

**MINUTES of REGULAR MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held DECEMBER 4, 2007**

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 December 4, 2007. Mayor Elaine N. Walker called the meeting to order. An invocation was given by Police Chaplain Don Dorris, 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 Bruce Wilkerson, Commissioner Joe W. Denning, Commissioner Brian "Slim" Nash, Commissioner Brian K. Strow and Mayor Elaine N. Walker. Absent: none. There was a full quorum of the Board of Commissioners.

CITY MANAGER

City Manager Kevin D. DeFebbo requested a closed session for the purpose of discussion on the future acquisition and sale of real property by the City as publicity would likely affect the value of the specific piece of property to be acquired for public use or sold by the City, for proposed and pending litigation against and on behalf of the City and for discussion concerning a specific proposal, as open discussion would jeopardize the siting, retention, expansion or upgrading of the business. Motion was made by Wilkerson and seconded by Nash to convene in closed session following the regular meeting pursuant to KRS 61.810 (b), (c) and (g). Walker called for roll call vote.

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

Motion to convene in closed session pursuant to KRS 61.810 (b), (c) and (g) was approved by unanimous vote.

Mr. DeFebbo reminded the Board of the Student Solutions banquet to be held at 6:00 p.m. on Thursday, December 6, 2007. He also invited the public to attend the Annual City Hall Holiday Open House on Friday, December 14, 2007 between 2:00 and 4:00 p.m. Mr. DeFebbo announced that from this point forward, a uniformed Police Officer would be in attendance at all Board of Commissioners meetings to increase security.

EDITOR'S NOTE: At the November 20, 2007 Board meeting, Ordinance No. BG2007 – 52 creating and authorizing sale of gas franchise was tabled until the first meeting in December (this meeting). However, after the last meeting, the City Manager requested additional time to review the details of creating a new franchise based on the discussion which took place before the Ordinance was tabled. Although the Ordinance was tabled until a specific period of time, there were no objections from the Board members when asked for an extension.

APPROVAL OF MINUTES

Minutes of Regular Meeting November 20, 2007

Minutes of the above-referenced meeting were distributed to the Board of Commissioners with the Agenda for their review. Motion was made by Wilkerson and seconded by Nash to approve said minutes as written. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

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

Motion to approve the minutes of the regular meeting of November 20, 2007 was approved by unanimous vote.

PUBLIC COMMENTS

Attorney Matt McGill stated that he represented the Friends of Nashville Road, Inc., which was a Neighborhood Association formed from concerns with the subdivision of a piece of property located at 711 Newman Way into four lots. He explained that when the issue was brought before the City-County Planning Commission, there was a motion to approve the proposed preliminary subdivision plat. However, he further stated that the motion died for lack of a second and no other motion was made. Mr. McGill expressed concerns with the decision rendered by Circuit Court Judge Steve Wilson from an appeal filed by the property owner based on the Planning Commission's lack of action, which ordered the Planning Commission to approve the subdivision application. He asked that the Board of Commissioners adopt a resolution or take some form of action to request that the Planning Commission make an appeal to the Kentucky Court of Appeals regarding Judge Wilson's decision.

ACTION FROM THE FLOOR

Mayor Walker stated that this was not the Board's standard operating procedure, but she was aware that some of the Commissioners had expressed interest on the issue. City Attorney Gene Harmon provided guidance to the Board and explained that it could pass a resolution that requests, suggests and/or supports the Planning Commission to appeal the Circuit Court's decision. However, Mr. Harmon stated that the Board could not compel or order the Planning Commission to take any action.

Comm. Denning suggested that the Board respectfully request the Planning Commission take whatever steps it felt were necessary with the understanding that the Board of Commissioners was not demanding that it do anything. He also noted that the request needed to be expedited due to the nature of the issue and so that it could be forwarded to the Planning Commission by its next meeting. Comm. Denning agreed to make his request in the form of a motion, which was seconded by Nash. There was no action taken following discussion on the motion as stated.

Mayor Walker recommended that a letter be prepared to include all the signatures of the Board of Commissioners. She remarked that it was important to stress to the Planning Commission that if it did not respond to this decision, a precedent would be established by allowing a court to make a decision about a zoning issue rather than remanding it back to the Planning Commission for an up or down vote.

There was further discussion regarding the type of action to be taken by the Board, whether there was a need for a late file to be added to the agenda, and the actual language to be used in the motion. Mr. Harmon indicated that since there was no draft resolution already prepared to present to the Board, it would not be considered a late file. He said the Board would be making a motion from the floor. Mayor Walker suggested that the motion be worded to include that the Board of Commissioners expressed concern about the precedent established under the court order and to

encourage the Planning Commission to explore the possibility of appealing the decision to prevent future actions that removed the Planning Commission's powers. Comm. Nash suggested simplifying it to say the Board would like the Planning Commission to review and appeal the decision. Comm. Strow expressed concern about using language in the motion that would appear to be telling the Planning Commission what to do instead of asking them to consider appealing the decision.

With additional clarification, a motion was made by Nash, which was seconded by Denning, to send a resolution to the Planning Commission asking it to explore, and that the Board of Commissioners encourages the consideration of, an appeal of the order entered November 15, 2007 related to Civil Action No. 07-CI-00648. Once all discussion ended, a roll call vote was taken.

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

Motion to approve a resolution of the Board of Commissioners with regard to encouraging the Planning Commission to consider appealing the order of Circuit Court Judge Steve Wilson directing it to approve the subdivision of 711 Newman Way was approved by unanimous vote.

REGULAR AGENDA

ORDINANCE NO. BG2007 - 49 (Second Reading)

ORDINANCE DECLARING CITY'S INTENT TO ANNEX PROPERTY

ORDINANCE DECLARING THE DESIRABILITY AND CITY'S INTENTION TO ANNEX UNINCORPORATED TERRITORY CONTAINING APPROXIMATELY 16.92 ACRES IN THE VICINITY OF EDWARD DRIVE/CEDARWOOD WAY, WITH ALL SUCH TERRITORY BEING CONTIGUOUS TO EXISTING CITY LIMITS

Title and summary of Ordinance No. BG2007 - 49 was read by the Assistant City Manager/City Clerk. Motion was made by Nash 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: Wilkerson, Denning, Nash, Strow and Walker
 Voting Nay: None

Ordinance No. BG2007 - 49 was adopted by unanimous vote.

ORDINANCE NO. BG2007 - 53 (Second Reading)

ORDINANCE CLOSING A PUBLIC RIGHT-OF-WAY

ORDINANCE APPROVING THE CLOSING OF A PORTION OF CENTER STREET RIGHT-OF-WAY

Title and summary of Ordinance No. BG2007 - 53 was read by the Assistant City Manager/City Clerk. Motion was made by Strow and seconded by Nash for second reading of said Ordinance. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Wilkerson, Denning, Nash, Strow and Walker
 Voting Nay: None
Ordinance No. BG2007 - 53 was adopted by unanimous vote.

ORDINANCE NO. BG2007 - 54
(Second Reading)
ORDINANCE REZONING REAL ESTATE

ORDINANCE REZONING A TRACT OF LAND CONTAINING 1.56 ACRES FROM AG (AGRICULTURE), HB (HIGHWAY BUSINESS) AND F (GENERAL FLOOD PLAIN) TO HB (HIGHWAY BUSINESS) AND F (GENERAL FLOOD PLAIN) LOCATED ON OLD PORTER PIKE, WITH BINDING ELEMENTS, PRESENTLY OWNED BY MICHAEL BARRICK AND GREG BARRICK OF KENTUCKY AVENUE INTEREST

Title and summary of Ordinance No. BG2007 - 54 was read by the Assistant City Manager/City Clerk. Motion was made by Denning and seconded by Wilkerson for second reading of said Ordinance. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Wilkerson, Denning, Nash, Strow and Walker
 Voting Nay: None
Ordinance No. BG2007 - 54 was adopted by unanimous vote.

MUNICIPAL ORDER NO. 2007 - 356

MUNICIPAL ORDER APPROVING RECOMMENDATION FROM THE BOWLING GREEN AREA CONVENTION AND VISITORS BUREAU TO DISTRIBUTE \$25,000 OF TRANSIENT ROOM TAXES TO THE NATIONAL CORVETTE MUSEUM

Summary of Municipal Order No. 2007 - 356 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 explained the source of the special tourism project funds and the process for distribution which required approval by the City. Bowling Green Area Convention and Visitors Bureau Executive Director Vicki Fitch responded to questions about the anticipated uses of the driving simulator included with the Corvette Museum expansion plans. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Wilkerson, Denning, Nash, Strow and Walker
 Voting Nay: None
Municipal Order No. 2007 - 356 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2007 - 357

MUNICIPAL ORDER APPROVING RECOMMENDATION FROM THE BOWLING GREEN AREA CONVENTION AND VISITORS BUREAU TO DISTRIBUTE \$50,000 OF TRANSIENT ROOM TAXES TO SHANTY HOLLOW SHOOTING FOUNDATION

Summary of Municipal Order No. 2007 - 357 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 stated that the Shanty Hollow Shooting Complex project was discussed earlier at the work session. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2007 - 357 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2007 – 358

**MUNICIPAL ORDER ACCEPTING AWARD OF 100 VOUCHERS
FOR THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM**

Summary of Municipal Order No. 2007 - 358 was read by the Assistant City Manager/City Clerk. Motion was made by Strow and seconded by Nash for consideration of said Municipal Order. DeFebbo reviewed the ability of the City to receive additional vouchers. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2007 - 358 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2007 – 359

**MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID
#2008-25 FOR HIGH STREET AND 11TH AVENUE SIDEWALK
CONSTRUCTION FROM SCOTT & MURPHY, INC. OF BOWLING
GREEN, KENTUCKY IN THE AMOUNT OF \$59,970**

Summary of Municipal Order No. 2007 - 359 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 indicated that this project was briefly discussed during a previous public hearing about the proposed use of Liquid Fuel Tax (LFT) funds and he recommended the bid award. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2007 - 359 was approved by majority vote. Comm. Denning abstained since he was employed by Scott & Murphy.

MUNICIPAL ORDER NO. 2007 – 360

**MUNICIPAL ORDER APPROVING DEED CONVEYING MCNEILL
ELEMENTARY SCHOOL TO THE BOARD OF EDUCATION OF
THE BOWLING GREEN INDEPENDENT SCHOOL DISTRICT**

Summary of Municipal Order No. 2007 - 360 was read by the Assistant City Manager/City Clerk. Motion was made by Denning and seconded by Wilkerson for consideration of said Municipal Order. DeFebbo indicated that this was a housekeeping item and that when the bond debt was paid in full, the property should have reverted back to the School District. City Attorney Gene Harmon commented about the bond issue which was done in the 1960's. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2007 - 360 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2007 - 361

MUNICIPAL ORDER AUTHORIZING THE CITY MANAGER TO EXECUTE EASEMENTS ON BEHALF OF THE CITY

Summary of Municipal Order No. 2007 - 361 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 the recommendation to provide a more efficient protocol when accepting temporary and permanent easements. City Attorney Gene Harmon explained that the City Manager would only execute easements for projects previously approved by the Board of Commissioners and only when the easement was given to the City. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2007 - 361 was approved by unanimous vote.

RECOGNITION

Mayor Walker recognized several Western Kentucky University journalism students who were in the audience, in addition to their professor Jim Highland.

CLOSED SESSION

Following a brief recess to clear the Commission Chamber, the Board of Commissioners met in closed session pursuant to KRS 61.810 (b), (c) and (g) as previously approved.

ADJOURNMENT

Once all discussion concluded in closed session and there being no further business to come before the Board of Commissioners, at approximately 8:35 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) the Shanty Hollow Shooting Complex project which was recommended by the

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Bowling Green Area Convention and Visitors Bureau to receive special tourism project funds; 2) the Fire Department's Traffic Signal Preemption System; and 3) the expansion of City buildings, specifically City Hall campus space needs.

ADOPTED: _____

APPROVED: _____
Mayor, Chairman of Board of Commissioners

ATTEST: _____
City Clerk

Minutes prepared by Assistant City Manager/City Clerk Katie Schaller