

**MINUTES of REGULAR MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held APRIL 6, 2004**

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 April 6, 2004. Mayor Sandy Jones called the meeting to order. An invocation was given by Police Chaplain Don Dorris, and all present recited the Pledge of Allegiance. City Clerk Katie Schaller called the roll, and the following members were present: Commissioner Alan Palmer, Commissioner Jim Bullington, Commissioner Joe W. Denning, Commissioner Dan Hall and Mayor Sandy Jones. Absent: none. There was a full quorum of the Board of Commissioners.

WELCOME

Mayor Jones welcomed several journalism students from Western Kentucky University who were in attendance.

PUBLIC COMMENTS

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

CITY MANAGER

City Manager Charles W. Coates requested a closed session for the purpose of discussion on the future acquisition or 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. Motion was made by Hall and seconded by Bullington to convene in closed session following the regular meeting pursuant to KRS 61.810 (b). Jones called for roll call vote.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

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

PRESENTATION

Bowling Green/Warren County Regional Airport Manager Rob Barnett reviewed the Airport's mission, scope of services, completed 2003 projects and anticipated 2004 projects and accomplishments. Mr. Barnett stated that the Airport has an 86% occupancy rate for its hangers. Mr. Barnett further responded to questions regarding efforts to secure a commuter service, projections on passenger requirements and type of plane to be used. In addition, Mr. Barnett addressed issues of security improvements which are soon to be required by the Federal Aviation Administration.

APPROVAL OF MINUTES

Minutes of Regular Meeting March 16, 2004 and Special Meeting March 23, 2004

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

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

Motion to approve the minutes of the regular meeting of March 16, 2004 and special meeting of March 23, 2004 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2004 – 71

MUNICIPAL ORDER AUTHORIZING APPROVAL AND
SUBMISSION OF THE FISCAL YEAR 2004/2005 ANNUAL PLAN
FOR THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

Summary of Municipal Order No. 2004 - 71 was read by City Clerk Katie Schaller. Housing Manager Vallory Schocke indicated an annual plan was required to be submitted and she reviewed the process in preparing the plan. Schocke responded to questions regarding a waiting list for placement and the impact of adding the Housing Authority's Phenix Place. Motion was made by Palmer and seconded by Hall for consideration of said Municipal Order. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

Municipal Order No. 2004 - 71 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2004 – 72

MUNICIPAL ORDER APPROVING THE REAPPOINTMENT OF
DAVID CHANDLER AND APPOINTMENT OF JOHN P. WILLIAMS
TO THE URBAN GROWTH DESIGN REVIEW BOARD

Summary of Municipal Order No. 2004 - 72 was read by the City Clerk. Mayor Jones stated that Mr. Chandler declined the reappointment. Comm. Palmer made a motion to amend the Municipal Order to remove all references to Mr. Chandler. Comm. Denning seconded the motion to amend. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

Motion to amend Municipal Order No. 2004 – 72 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2004 – 72

As Amended

MUNICIPAL ORDER APPROVING THE ~~REAPPOINTMENT OF~~
~~DAVID CHANDLER AND~~ APPOINTMENT OF JOHN P. WILLIAMS
TO THE URBAN GROWTH DESIGN REVIEW BOARD

Motion was made by Denning and seconded by Bullington for consideration of said Municipal Order as amended. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones

Voting Nay: None

Municipal Order No. 2004 – 72 as amended was approved by unanimous vote.

ORDINANCE NO. BG2004 – 6

(First Reading)

ORDINANCE REZONING REAL ESTATE

ORDINANCE REZONING A TRACT OF LAND CONTAINING 1.43 ACRES FROM LI (LIGHT INDUSTRY) TO GB (GENERAL BUSINESS) LOCATED AT 746 BEECH STREET, WITH BINDING ELEMENTS, PRESENTLY OWNED BY CHESTER HIBBITT AND JOYCE COVARRUBIAS, CONTRACT VENDEE

Title and summary of Ordinance No. BG2004 - 6 was read by the City Clerk. Planning Commission Director Andy Gillies reviewed this rezoning and binding elements for use of the property as a night club or bar facilities. Gillies responded to questions associated with code inspections and requirements for this property. Coates stated that this property was on the delinquent property tax list and would not be granted a building permit until all taxes are paid. Motion was made by Denning and seconded by Hall for first reading of said Ordinance. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones

Voting Nay: None

First reading of Ordinance No. BG2004 - 6 was approved by unanimous vote.

ORDINANCE NO. BG2004 – 13

(First Reading)

ORDINANCE CLOSING A PUBLIC RIGHT-OF-WAY

ORDINANCE APPROVING THE CLOSING OF AN ACCESS ROAD LOCATED OFF OF RAIN TREE DRIVE

Title and summary of Ordinance No. BG2004 - 13 was read by the City Clerk. Mayor Jones indicated this was a standard request. Gillies explained that the original right-of-way would be moved to accommodate further development. Motion was made by Palmer and seconded by Bullington for first reading of said Ordinance. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones

Voting Nay: None

First reading of Ordinance No. BG2004 - 13 was approved by unanimous vote.

ORDINANCE NO. BG2004 – 14

(First Reading)

ORDINANCE REZONING REAL ESTATE

ORDINANCE REZONING TWO TRACTS OF LAND CONTAINING 6.6784 ACRES FROM OP-C (OFFICE PROFESSIONAL-COMMERCIAL) AND RS-1A (SINGLE FAMILY RESIDENTIAL) TO PUD (PLANNED UNIT DEVELOPMENT) LOCATED ON DISHMAN LANE EXTENSION AND RAIN TREE DRIVE, WITH BINDING ELEMENTS, PRESENTLY OWNED BY DISHMAN LANE PROPERTIES, LLC, RHOADES PROPERTIES, INC. AND TIMBERPEG CONSTRUCTION, LTD

Title and summary of Ordinance No. BG2004 - 14 was read by the City Clerk. Gillies described the development for single family detached structures in a gated community and he reviewed the binding elements. Motion was made by Bullington and seconded by Palmer for first reading of said Ordinance. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

First reading of Ordinance No. BG2004 - 14 was approved by unanimous vote.

ORDINANCE NO. BG2004 – 15
(First Reading)
ORDINANCE REZONING REAL ESTATE

ORDINANCE ANNEXING 26.40 ACRES OF PROPERTY LOCATED ON GLASGOW ROAD (US 68/KY 80) AND 37.6711 ACRES OF PROPERTY LOCATED AT THE INTERSECTION OF GLASGOW ROAD (US 68/KY 80) AND SUNNYSIDE-GOTT ROAD, WITH BOTH PROPERTIES PRESENTLY OWNED BY DANNY AND MARGIE DUVALL, AND SAID TERRITORY BEING CONTIGUOUS TO EXISTING CITY LIMITS

Title and summary of Ordinance No. BG2004 - 15 was read by the City Clerk. Mayor Jones stated this was a voluntary annexation by request. Motion was made by Denning and seconded by Hall for first reading of said Ordinance. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Denning, Hall and Jones
 Voting Nay: None
 Voting Abstain: Bullington

First reading of Ordinance No. BG2004 - 15 was approved by majority vote. Comm. Bullington stated he abstained since he has known Mr. and Mrs. Duvall all his life.

MUNICIPAL ORDER NO. 2004 – 73

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID #2004-17 FOR HOBSON GROVE GOLF COURSE FACILITIES FOR THE PARKS AND RECREATION DEPARTMENT, GOLF DIVISION

FROM POSTON CONSTRUCTION OF BOWLING GREEN,
KENTUCKY IN THE AMOUNT OF \$1,095,764

Summary of Municipal Order No. 2004 - 73 was read by the City Clerk. Parks and Recreation Director Ernie Gouvas reviewed the recommended bid which came in under budget. He also described the layout, design and location of the new facilities. Motion was made by Palmer and seconded by Denning for consideration of said Municipal Order. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

Municipal Order No. 2004 - 73 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2004 – 74

MUNICIPAL ORDER AUTHORIZING ADOPTION OF THE
STRATEGIC PLAN 2004-2009-2020 FOR THE CITY OF BOWLING
GREEN, KENTUCKY

Summary of Municipal Order No. 2004 - 74 was read by the City Clerk. Coates gave a presentation which outlined the process and outcome of the Strategic Plan. Motion was made by Hall and seconded by Palmer for consideration of said Municipal Order. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

Municipal Order No. 2004 - 74 was approved by unanimous vote.

ORDINANCE NO. BG2004 – 16

(First Reading)

ORDINANCE REZONING REAL ESTATE

ORDINANCE REZONING A TRACT OF LAND CONTAINING 51.44 ACRES FROM AG (AGRICULTURE) AND RM-4 (MULTI-FAMILY RESIDENTIAL) TO RS-1A (SINGLE FAMILY RESIDENTIAL) AND RS-1C (SINGLE FAMILY RESIDENTIAL) LOCATED ON DOUBLE SPRINGS ROAD AND WEBB DRIVE, WITH BINDING ELEMENTS, PRESENTLY OWNED BY THE HOUSING AUTHORITY OF BOWLING GREEN

Title and summary of Ordinance No. BG2004 - 16 was read by the City Clerk. Gillies reviewed the rezoning and associated binding elements. There was discussion about the stormwater and drainage concerns in the surrounding area and the impact of the new development. Michael Trapasso, a Bowling Green resident and civil war enthusiast, expressed concern for maintaining an historical civil war site as it related to the minimal buffer between Fort Webb Park and the proposed housing development. Mr. Trapasso requested that an expanded buffer be required and wanted to know with whom he could speak about this issue. Gillies indicated that some discussion with the Housing Authority and potential developers had taken place regarding this issue and some ideas were suggested on how to expand the distance. Gillies noted that a development plan had not yet been filed with the Planning Commission.

Motion was made by Denning and seconded by Hall for first reading of said Ordinance. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

First reading of Ordinance No. BG2004 - 16 was approved by unanimous vote.

ORDINANCE NO. BG2004 – 17

(First Reading)

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 23 (WATER AND SEWER) OF THE CITY OF BOWLING GREEN CODE OF ORDINANCES RELATED TO INDUSTRIAL PRETREATMENT LIMITS FOR THE BOWLING GREEN MUNICIPAL UTILITIES WASTEWATER TREATMENT PLANT

Title and summary of Ordinance No. BG2004 - 17 was read by the City Clerk. BGMU Water-Sewer Systems Manager Michael Gardner stated that these recommended changes are mandated by the Kentucky Division of Water and constitute relatively minor changes. Motion was made by Hall and seconded by Bullington for first reading of said Ordinance. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

First reading of Ordinance No. BG2004 - 17 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2004 – 75

MUNICIPAL ORDER APPROVING THE PROMOTION OF KIMBERLY L. LANCASTER TO THE POSITION OF PUBLIC INFORMATION COORDINATOR FOR THE CITIZEN INFORMATION AND ASSISTANCE DEPARTMENT

Summary of Municipal Order No. 2004 - 75 was read by the City Clerk. Human Resources Director Michele Tolbert reviewed the position and recommended promotion. Motion was made by Denning and seconded by Palmer for consideration of said Municipal Order. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

Municipal Order No. 2004 - 75 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2004 – 76

MUNICIPAL ORDER APPROVING THE PROBATIONARY APPOINTMENT OF LAURA K. HARRIS TO THE POSITION OF PUBLIC INFORMATION SPECIALIST IN THE CITIZEN INFORMATION AND ASSISTANCE DEPARTMENT

Summary of Municipal Order No. 2004 - 76 was read by the City Clerk. As a result of the previous promotion, Tolbert reviewed the qualifications for a recommended appointment to fill the open position. Motion was made by Palmer and seconded by Hall for consideration of said Municipal Order. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

Municipal Order No. 2004 - 76 was approved by unanimous vote.

ORDINANCE NO. BG2004 – 18

(First Reading)

ORDINANCE RELATING TO CLASSIFICATION/PAY SCHEDULE

ORDINANCE REVISING THE CLASSIFICATION/PAY SCHEDULE
FOR CLASSIFIED AND NON-CLASSIFIED EMPLOYEES OF THE
CITY OF BOWLING GREEN, KENTUCKY FOR FISCAL YEAR 2004

Title and summary of Ordinance No. BG2004 - 18 was read by the City Clerk. Tolbert stated that with the interest to reclaim animal control responsibilities from the Sheriff's office, two new positions were recommended to be added to the schedule. Coates noted this would enhance code enforcement for animal control issues. Police Chief Bill Waltrip stated the Police Department would assume animal control responsibilities as of July 1, 2004. Motion was made by Palmer and seconded by Denning for first reading of said Ordinance. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

First reading of Ordinance No. BG2004 - 18 was approved by unanimous vote.

BRIEF RECESS

Mayor Jones requested a brief recess before continuing with the agenda.

RECONVENE

Once all members returned from the break, the Board reconvened to continue with its consideration of items on the agenda.

RESOLUTION NO. 2004 – 1

RESOLUTION RECOGNIZING NEED FOR AND RECOMMENDING
THAT CITY STAFF DEVELOP ADDITIONAL PROCEDURES
RELATED TO OVERSIGHT AND INSTITUTIONAL CONTROL OF
BOARDS, COMMISSIONS AND AGENCIES CREATED BY OR
RECEIVING FUNDS FROM OR THROUGH THE CITY OF
BOWLING GREEN

Summary of Resolution No. 2004 - 1 was read by the City Clerk. Mayor Jones stated that with the recent investigation into The Convention Center Corporation (CCC), it was found that a lack of institutional control contributed to the situations that developed over time. She pointed out that changes made over the past few years related to other city-created entities, including the BGMU Board, Beautification Commission and Traffic Commission, have helped to bring about savings and a better delivery of services, as well as oversight. Mayor Jones thanked Comm. Bullington for his focus on the matter of bringing the issues of the CCC to light. In order to prevent similar problems in the future regarding other various city-created entities that work to fulfill public purposes, Mayor Jones proposed to improve oversight and institutional control upon all areas that involve public money. She listed several areas which have already been addressed through efforts of staff, and suggested the possible addition of an investigative position of internal auditor.

Comm. Denning stated he concurred with this Resolution and Mayor Jones' thoughts. He suggested a review of City agencies' by-laws and the use of the City's contract auditors to audit budgets of those entities who receive City funds. Denning also commended Comm. Bullington's involvement in the CCC matter. He further suggested that the number of members to various boards be reviewed and to possibly reduce those numbers to be more effective.

Comm. Palmer stated that the Board was taking the first steps in changing direction with regard to its oversight of various City activities and responsibilities. He also stated that he thought the Board was heading in the right direction from which the City will benefit.

Comm. Hall also commended Comm. Bullington with staying on the hunt. He stated it was important to learn from this and to put controls in place to be sure it does not happen again. He also stated that this would be a good opportunity to condense some boards where able.

Comm. Bullington thanked the members for their kind words. He stated that in his view it was not a lack of institutional control, but rather a situation where an individual was able to circumvent the system. Bullington stated he was not in favor of this Resolution because he thought it was redundant in that staff already have what they need and that it was inaccurate because it implied institutional control lies with the Board of Commissioners. He further stated that it is the Board's responsibility to make decisions based on information provided by staff and that voting in favor of this Resolution would be admitting fault regarding the Convention Center situation.

Mayor Jones explained that the intention of the Resolution was to call everyone to action, not just the Board of Commissioners, who is responsible in dealing with public money and to become more aware of controls that need to be made. Comm. Bullington suggested the Board enhance its ability to ensure agencies are in compliance with funding agreements and state and local requirements, and to enhance its ability to better exercise appropriate institutional control.

Discussion continued about the role of the Board of Commissioners as a policy maker and the gathering of information with respect to the CCC investigation. Once all discussion concluded, motion was made by Hall and seconded by Palmer for consideration of said Resolution. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Hall and Jones

 Voting Nay: Bullington and Denning

Resolution No. 2004 - 1 was approved by majority vote.

MUNICIPAL ORDER NO. 2004 – 77

MUNICIPAL ORDER APPROVING AN AGREEMENT WITH TACHAU MADDOX HOVIOUS & DICKENS, PLC FOR LEGAL SERVICES TO THE CITY OF BOWLING GREEN RELATED TO RECOMMENDATIONS RESULTING FROM THE INVESTIGATION OF THE CONVENTION CENTER

Summary of Municipal Order No. 2004 - 77 was read by the City Clerk. R. Gregg Hovious of Tachau Maddox Hovious & Dickens explained the process of mediation. He stated that going to trial would be very costly and that mediation was the recommended first step if a settlement could not immediately be reached. Hovious provided an update on a revised tolling agreement which has been executed by Steve Catron. He also described the differences between mediation and arbitration, and responded that mediation is a good process to resolve disputes but could take several hours to days to complete. Mayor Jones suggested appointing Comm. Bullington to represent the Board along with Hovious during the mediation process. Comm. Bullington expressed concern regarding language of the Municipal Order in paragraphs 3 and 4. City Attorney Gene Harmon indicated that it was not the intent of this language to allow any staff to make decisions regarding settlement or mediation, as that is exclusively a Board decision. Citizen Information and Assistance Director Michael Grubbs outlined the continued legal services to be provided by Hovious.

Following additional discussion on changes to or deletion of certain language of the Municipal Order, motion was made by Palmer and seconded by Hall to replace “appropriate City staff” with “Commissioner Jim Bullington” in paragraph 4. Mayor Jones asked for additional discussion regarding the amendment to the Municipal Order, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

Motion to amend Municipal Order No. 2004 - 77 was approved by unanimous vote. Motion was made by Denning and seconded by Hall for consideration of said Municipal Order as amended. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

Municipal Order No. 2004 - 77 as amended was approved by unanimous vote.

City Manager Coates requested if the Board wanted to add an additional item to the agenda for consideration regarding the authorization to pay Nader Baydoun & Associates for legal services related to The Convention Center Corporation. Motion was made by Denning and seconded by Hall to add Municipal Order No. 2004 – 78 to the agenda for consideration. Mayor Jones asked for discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
 Voting Nay: None

Motion to add Municipal Order No. 2004 - 78 to the agenda for consideration was approved by unanimous vote.

MUNICIPAL ORDER NO. 2004 – 78

MUNICIPAL ORDER AUTHORIZING PAYMENT TO NADER BAYDOUN & ASSOCIATES OF NASHVILLE, TENNESSEE FOR LEGAL SERVICES PERTAINING TO THE CONVENTION CENTER INVESTIGATION

Summary of Municipal Order No. 2004 - 78 was read by the City Clerk. Motion was made by Palmer and seconded by Denning to amend said Municipal Order to change the amount of the payment to exclude any interest charged for a past due balance. Palmer stated that since this firm was not officially hired by the City, the City should not be responsible for late fees. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Denning, Hall and Jones
Voting Nay: Bullington

Motion to amend Municipal Order No. 2004 - 78 was approved by majority vote. Motion was made by Denning and seconded by Hall for consideration of said Municipal Order as amended. Mayor Jones asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL: Voting Yea: Palmer, Bullington, Denning, Hall and Jones
Voting Nay: None

Municipal Order No. 2004 – 78 as amended was approved by unanimous vote.

CLOSED SESSION

Following a brief recess to clear the Chamber, the Board of Commissioners convened in closed session pursuant to KRS 61.810 (b) 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 10:05 p.m., Mayor Jones declared this meeting adjourned.

ADOPTED: _____

APPROVED: _____
Mayor, Chairman of Board of Commissioners

ATTEST: _____
City Clerk

Minutes prepared by City Clerk Katie Schaller