

**MINUTES of REGULAR MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held FEBRUARY 5, 2008**

The Board of Commissioners of the City of Bowling Green, Kentucky met in regular session in the Commission Chamber of City Hall, Bowling Green, Kentucky at 7:00 p.m. on February 5, 2008. Mayor Elaine N. Walker called the meeting to order. An invocation was given by Associate Pastor Weston Williams of Bowling Green Christian Church, and all present recited the Pledge of Allegiance. Assistant City Manager/City Clerk Katie Schaller called the roll, and the following members were present: Commissioner Joe W. Denning, Commissioner Brian "Slim" Nash, Commissioner Brian K. Strow, Commissioner Bruce Wilkerson and Mayor Elaine N. Walker. Absent: none. There was a full quorum of the Board of Commissioners.

CITY MANAGER

City Manager Kevin D. DeFebbo had no comments at this time.

PUBLIC COMMENTS

Mayor Walker opened the floor for any public comments and there were none.

CONSENT AGENDA

Mayor Walker requested if there were any items to be removed from the Consent Agenda prior to its consideration. With none, Assistant City Manager/City Clerk Katie Schaller read the summaries of each of the following items:

MUNICIPAL ORDER NO. 2008 - 25

**MUNICIPAL ORDER AUTHORIZING THE ACCEPTANCE OF
PASS-THROUGH GRANT FUNDS FROM SAFE ROUTES TO
SCHOOL GRANT ADMINISTERED BY THE WARREN COUNTY
HEALTH DEPARTMENT IN THE AMOUNT OF \$2,500**

MUNICIPAL ORDER NO. 2008 - 26

**MUNICIPAL ORDER APPROVING AND AUTHORIZING OUT-OF-
TOWN TRAVEL EXPENSES FOR CITY MANAGER KEVIN D.
DEFEBBO TO ATTEND THE KENTUCKY CITY / COUNTY
MANAGEMENT ASSOCIATION 2008 WINTER CONFERENCE IN
FRANKFORT, KENTUCKY**

Motion was made by Wilkerson and seconded by Nash for acceptance of the Consent Agenda as presented. With no discussion, a roll call vote was taken.

ROLL CALL: Voting Yea: Denning, Nash, Strow, Wilkerson and Walker
Voting Nay: None
Motion to accept the Consent Agenda as presented was approved by unanimous vote.

REGULAR AGENDA

ORDINANCE NO. BG2008 - 5
(Second Reading)
ORDINANCE REZONING REAL ESTATE

ORDINANCE REZONING A TRACT OF LAND CONTAINING 0.89 ACRE FROM AG (AGRICULTURE) TO HI (HEAVY INDUSTRY) LOCATED AT 1022 BOATLANDING ROAD, WITH BINDING ELEMENTS, PRESENTLY OWNED BY LEWIS LOGAN, D/B/A AFFORDABLE TOWING AND RECOVERY

Title and summary of Ordinance No. BG2008 - 5 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Denning for second reading of said Ordinance. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Denning, Strow, Wilkerson and Walker
Voting Nay: Nash
Ordinance No. BG2008 - 5 was adopted by majority vote.

MUNICIPAL ORDER NO. 2008 - 27

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID #2008-40 FOR KEREIAKES PARK GREENWAYS CONNECTOR, PHASE 2 FROM SCOTT & MURPHY, INC. OF BOWLING GREEN, KENTUCKY AND BOWLING GREEN MUNICIPAL UTILITIES (BGMU) OF BOWLING GREEN, KENTUCKY IN THE TOTAL AMOUNT OF \$247,046.52

Summary of Municipal Order No. 2008 - 27 was read by the Assistant City Manager/City Clerk. Motion was made by Strow and seconded by Wilkerson for consideration of said Municipal Order. DeFebbo reviewed the recommended bid award which came in under budget for construction and relocation of street lights. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2008 - 27 was approved by majority vote. Comm. Denning abstained since he was employed by Scott & Murphy.

MUNICIPAL ORDER NO. 2008 - 28

MUNICIPAL ORDER APPROVING A CONTRACT THROUGH NONCOMPETITIVE NEGOTIATIONS WITH CENTURY

EQUIPMENT, INC. OF TOLEDO, OHIO UNDER THE KENTUCKY STATE PRICING CONTRACT FOR THE PURCHASE OF THREE TORO WORKMAN TRUCKSTERS IN THE TOTAL AMOUNT OF \$58,435.44

Summary of Municipal Order No. 2008 - 28 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Nash for consideration of said Municipal Order. DeFebbo reviewed and recommended the bid award for Parks equipment. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2008 - 28 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2008 - 29

MUNICIPAL ORDER AUTHORIZING THE CONTINUATION OF A CONTRACT WITH PERFORMANCE LAWN AND RAINTREE SERVICES D/B/A CHEMLAWN FOR TRANSPARK LANDSCAPE AND TURF MANAGEMENT

Summary of Municipal Order No. 2008 - 29 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Strow for consideration of said Municipal Order. DeFebbo recommended the option to renew the contract for a second year. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2008 - 29 was approved by unanimous vote.

ORDINANCE NO. BG2008 - 6

(First Reading)

ORDINANCE CREATING AND AUTHORIZING SALE OF GAS FRANCHISE

AN ORDINANCE OF THE CITY OF BOWLING GREEN, KENTUCKY PROVIDING FOR THE CREATION AND SALE OF A NON-EXCLUSIVE FRANCHISE FOR THE PRIVILEGE OF CONSTRUCTING, TRANSPORTING, OPERATING, MAINTAINING AND DISTRIBUTING NATURAL GAS ALONG AND UNDER PUBLIC RIGHT-OF-WAY WITHIN THE CITY OF BOWLING GREEN, KENTUCKY FOR A TERM OF TEN (10) YEARS IN CONSIDERATION FOR WHICH, THE SUCCESSFUL FRANCHISEE SHALL PAY TO THE CITY AN ANNUAL SUM EQUAL TO A MINIMUM OF ONE PERCENT (1%) OF THE GROSS REVENUES DERIVED FROM THE FRANCHISE AWARDED HEREIN; AND FURTHER ESTABLISHING A BID PROCEDURE FOR THE AWARD OF SAID FRANCHISE TO THE SUCCESSFUL BIDDER

Title and summary of Ordinance No. BG2008 - 6 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Walker for first reading of said Ordinance. As discussed at the January 29, 2008 work session, City Attorney Gene Harmon reviewed this item and the following two which all related to the Gas Franchise. He noted that since the two Ordinance Nos. BG2008 - 6 and BG2008 - 7 were in conflict with one another, then only one of the ordinances could be adopted. Comm. Strow stated that if this ordinance passed, he would withdraw the other. He explained that his proposal (Ordinance No. BG2008 - 7) phased in a reduction in franchise fees over the ten year period to go from 1% to 0.1%.

Mayor Walker expressed concern with totally eliminating or even dramatically reducing this revenue source and the impact to the City's budget. She proposed (Municipal Order No. 2008 - 30) to cap the revenues at \$200,000 and anything collected above that could be set aside for use with providing home heating assistance for those in need.

Comm. Nash indicated that he recognized the amount of money saved was minimal to the consumer. However, he stated that reducing one more obstacle for the poor to feel more secure and more financially comfortable was a tax worth eliminating.

Once all discussion ended, a roll call vote was taken.

ROLL CALL: Voting Yea: Denning, Wilkerson and Walker

Voting Nay: Nash and Strow

First reading of Ordinance No. BG2008 - 6 was approved by majority vote.

MUNICIPAL ORDER NO. 2008 - 30

MUNICIPAL ORDER CAPPING GENERAL FUND
APPROPRIATION OF NATURAL GAS FRANCHISE FEES AT
\$200,000 PER YEAR AND DIRECTING USE OF GAS FRANCHISE
FEES IN EXCESS OF \$200,000 PER YEAR

Summary of Municipal Order No. 2008 - 30 was read by the Assistant City Manager/City Clerk. Motion was made by Denning and seconded by Wilkerson for consideration of said Municipal Order. Comm. Strow expressed concern with setting aside the excess revenues in a special fund and suggested that the money collected should go to the General Fund with direction provided each year on how that money should be spent. Mayor Walker reiterated the purpose of her proposal to cap revenues and the ability to assist those in need.

There was discussion about the procedures for staff to follow regarding the handling of the excess funds. Comm. Nash commented about federal funds coming into Community Action of Southern Kentucky and feared a reduction in those funds if the Board directed its excess revenues to CASKY's assistance program. He made a motion, seconded by Wilkerson, to amend Municipal Order No. 2008 - 30 to direct the funds set aside to the Welfare Center Board for home heating assistance. Following additional discussion, a roll call vote was taken.

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

Voting Nay: None

Motion to amend Municipal Order No. 2008 - 30 to direct excess funds to the Welfare Center Board was approved by unanimous vote.

Once all discussion ended, a roll call vote was taken on the Municipal Order as amended.

ROLL CALL: Voting Yea: Denning, Nash, Wilkerson and Walker

Voting Nay: Strow

Municipal Order No. 2008 - 30 as amended was approved by majority vote.

ORDINANCE NO. BG2008 - 7

(First Reading)

ORDINANCE CREATING AND AUTHORIZING SALE OF GAS FRANCHISE

AN ORDINANCE OF THE CITY OF BOWLING GREEN, KENTUCKY PROVIDING FOR THE CREATION AND SALE OF A NON-EXCLUSIVE FRANCHISE FOR THE PRIVILEGE OF CONSTRUCTING, TRANSPORTING, OPERATING, MAINTAINING AND DISTRIBUTING NATURAL GAS ALONG AND UNDER PUBLIC RIGHT-OF-WAY WITHIN THE CITY OF BOWLING GREEN, KENTUCKY FOR A TERM OF TEN (10) YEARS IN CONSIDERATION FOR WHICH, THE SUCCESSFUL FRANCHISEE SHALL PAY TO THE CITY AN ANNUAL FRANCHISE FEE AS SPECIFIED IN THE FRANCHISE AGREEMENT; AND FURTHER ESTABLISHING A BID PROCEDURE FOR THE AWARD OF SAID FRANCHISE TO THE SUCCESSFUL BIDDER

Title and summary of Ordinance No. BG2008 - 7 was read by the Assistant City Manager/City Clerk. Motion was made by Strow and seconded by Nash for first reading of said Ordinance. City Attorney Gene Harmon clarified that since the previous Ordinance No. 2008 - 6 passed first reading, then action to adopt this ordinance would be in conflict. However, he noted that since the second reading was what counted, it was possible for a different outcome to occur with the final vote. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Strow

Voting Nay: Denning, Nash, Wilkerson and Walker

First reading of Ordinance No. BG2008 - 7 failed by majority vote. Comm. Strow indicated that he would withdraw the item from further action.

ORDINANCE NO. BG2008 - 8

(First Reading)

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE REPEALING EXISTING AND ADOPTING A NEW CHAPTER 18 (OCCUPATIONAL LICENSE FEES AND TAXES) OF THE CITY OF BOWLING GREEN CODE OF ORDINANCES AS REQUIRED BY KENTUCKY REVISED STATUTES TO STANDARDIZE PROVISION LANGUAGE

Title and summary of Ordinance No. BG2008 - 8 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Strow for first reading of said Ordinance. City Attorney Gene Harmon clarified the requirements for all cities to standardize certain language

related to occupational license fees. Occupational License Manager David Lyne outlined the process undertaken by the State to determine the standardized language. He noted that the most significant changes were to late fees and penalties, otherwise there were no substantive changes. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

First reading of Ordinance No. BG2008 - 8 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2008 - 31

MUNICIPAL ORDER AMENDING THE CITY OF BOWLING GREEN TRAVEL POLICY INCORPORATED IN THE CONSOLIDATED FINANCIAL POLICY STATEMENTS

Summary of Municipal Order No. 2008 - 31 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Strow for consideration of said Municipal Order. DeFebbo reviewed the recommended changes to the Travel Policy. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2008 - 31 was approved by unanimous vote.

DISCUSSION

The Board of Commissioners discussed the proposal regarding the downtown development project and Tax Increment Financing (TIF) District. Bart Darrell, a member of the Warren County Downtown Economic Development Authority, Inc. (also known as the Chapter 58 Corporation), reviewed the proposed financing plan which included participation by the City to secure the bond debt of \$25 million in Revenue Bonds to be issued by Warren County. He also outlined the potential revenue sources in Phase I of the project that could be dedicated to the repayment of those bonds, such as: a) \$748,500 for the purchase of City-owned land, b) 100% of the existing City taxes generated in the district, c) 20% of the incremental City taxes generated in the district, and d) 100% of the revenue from the operation of the ballpark and garage. In addition, Chairman Rick Kelley of the Play Ball! '05 Committee, indicated that upon completion of Phase II financing, the City would receive an additional \$311,000 for the purchase of City-owned land, the WKU garage lease payment of \$250,000 per year for the remainder of the 30 years or until the City backed bonds were paid in full, and approximately \$210,000 per year from a combination of ballpark lease and naming rights fees. Mr. Darrell urged support of the project to help bring a better quality of living to the community.

In response to some questions by the Board about the City backed bonds, Mr. Kelley clarified that under this proposal the City would be responsible to cover any deficiencies in the bond payments if revenues generated from the project were not enough. There was also discussion about possible worse case scenario concepts. Comm. Strow indicated that the Board needed to consider the costs and benefits of doing one project over another, such as Shive Lane Extension and/or Old Morgantown Road Expansion.

Comm. Denning expressed concerns about the project, whether or not the City should be put in this position for the next 30 years with other issues that the City was already facing. He stated that it was the Board's responsibility to look out for all citizens of the community.

Mayor Walker voiced frustration with having a short amount of time available, from 4:00 p.m. that afternoon to the discussion that night, to decipher all the recently proposed changes to the plan. She indicated her support for the redevelopment of downtown, but that there was a need to protect the City with guarantees for Phase II development. In the current light of financial conditions the City was already facing, she suggested that assurances and signed agreements were needed from sub-developers with commitments for financial backing of the private investment.

Attorney Jim Parsons, legal consultant for the City regarding economic development, explained the risks that the Board should consider, such as financial risk and risk of little or no development occurring. He confirmed that any assurances that could be made to ensure private development would take place should provide more security for the City. He also reviewed the variables of a Blighted TIF which restricted the use of state revenues.

Comm. Nash commented about the inherent risks with investing in a project which might not get completed. He specified that generally investments in development projects were made in the hopes of making improvements that would spur other development, including private investment.

City Manager DeFebbo outlined the issues that the Board needed to consider, including making a determination of how much risk the City would be willing to accept and how that risk could be reduced. Chief Financial Officer Jeff Meisel detailed the potential impact of the annual debt service on a \$25 million bond issue. He also expressed concern regarding the point at which the City might need to make a decision to consider a Blighted TIF if the Signature TIF could not be achieved.

Comm. Strow maintained that the City had only one shot at having a Signature TIF and that this was it. However, he too was concerned about a "Plan B" if it did not work and whether or not the City was willing to put money into the downtown. Comm. Denning pointed out that if this project did not go through, then there would be other options that could be considered, such as smaller development projects.

There was discussion about having a special meeting on Thursday, February 7, 2008 to continue the dialogue about the City's participation with financing a portion of the project. There was consensus among the Board of Commissioners to allow Mr. Parsons to work with the developers and to get commitments. Comm. Wilkerson pointed out that those commitments should have been provided all along and that they should have been provided before today.

Mayor Walker opened the floor for public comments. Chris Thompson of 1311 Euclid Avenue and James Cook of 177 Southland Drive spoke in support of the project and its positive impact for downtown, as well as the community. Joan Clark of 4373 Belle Rive Circle expressed concern that the Board was being rushed to make a decision about a 30 year commitment and that the Board should not allow the developers to pressure them.

ADJOURNMENT

Once all discussion concluded and there being no further business to come before the Board of Commissioners, at approximately 9:20 p.m., Mayor Walker declared this meeting adjourned.

WORK SESSION

Prior to the regular meeting and with no action taken, the Board of Commissioners convened at 4:00 p.m. in the Commission Chamber of City Hall for a regular work session to discuss the following subjects: 1) comments by Western Kentucky University President Gary Ransdall in support of the TIF downtown redevelopment plan; 2) the Stormwater NPDES MS4 Phase II permit renewal; and 3) an update regarding anticipated cost increases for final design of the Old Morgantown Road Expansion project. Regarding the Old Morgantown Road final design costs, the Board agreed to hold off on final design for the next three months so that it could be looked at closer during the Fiscal Year 2009 budget process.

ADOPTED: _____

APPROVED: _____
Mayor, Chairman of Board of Commissioners

ATTEST: _____
City Clerk

Minutes prepared by Assistant City Manager/City Clerk Katie Schaller