

**MINUTES of REGULAR MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held SEPTEMBER 2, 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 September 2, 2008. Mayor Elaine N. Walker called the meeting to order. An invocation was given by Rev. John Wesley of First 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 requested a closed session for the purpose of discussion on the future acquisition 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, and for discussion of proposed litigation on behalf of the City and pending litigation against the City. Motion was made by Wilkerson and seconded by Nash to convene in closed session following the regular meeting pursuant to KRS 61.810 (b) and (c). Walker called for roll call vote.

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

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

RECOGNITIONS

Mayor Walker welcomed Trey Warren of Boy Scout Troop 555, who was in attendance at the meeting.

APPROVAL OF MINUTES

Minutes of Regular Meeting August 19, 2008

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: Denning, Nash, Strow, Wilkerson and Walker
 Voting Nay: None

Motion to approve the minutes of the regular meeting of August 19, 2008 was approved by unanimous vote.

PUBLIC COMMENTS

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

BOARD OF COMMISSIONERS COMMENTS

Comm. Strow thanked Karen Hume, who recently stepped down as the Executive Director for Operation P.R.I.D.E., for her service on the Board of Directors. Before a new director was hired, Comm. Strow inquired if it would be an appropriate time at the next work session for the Board of Commissioners to review the form and/or focus that Operation P.R.I.D.E. should take. Comm. Nash agreed and encouraged the Operation P.R.I.D.E. Board of Directors to not rush to fill the director's position. He suggested that this was an opportunity to discuss the future direction of Operation P.R.I.D.E. from the City's perspective, including funding from the City. There was consensus to include this topic on the agenda for the September 16, 2008 work session.

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 - 220

MUNICIPAL ORDER APPROVING THE APPOINTMENT OF CLAY SMALLEY, JR. TO THE HUMAN RIGHTS COMMISSION

MUNICIPAL ORDER NO. 2008 - 221

MUNICIPAL ORDER APPROVING THE APPOINTMENT OF SENAD VELETANLIC TO THE GREENWAYS COMMISSION OF BOWLING GREEN AND WARREN COUNTY

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 - 45
(Second Reading)

ORDINANCE RELATING TO CLASSIFICATION/PAY SCHEDULE

ORDINANCE AMENDING THE CLASSIFICATION/PAY SCHEDULE "G" FOR GENERAL CLASSIFIED EMPLOYEES OF THE CITY OF BOWLING GREEN FOR FISCAL YEAR 2009

Title and summary of Ordinance No. BG2008 - 45 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson 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: Denning, Nash, Strow, Wilkerson and Walker
 Voting Nay: None

Ordinance No. BG2008 - 45 was adopted by unanimous vote.

ORDINANCE NO. BG2008 - 46
(Second Reading)
ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 22 (TRAFFIC AND MOTOR
VEHICLES) OF THE CITY OF BOWLING GREEN CODE OF
ORDINANCES TO PROHIBIT SOLICITATION OF OCCUPANTS OF
MOTOR VEHICLES ON PUBLIC RIGHT-OF-WAY

Title and summary of Ordinance No. BG2008 - 46 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Strow for second reading of said Ordinance. Comm. Nash commented about collections for donations being confined to private property and not on public streets. Mayor Walker asked for discussion, and with none, a roll call vote was taken.

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

Ordinance No. BG2008 - 46 was adopted by unanimous vote.

MUNICIPAL ORDER NO. 2008 - 222

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID
#2009-09 FOR TRANSITION EQUIPMENT RELATED TO TRAFFIC
SIGNALS FROM EN POINTE TECHNOLOGIES, SALES INC. OF
GARDENA, CALIFORNIA IN THE AMOUNT OF \$23,317.50

Summary of Municipal Order No. 2008 - 222 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 recommended the purchase related to managing the traffic lights. 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 - 222 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2008 - 223

MUNICIPAL ORDER APPROVING THE CONTINUATION OF AN
AGREEMENT WITH WESTERN KENTUCKY UNIVERSITY FOR
PROVIDING A LEAF COMPOSTING SYSTEM FOR THE CITY OF
BOWLING GREEN, KENTUCKY

Summary of Municipal Order No. 2008 - 223 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Denning for consideration of said Municipal

Order. DeFebbo reviewed the annual leaf collection service provided by the City and the ability to partner with Western Kentucky University for the disposal of those leaves. 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 - 223 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2008 - 224

MUNICIPAL ORDER APPROVING A LEASE AGREEMENT
AMONG THE CITY OF BOWLING GREEN, THE CITY OF
BOWLING GREEN MUNICIPAL PROJECTS CORPORATION,
WARREN COUNTY AND FIRST CHRISTIAN CHURCH BOARD OF
TRUSTEES

Summary of Municipal Order No. 2008 - 224 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 reviewed the lease agreement for use of property owned by the City and County. City Attorney Gene Harmon provided an overview of the agreement which provided for the use of the property by the Church and in exchange, the Church agreed to make certain improvements to the parking lot. He also responded to questions regarding the legal requirements for local governments to follow before it could sell property. 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 - 224 was approved by unanimous vote.

ORDINANCE NO. BG2008 - 47
(First Reading)
ORDINANCE REZONING REAL ESTATE

ORDINANCE REZONING A TRACT OF LAND CONTAINING
2.9292 ACRES FROM HB (HIGHWAY BUSINESS) TO RM-3
(MULTI-FAMILY RESIDENTIAL) LOCATED AT THE END OF
KIRTLEY WAY, WITH BINDING ELEMENTS, PRESENTLY
OWNED BY MIKE HYMER, SOUTHERN COMFORT
APARTMENTS, LLC

Title and summary of Ordinance No. BG2008 - 47 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-County Planning Commission Director Steve Hunter provided an overview of the recommended rezoning and binding elements.

Comm. Wilkerson inquired about the process in place that would require the developer to follow through with all the elements of the plan. Mr. Hunter described the inspection and permitting process. He also indicated that it would be the charge of the Planning Commission staff to provide

oversight to be sure all the elements remain in compliance with the detailed development plan over the next several years.

Comm. Nash expressed concern with the potential increase in neighborhood traffic by the multi-unit development and with placing a multi-family development adjacent to existing single-family structures. Mr. Hunter described the Comprehensive Plan Policies which were reviewed to determine compliance and the type of single-story structure proposed for the development. He also noted that the Planning Commission's staff report indicated that the development was considered a low traffic generator.

Comm. Strow commented about the inconsistency with the density of the proposed development compared to the surrounding area. Mr. Hunter agreed that the density of the development exceeded that of the surrounding developments, but the rezoning request was in compliance with thirteen out of fifteen Comprehensive Plan Policies.

Comm. Denning indicated that he had recently walked through the area and agreed with the recommendation for rezoning. Comm. Wilkerson remarked that the RM-3 designation provided more protection to the surrounding area with regard to future development than the existing HB designation. Mayor Walker agreed. She also stated that she was pleased with the binding elements and the promotion of homeownership with the development of condominiums. 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 - 47 was approved by majority vote.

ORDINANCE NO. BG2008 - 48

(First Reading)

ORDINANCE AMENDING CODE OF ORDINANCES

**ORDINANCE AMENDING CHAPTER 25 (CODE OF ETHICS) OF
THE CITY OF BOWLING GREEN CODE OF ORDINANCES
RELATED TO STANDARDS OF CONDUCT AND TO MAKE
OTHER ADMINISTRATIVE CHANGES**

Title and summary of Ordinance No. BG2008 - 48 was read by the Assistant City Manager/City Clerk. Motion was made by Strow and seconded by Nash for first reading of said Ordinance. Comm. Strow reviewed the suggested change that an individual should not vote for a reimbursement of expenses for oneself, which was one of the proposed changes he brought forward at the August 19th work session. He pointed out that the administrative change was a housekeeping matter to remove the reference of the Public Library from the definition of a City agency since it was now a County agency. Comm. Strow responded to questions to clarify the intention of the proposal. He agreed that all appropriate expenses should be reimbursed.

Comm. Denning disagreed with the proposal and indicated that he thought it was being implemented for the wrong reasons. He specified that he had a problem with anyone not getting reimbursed if it was for a legitimate expense. He suggested that the Board might need to discuss what constituted legitimate expenses in order to avoid any confusion rather than making this change.

Comm. Nash indicated that he had never served on a board that allowed him to vote on anything that brought him personal benefit, reimbursement or gain. He compared the change to that of someone abstaining on an issue that involved the employer or personal business of a voting member. He expressed support for the change because it created transparency by eliminating any influence of the outcome in ones favor.

Comm. Wilkerson specified that his vote was based on a philosophical situation that if any controversy could be avoided by not voting on something that involves ourselves, then that was the way it should be done. He stated that he did not want to vote on anything that provided any benefit for him.

Mayor Walker read a prepared statement. She referenced the current procedure regarding travel reimbursements being presented on the Consent Agenda and the ability for any member to remove any item for individual consideration if necessary. She expressed concern that with this change, two members of the Board could vote against a legitimate travel reimbursement because they simply disagreed with the expenditure, which would leave the individual to pay for that expense incurred on behalf of the organization out of his or her own pocket. She commented about the budget cuts made to the legislative budget for Fiscal Year 2009 and declared that this proposal was also targeted specifically against the Office of Mayor. Mayor Walker referenced the existing language in the Code of Ethics which already prohibited an elected official from receiving any personal gain. She further referenced language in the Code of Ethics which prohibited any elected official from leaking confidential information and alleged that a draft of the Internal Audit of the City's Golf Operations was released without prior approval. She declared that of all the individuals with access to the report, only Comm. Strow had refused to answer the question of whether or not he was the source of the leak. In another matter related to insurance benefits, she urged the public to investigate why two members of the Board did not support the spousal waiver as recommended by the Employee Health Care Committee and whether they received any financial benefit by taking such a position. Mayor Walker stated she was outraged by the personal attacks made against her and affirmed that she based all her decisions on a strong commitment to ethical behavior. She asserted that if this measure passed, Commissioners Strow and Nash would deny her reimbursement of any and all travel expenses on behalf of the City. She avowed that the Office of Mayor deserved more respect and trust from this Board, and she urged Commissioners Denning and Wilkerson to vote against this proposal.

Immediately following her comments, Mayor Walker called for roll call vote on the Ordinance. Comm. Strow requested to speak. As the presiding officer, Mayor Walker declared discussions closed.

Upon clarification of the meeting procedures, City Attorney Gene Harmon noted that by a majority vote of the Board, the rules could be suspended or waived. Comm. Strow made a motion, seconded by Nash, to suspend the rules. With no discussion, a roll call vote was taken.

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

Motion to suspend the rules as permitted by Section 2-2.22 of the Board of Commissioners Meeting Procedures was approved by unanimous vote.

With the rules suspended, Mr. Harmon stated that it was now up to the Board to determine how to proceed. Comm. Nash made a motion, seconded by Strow, to allow anyone who wanted to

speak on the issue the opportunity to speak. A roll call vote was taken on the motion to establish procedures to continue the discussion.

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

Motion to allow any member to speak on the issue was approved by majority vote.

Comm. Strow stated that he had voted a number of times to reimburse travel expenses and would not be petty enough to disallow legitimate expenses. He indicated that he took personal offense to being accused of knowing the outcome of a decision before any vote was cast. He further indicated that the issue of health benefits had no place in this discussion. He suggested that if there was a problem with members of the Board receiving health benefits, then a proposal should be introduced for consideration to remove those benefits.

Comm. Denning commented about applying the proper use of meeting procedures to avoid any one person from controlling the meeting. He also reiterated his earlier comments that regardless of who was traveling if expenses were incurred on behalf of the City, those expenses should be reimbursed.

Comm. Nash stated he unequivocally disagreed with the majority of the Mayor's comments and had nothing further to say.

With all discussion concluded, a roll call vote was taken on the Ordinance as presented.

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

First reading of Ordinance No. BG2008 - 48 was approved by majority vote.

CLOSED SESSION

Following a brief recess to clear the Commission Chamber, the Board of Commissioners met in closed session, at approximately 8:15 p.m., pursuant to KRS 61.810 (b) and (c) 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 9:05 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) an overview of the Senior Executive Institute (SEI) held at Weldon Cooper Center in Charlottesville, Virginia, which was attended by the City Manager; 2) the Fiscal Year 2008 Year-End Financial Report presented by the Chief Financial Officer; and 3) a proposal for a Private Retention Basin Cleanup Program.

ADOPTED: _____

APPROVED: _____
Mayor, Chairman of Board of Commissioners

ATTEST: _____
City Clerk

Minutes prepared by Assistant City Manager/City Clerk Katie Schaller