

**MINUTES of REGULAR MEETING
of the BOARD of COMMISSIONERS
of the CITY of BOWLING GREEN, KENTUCKY
held MAY 19, 2009**

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 May 19, 2009. Mayor Elaine N. Walker called the meeting to order. An invocation was given by Mayor Walker, 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 (arrived at 7:15 p.m.), Commissioner Catherine Hamilton, Commissioner Brian "Slim" Nash, Commissioner Bruce Wilkerson and Mayor Elaine N. Walker. Absent: none. There was a full quorum of the Board of Commissioners.

PUBLIC HEARING

Housing and Community Development Director Alice Burks conducted a public hearing for the purpose of reviewing and receiving comments on a proposed Substantial Amendment to the Five Year Consolidated Plan and the Year 5 Annual Action Plan related to the Community Development Block Grant (CDBG) - Recovery funding. Ms. Burks reported that the City would receive \$150,940 of additional CDBG funding for 2009 and its proposed use was for stormwater infrastructure improvements in the downtown area between State Street and East 7th Avenue. There were no comments from the public.

AWARDS & RECOGNITIONS

Operation P.R.I.D.E. Executive Director Ray Lackey presented a residential award for improvements made to 1305 Carl Jordan Road, which property was owned by Brenda and Terry Hale. Mr. Lackey also announced that The Club at Olde Stone would be hosting a fundraiser event - *Olde Stone Run for P.R.I.D.E.* - on June 26 & 27, 2009. The 5K run/walk would benefit Operation P.R.I.D.E.

Mayor Walker announced that the City would be recognized this week at the Ida Lee Willis Memorial Foundation Preservation Awards ceremony and at the Landmark Association Annual Dinner for improvements made to the Standard Oil Filling Station.

CITY MANAGER

City Manager Kevin D. DeFebbo requested a closed session for the purpose of discussion of proposed litigation against the City and for discussions between the City and a representative of business entities and discussions concerning specific proposals. Motion was made by Wilkerson and seconded by Nash to convene in closed session following the regular meeting pursuant to KRS 61.810 (c) and (g). Walker called for roll call vote.

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

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

At the City Manager's request, Housing and Community Development Director Alice Burks provided an update regarding the Energy Efficiency and Conservation Block Grant (EECBG) and the proposed projects to be funded totaling \$585,600. The projects included \$285,600 for energy saving retrofits of thirty (30) City owned buildings, \$35,000 for a ride share program, \$5,000 for a bicycle friendly community program, \$102,500 for a mini-energy grant program and \$157,500 for a project grant program. She noted that the grant application would be brought to the Board of Commissioners for final consideration at the next meeting. Commissioners Denning and Hamilton and Mayor Walker agreed with the proposal as presented. Commissioners Wilkerson and Nash suggested eliminating the proposed ride share program and increasing the amount for mini-energy grants.

APPROVAL OF MINUTES

Minutes of Regular Meeting May 5, 2009

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 Hamilton 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, Hamilton, Nash, Wilkerson and Walker
 Voting Nay: None

Motion to approve the minutes of the regular meeting of May 5, 2009 was approved by unanimous vote.

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. 2009 - 91

MUNICIPAL ORDER AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR FEDERAL VICTIMS OF CRIME ACT (VOCA) GRANT FUNDS THROUGH THE COMMONWEALTH OF KENTUCKY JUSTICE CABINET FOR THE PARTIAL FUNDING OF A VICTIM ADVOCATE POSITION FOR THE POLICE DEPARTMENT IN THE AMOUNT OF \$34,851

MUNICIPAL ORDER NO. 2009 - 92

MUNICIPAL ORDER AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE 2009 ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM THROUGH THE

DEPARTMENT OF HOMELAND SECURITY FOR A REGIONAL PROJECT IN THE AMOUNT OF \$480,000

MUNICIPAL ORDER NO. 2009 - 93

MUNICIPAL ORDER AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE 2009 ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM THROUGH THE DEPARTMENT OF HOMELAND SECURITY IN THE AMOUNT OF \$62,000

MUNICIPAL ORDER NO. 2009 - 94

MUNICIPAL ORDER AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR THE TRANSIT INVESTMENTS FOR GREENHOUSE GAS AND ENERGY REDUCTION (TIGGER) PROGRAM FOR WESTERN KENTUCKY UNIVERSITY RESEARCH FOUNDATION, INC.

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

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

Motion to accept the Consent Agenda as presented was approved by unanimous vote.

REGULAR AGENDA

ORDINANCE NO. BG2009 - 11

(Second Reading)

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTERS 21 (STREETS AND SIDEWALKS) AND 27 (PROPERTY CODE) OF THE CITY OF BOWLING GREEN CODE OF ORDINANCES TO AUTHORIZE THE TEMPORARY PLACEMENT OF REAL ESTATE SIGNS IN DESIGNATED AREAS OF CITY OWNED PUBLIC RIGHTS-OF-WAY

Title and summary of Ordinance No. BG2009 - 11 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, Hamilton, Nash, Wilkerson and Walker
Voting Nay: None

Ordinance No. BG2009 - 11 was adopted by unanimous vote.

MUNICIPAL ORDER NO. 2009 - 95

MUNICIPAL ORDER APPROVING THE PROBATIONARY APPOINTMENTS OF CASEY L. FRANKS AND EMILY M. MCPHERSON TO THE POSITION OF COMMUNICATIONS DISPATCHER IN THE POLICE DEPARTMENT

Summary of Municipal Order No. 2009 - 95 was read by the Assistant City Manager/City Clerk. Motion was made by Denning and seconded by Nash for consideration of said Municipal Order. DeFebbo indicated that one position was recently vacated with a recent promotion and the other was a new position added this fiscal year. He reviewed and recommended the two appointments. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2009 - 95 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2009 - 96

MUNICIPAL ORDER AUTHORIZING AND ACCEPTING BID #2009-30 FOR GREENWOOD LANE REALIGNMENT RE-BID FROM SCOTTY'S CONTRACTING AND STONE OF BOWLING GREEN, KENTUCKY, AUTHORIZING UTILITY RELOCATION FROM VARIOUS UTILITY COMPANIES, AND AUTHORIZING DIRECT PURCHASE OF MATERIALS FROM VARIOUS VENDORS FOR A TOTAL PROJECT COST OF \$1,207,398.17

Summary of Municipal Order No. 2009 - 96 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 noted that previous bids received for this project were over budget and that more time was needed to complete property acquisition, so those bids were rejected. He explained that with property acquisition nearing completion and construction costs down, the City re-bid the project which was now recommended for award. Ms. Schaller confirmed that the state agreed to reimburse the City up to \$565,000 for this project. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2009 - 96 was approved by unanimous vote.

ORDINANCE NO. BG2009 - 12

(First Reading)

ORDINANCE CLOSING A PUBLIC RIGHT-OF-WAY

ORDINANCE APPROVING THE CLOSING OF A TEN FOOT ALLEY OFF OF 7TH AVENUE, LOCATED IN THE BLOCK BETWEEN COLLEGE AND FORMERLY CENTER STREETS AND 7TH AND 8TH AVENUES

Title and summary of Ordinance No. BG2009 - 12 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Nash for first reading of said Ordinance. DeFebbo reviewed the recommendation by the City-County Planning Commission to close the alley which was part of the Tax Increment Financing (TIF) district development area. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

First reading of Ordinance No. BG2009 - 12 was approved by unanimous vote.

ORDINANCE NO. BG2009 - 13
(First Reading)
ORDINANCE REZONING REAL ESTATE

ORDINANCE REZONING A TRACT OF LAND CONTAINING 1.6335 ACRES FROM AG (AGRICULTURE) AND HB (HIGHWAY BUSINESS) TO HB (HIGHWAY BUSINESS) LOCATED AT 1959 MEL BROWNING STREET, WITH BINDING ELEMENTS, PRESENTLY OWNED BY DAVID R. BROWNING

Title and summary of Ordinance No. BG2009 - 13 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Denning for first reading of said Ordinance. City-County Planning Commission Director Steve Hunter provided an overview of the recommended rezoning and associated binding elements. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

First reading of Ordinance No. BG2009 - 13 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2009 - 97

MUNICIPAL ORDER DECLARING TRACT OF PROPERTY CONTAINING APPROXIMATELY 0.269 ACRES LOCATED NEAR BALE BOULEVARD SURPLUS AND AUTHORIZING SALE OF THIS PROPERTY TO DRUCO, INC. FOR ECONOMIC DEVELOPMENT PURPOSES

Summary of Municipal Order No. 2009 - 97 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 the transfer of this property was discussed at a previous work session and would be used for drainage purposes associated with a new development. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2009 - 97 was approved by unanimous vote.

RESOLUTION NO. 2009 - 1

RESOLUTION ENCOURAGING THE CITY OF BOWLING GREEN EMPLOYEES TO DOUBLE SIDE ALL COPIES WHEN POSSIBLE

Summary of Resolution No. 2009 - 1 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Nash for consideration of said Resolution. Mayor Walker said this resolution came out of the 2008 Student Solutions program. DeFebbo explained that the idea was to assist with recycling and the reduction of waste. Mayor Walker commended Executive Assistant/Public Information Officer Kim Lancaster for her efforts to implement recycling of "white paper" in the City Hall Campus area. Once all discussion ended, a roll call vote was taken.

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

Resolution No. 2009 - 1 was approved by unanimous vote.

ORDINANCE NO. BG2009 - 14

(First Reading)

ORDINANCE AMENDING CODE OF ORDINANCES

**ORDINANCE AMENDING CHAPTER 2 (ADMINISTRATION) OF
THE CITY OF BOWLING GREEN CODE OF ORDINANCES TO
REMOVE LANGUAGE RELATED TO THE CONSENT AGENDA**

Title and summary of Ordinance No. BG2009 - 14 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Nash for first reading of said Ordinance. Comm. Wilkerson recounted that his proposal to eliminate the use of a consent agenda was discussed at the May 5th work session. He suggested that each item on the agenda should be considered independently and that the process revert back to the way it used to be prior to 2006. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

First reading of Ordinance No. BG2009 - 14 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2009 - 98

**MUNICIPAL ORDER REQUESTING THE BOARD OF ETHICS TO
REVIEW THE CODE OF ETHICS AND TO RECOMMEND
CHANGES, IF NECESSARY, RELATING TO THE CONFLICT OF
INTEREST IN CONTRACTS AND NEPOTISM SUBCHAPTERS**

Summary of Municipal Order No. 2009 - 98 was read by the Assistant City Manager/City Clerk. Motion was made by Walker for consideration of said Municipal Order. Since there was no second to the motion, this item was not considered (died for lack of second).

ORDINANCE NO. BG2009 - 15

(First Reading)

ORDINANCE AMENDING CODE OF ORDINANCES

**ORDINANCE AMENDING CHAPTER 25 (CODE OF ETHICS) OF
THE CITY OF BOWLING GREEN CODE OF ORDINANCES TO
REVISE LANGUAGE DEALING WITH CONFLICTS OF INTEREST
IN CONTRACTS AND NEPOTISM**

Title and summary of Ordinance No. BG2009 - 15 was read by the Assistant City Manager/City Clerk. Motion was made by Wilkerson and seconded by Nash for first reading of said Ordinance. Comm. Wilkerson specified that this proposal was also discussed at the May 5th work session. He stated that he had taken the proposal to the Board of Ethics for its consideration as well prior to bringing it to the Board of Commissioners. He reported that following a discussion with the Board of Ethics, its conclusion was that this was a policy question for the Board of Commissioners.

Mayor Walker indicated that she had offered Municipal Order No. 2009 – 98 to request that the Board of Ethics analyze the City’s policies, and not just rule on a proposal provided to it. She voiced her concern that she was the only member of the Board of Commissioners to be impacted by this policy revision. In order to keep the decision unbiased and not personal or political, Mayor Walker urged that the Ethics Board be given the opportunity to review and make a recommendation for change that reflects current situations, values and issues.

City Attorney Gene Harmon explained the difference between the current ordinance language which applied to only elected officials and City employees, and the proposal to expand that language to any agency, board or commission that is created by the City, created jointly by the City and Warren County, that has any City representation on its board of directors or that receives funding from the City and identified in the annual budget as either a City contract agency, board or commission or competitively funded agency, board or commission. Once all the discussion ended, a roll call vote was taken.

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

First reading of Ordinance No. BG2009 - 15 was approved by majority vote.

MUNICIPAL ORDER NO. 2009 – 99

MUNICIPAL ORDER APPROVING SECOND AMENDED AND RESTATED PROPERTY ACQUISITION AGREEMENT WITH THE CITY OF BOWLING GREEN AND SOUTHERN KENTUCKY PERFORMING ARTS CENTER, INC.

Summary of Municipal Order No. 2009 – 99 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 stated that this item was discussed during the earlier work session. Mayor Walker asked for additional discussion, and with none, a roll call vote was taken.

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

Municipal Order No. 2009 - 99 was approved by unanimous vote.

CLOSED SESSION

Following a brief recess to clear the Commission Chamber, the Board of Commissioners met at approximately 7:45 p.m. in closed session pursuant to KRS 61.810 (c) and (g) as previously approved.

RECONVENE IN OPEN SESSION

Once all discussion concluded in closed session, the Board of Commissioners reconvened in open session at approximately 8:45 p.m. to consider action. Motion was made by Hamilton and seconded by Wilkerson to add Municipal Order No. 2009 – 100 to the agenda for consideration. With no discussion, a roll call vote was taken.

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

Motion to add Municipal Order No. 2009 – 100 to the agenda was approved by unanimous vote.

MUNICIPAL ORDER NO. 2009 – 100

MUNICIPAL ORDER APPROVING A JOB DEVELOPMENT
INCENTIVE FUND EMPLOYEE WITHHOLDINGS CREDIT
AGREEMENT WITH TMS AUTOMOTIVE, LLC

Summary of Municipal Order No. 2009 - 100 was read by the Assistant City Manager/City Clerk. Motion was made by Nash and seconded by Wilkerson 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: Denning, Hamilton, Nash, Wilkerson and Walker
 Voting Nay: None

Municipal Order No. 2009 - 100 was approved by unanimous vote.

ADJOURNMENT

There being no further business to come before the Board of Commissioners, at approximately 8:46 p.m., Mayor Walker declared this meeting adjourned.

WORK SESSION

Prior to the regular meeting and with no action taken, the Board of Commissioners, excluding Commissioner Nash, 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 update of the Southern Kentucky Performing Arts Center (SKyPAC) project; 2) the Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) Program for Western Kentucky University Research Foundation, Inc. and proposed grant application; 3) the re-platting of Block “4” of the original Tax Increment Financing (TIF) District/Bowling Green Downtown Redevelopment Subdivision; and 4) an update regarding performance measurements for City departments. There were no policy initiatives presented.

ADOPTED: _____

APPROVED: _____

(Minutes-Board of Commissioners-May 19, 2009)

Mayor, Chairman of Board of Commissioners

ATTEST:

City Clerk

Minutes prepared by Assistant City Manager/City Clerk Katie Schaller