 a.m. on May 6, 2005. Mayor Elaine N. Walker called the meeting to order. City Clerk Katie Schaller called the roll, and the following members were present: Commissioner Mark D. Alcott, Commissioner Brian "Slim" Nash, Commissioner Brian K. Strow and Mayor Elaine N. Walker. Absent: Commissioner Delane Simpson. There was a quorum of the Board of Commissioners.

MUNICIPAL ORDER NO. 2005 - 99

**MUNICIPAL ORDER APPROVING THE YEAR 2 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**

Motion to remove Municipal Order No. 2005 - 99 from the table in order to be considered at this time was made by Nash and seconded by Strow. With no discussion, a roll call vote was taken.

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

Motion to remove Municipal Order No. 2005 - 99 from the table for consideration was approved by unanimous vote. Summary of Municipal Order No. 2005 - 99 was read by City Clerk Katie Schaller. City Attorney Gene Harmon reported that he confirmed with the Department of Housing and Urban Development (HUD) that in order to include any other areas such as the Fort Webb subdivision development into the Year 2 Annual Action Plan, the Five-Year Consolidated Plan would require an amendment. Comm. Alcott requested if an extension could be obtained from HUD in order to proceed with amending the Consolidated Plan. Harmon responded that such an extension request would require "good cause" and need to be requested through HUD and granted prior to May 15, 2005 which was the deadline for submission of the Action Plan.

Director of PR and Government Affairs for the Builders Association of South Central Kentucky Anita Napier commented and responded to questions regarding the Association's position of support for the original Year 2 Action Plan as submitted with this Municipal Order. Ms. Napier stated that the funds available for homeowner rehabilitation should be used in the most efficient way to maximize the funds spent.

Housing Authority of Bowling Green Director Abraham Williams responded to questions regarding the proposed Fort Webb subdivision development for mixed income housing, including plan development, anticipated development costs, other possible sources of funding and the potential to request de-annexation of the property in order to apply for CDBG funds through Warren County. Mayor Walker stated she was committed to providing support for this development, but questioned if this was the most efficient use of CDBG funds versus an alternative source of funding. Comm. Strow

stated that he would not support using a bond issue or other funds for Fort Webb. He suggested that such funds should be used in other ways. He further stated that CDBG funds should be used for this development.

Mayor Walker stated her concerns that if the Plan was modified, the City may lose its entitlement funds which exceed \$630,000. Comm. Alcott disagreed that these funds were at risk of being lost. He suggested requesting an extension, and if the extension was not granted, the Board could reconsider the Action Plan as submitted at a special meeting before May 15, 2005.

Neighborhood Action Coordinator Karen Foley spoke on behalf of the St. Joseph neighborhood area. She stated that it was vital to preserve the City's existing neighborhoods, or they may be lost to deterioration and neglect.

Housing and Community Development Director Alice Burks compared the proposed use of funds under the Year 2 Action Plan for homeowner rehabilitation versus new homes in the Fort Webb development. Burks also reiterated the use of citizen involvement with initial development of and preparation for the Five-Year Consolidated Plan.

Once all discussion concluded, motion was made by Nash and seconded by Walker for consideration of said Municipal Order. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2005 - 99 was **defeated** for lack of a majority vote.

PERSONNEL 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 who represented the Fire Department presented the prosecution's case through the testimony of Fire Chief Gerry Brown and witness testimony of Assistant Chief Keith Mefford and Fire Investigator Charlie Toms. Deputy Fire Chief Oscar Cherry was afforded an opportunity to present his defense through his own testimony and witness testimony of Purchasing Associate Esther Mullins, Assistant Parks and Recreation Director Karen Singleton and Chief Fire Inspector Terry McDaniel.

Once all testimony was presented and each side was given an opportunity to provide closing arguments, the Board of Commissioners, excluding Mayor Walker, commenced its deliberations regarding the following charges against Deputy Fire Chief Oscar Cherry:

Charge 1. Dishonesty, falsification, misstatement, exaggeration or concealment of material fact in connection with employment, promotion, any record, investigation or other proper proceeding; or falsification of vouchers, reports, insurance claims, attendance records, leave records or other official records as stated in Chapter VII of the Administrative Personnel Policy and Procedures Manual.

Charge 2. Unauthorized use, possession of, loss of, or damage to City property or the property of others, or endangering same through carelessness; having been careless or negligent with the monies or other property of the City; converting, taking, or using any property or personnel of the City for his own personal use, or for the personal use or benefit of other persons; or selling, giving or exchanging any City property to or with any other person as stated in Chapter VII of the Administrative Personnel Policy and Procedures Manual.

Charge 3. Personal use of the procurement card by a City employee or City official is prohibited. Any such use will require immediate reimbursement and may result in disciplinary action and/or possible dismissal as stated in the City's Consolidated Financial Policy Statement and in the City of Bowling Green Procurement Care Procedures.

Charge 4. Insubordination - Section 3.19 Bowling Green Fire Department Policy and Procedure Manual. Members shall promptly obey any lawful orders of a superior officer. This includes orders relayed from a superior officer by an officer of the same or lesser rank.

Specifically, it is charged that Deputy Fire Chief Cherry violated the above policies and procedures on: (1) March 5, 2005, when his procurement card was used to purchase \$24.60 of gasoline at the Jr. Food Store on Gordon Avenue; (2) March 10, 2005, when his procurement card was used to purchase, by phone, bees from the Walter T. Kelly Company of Clarkson, Kentucky in the amount of \$122.96; (3) March 12, 2005, when his procurement card was used to purchase \$22.13 of items at the Kroger Store on the 31-W Bypass; (4) March 12, 2005, when his procurement card was used to purchase \$21.98 of alcoholic beverages at Vette City Liquors on Russellville Road; and (5) on April 26, 2005 at 1500 hours, Chief Brown ordered Deputy Chief Cherry not to discuss with anyone the investigation, as same remained open regarding the charges on the procurement card. Following that order, Deputy Chief Cherry disobeyed it by discussing the investigation and matter with at least two other members of the Bowling Green Fire Department.

The foregoing behavior, if proven, constitutes behavior not consistent with standards required of a Bowling Green Firefighter and constitutes inefficiency, misconduct, insubordination or violation of law or of the rules adopted by the City as set out in KRS 95.450.

Motion was made by Alcott and seconded by Nash that following the deliberations and review of evidence presented in the personnel hearing, the Board of Commissioners finds Deputy Fire Chief Oscar Cherry not guilty of charges 1 and 4, but guilty of charges 2 and 3. With no further discussion, a roll call vote was taken.

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

Motion to find Deputy Fire Chief Oscar Cherry not guilty of charges 1 and 4, and to find Deputy Fire Chief Oscar Cherry guilty of charges 2 and 3 was approved by unanimous 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. Cherry were each afforded an opportunity to present a case for the appropriate penalty. Following all statements, the Board of Commissioners, excluding Mayor Walker, commenced its deliberations regarding the charges of guilty against Deputy Fire Chief Oscar Cherry for the following violations:

Charge 2. Unauthorized use, possession of, loss of, or damage to City property or the property of others, or endangering same through carelessness; having been careless or negligent with the monies or other property of the City; converting, taking, or using any property or personnel of the City for his own personal use, or for the personal use or benefit of other persons; or selling, giving or exchanging any City property to or with any other person as stated in Chapter VII of the Administrative Personnel Policy and Procedures Manual.

Charge 3. Personal use of the procurement card by a City employee or City official is prohibited. Any such use will require immediate reimbursement and will result in disciplinary action and/or possible dismissal as stated in the City's Consolidated Financial Policy Statement and in the City of Bowling Green Procurement Care Procedures.

Motion was made by Alcott and seconded by Strow that as a result of being found guilty of charges 2 and 3 and following the deliberations regarding the appropriate penalty to be sought, the Board of Commissioners determines that Deputy Fire Chief Oscar Cherry shall be (1) suspended without pay for a period of two weeks, (2) required to immediately provide restitution in the amount of \$191.67, and (3) denied any future City procurement card privileges. With no further discussion, a roll call vote was taken.

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

Motion to impose the penalty of two weeks suspension without pay, restitution in the amount of \$191.67 and denial of future procurement card privileges for Deputy Fire Chief Oscar Cherry was approved by unanimous vote.

CLOSED SESSION

City Clerk Katie Schaller stated that pursuant to KRS 61.810 (f) the purpose of this closed session was for discussion which might lead to the appointment of an Interim City Manager. Motion was made by Alcott and seconded by Strow to convene in closed session pursuant to KRS 61.810 (f). Walker called for roll call vote.

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

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

ADJOURNMENT

Once all discussion concluded in closed session, and with no further business to come before the Board of Commissioners, at approximately 7:40 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