

**MINUTES of REGULAR MEETING  
of the BOARD of COMMISSIONERS  
of the CITY of BOWLING GREEN, KENTUCKY  
held JULY 19, 2011**

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 July 19, 2011. Mayor Joe W. Denning called the meeting to order. An invocation was given by Rev. Chris Patterson of St. James United Methodist Church, and all present recited the Pledge of Allegiance. Assistant City Clerk Ashley Jackson called the roll, and the following members were present: Commissioner Brian "Slim" Nash, Commissioner Bill Waltrip, Commissioner Bruce Wilkerson, Commissioner Melinda M. Hill and Mayor Joe W. Denning. Absent: none. There was a full quorum of the Board of Commissioners.

**AWARDS**

Operation P.R.I.D.E. Executive Director Ray Lackey presented P.R.I.D.E.'s July residential award to Mrs. Lyne Betty Boyd for improvements made to her property located at 613 East 11<sup>th</sup> Avenue. Cathy Howard with Girkin, Inc. accepted the commercial award for improvements made to 6807 Louisville Road (previously Minit Mart next to Warren East High School).

Mr. Lackey also stated that beginning on August 1<sup>st</sup> the first section of the equestrian black wooden fence would be installed at the spur on Louisville Road in front of Super 8 Hotel and Hardees, and the fence would be sponsored by Super 8 Hotel and Operation P.R.I.D.E. – Run for P.R.I.D.E.

**WORK SESSION**

The Board of Commissioners discussed Chapter 15 (Business and General Regulations) of the City of Bowling Green Code of Ordinances related to the sale, storage and use of fireworks formerly adopted by Ordinance No. BG2011-21. There were several individuals in attendance who spoke in opposition to the fireworks ordinance.

Frank Melton of 3688 Watermill Avenue (Fieldstone Farms Subdivision recommended amendments to the ordinance which included no artillery shells, earlier curfew such as 10 p.m. or 11 p.m., and limit the days in which fireworks could be fired to only the 4<sup>th</sup> of July or other specified holidays.

Dr. Robert Owen of 2048 Quail Run Drive indicated that his primary concerns were the safety and quality of life for the community, and he explained that he was a proud resident of the City and believed that there was a high standard for the quality of life in the City. He proposed to limit fireworks to 2-3 weeks prior to and several days following the 4<sup>th</sup> of July, New Year's Eve, and other suggested holidays. He also recommended a revision in the timeframe to 10:30 a.m. – 9:00 p.m.

Joseph Worth of 707 Cabell Drive explained that it was a mistake to allow fireworks within the City and stated that the sounds of the fireworks were disturbing to children, animals and veterans. He also believed that the noise ordinance was violated. He suggested that the Board reconsider the selling and shooting of fireworks.

Lena Simmons of 711 East 14<sup>th</sup> Avenue stated that as a renter, she had a problem with neighbors setting off smoke bombs and firecrackers close to her home. She stated she contacted the Police

Department several times when the incident occurred at 1:30 a.m. – 2:00 a.m. and the police communicated with Ms. Simmons and the neighbors, but the actions continued.

Don Loiacano of 1230B Indianola Street remarked that he was distressed as a renter and his 6 year-old daughter was fearful to go outside due to the firecrackers. He also stated that there were limited places to shoot fireworks based on the current ordinance and the 200 foot standard. He suggested that he would support an ordinance that only allowed fireworks on July 4<sup>th</sup>. Mr. Loiacano also expressed that his neighborhood was exceptionally bothersome during the 4<sup>th</sup> of July and he believed the City solely focused on higher income neighborhoods, particularly with scheduling or conducting Summer Strolls. He suggested that City staff and police officers should consider Summer Strolls in areas such as Clay Street, High Street or Park Street.

In response to Mr. Loiacano's remarks, Mayor Denning stated that the Commonwealth of Kentucky passed this new legislation and that all cities throughout the state were discussing the same topic and concerns as the City of Bowling Green. In addition, he clarified that there were not just issues in certain areas of the City, but there were complaints throughout all sections of the community. Mayor Denning also mentioned that since he had been a member of the Board of Commissioners, he did not favor one community over another, and he believed the Board of Commissioners treated everyone the same.

In addition, Commissioner Hill thanked Mr. Loiacano for his comments regarding the Summer Stroll. She explained that the neighborhoods were not selected by the Board of Commissioners, but were based on an invitation from the neighborhoods. She encouraged Mr. Loiacano to contact Neighborhood Services Coordinator Karen Foley if there was an interest in a Summer Stroll in his neighborhood. Commissioner Waltrip further commented that there was a Summer Stroll held on Clay Street the previous evening, and it was one of the largest turnouts he had seen at a Summer Stroll.

Warren Campbell of 1908 Nashville Road agreed with Dr. Owen's comments and most of the other comments previously mentioned. He opposed the year-round concept and the time in which the fireworks could be shot. Due to the fact that there were very few places that one would be allowed to shoot fireworks because of the 200 foot regulation, he remarked that he did not believe the Police Department could reasonably be expected to enforce the adopted regulations as written.

Mayor Denning thanked everyone for their comments. He agreed that the Board was not fully satisfied with the adopted regulations and it would be working with the Police and Fire Departments, along with staff and taking into consideration citizen comments, to amend the regulations.

Commissioner Hill indicated that she was in support of allowing fireworks to be shot in the City from the beginning and believed that individuals would have used common sense and treated each other with respect. However, she now realized that was not the circumstance, and she apologized for the complaints. She also reassured that the Board would be working to find a compromise.

Commissioner Nash stated that he would recommend redrafting the ordinance to the previous status quo which existed before the State or City became involved. He stated that the goal should be to come up with a reasonable expectation for both those who do and do not purchase and discharge fireworks. He further stated that given the 200 foot rule, it would not be reasonable to have an ordinance that encouraged people to discharge fireworks when they could not do so legally.

Commissioner Waltrip explained this was a difficult issue because in some way everyone was right. He proclaimed that he had made a mistake on voting for this ordinance. He acknowledged that the timeframe and year-round concepts were not appropriate, and he agreed with Commissioner Nash about the previous status quo. He stated he would prefer to consider that option due to the 200 foot regulation set by the State and as a quality of life issue.

Commissioner Wilkerson indicated he was aware of the many individuals that were disturbed due to the sound. However, he believed that if the City did not allow the sale of fireworks, there would be the possibility of companies setting up in the County. Therefore, he recommended working jointly with the County.

Mayor Denning confirmed that he did not agree with the timeframe or allowing the discharge of fireworks 365 days of the year. As this issue had effected all citizens and needed to be addressed, he stated that he would be in agreement to allow the use of fireworks within certain days prior to and following the 4<sup>th</sup> of July and New Year's Eve.

Following Mayor Denning's comments, he requested participation from the City Manager. Mr. DeFebbo clarified that this was a policy issue. He offered that in his opinion it was untenable to ask the Police Department to try and enforce the 200 foot rule regulating eight police zones within the City, which would require the City to pay an extensive amount of overtime. Based on the discussion, he suggested drafting two versions for revisions to the ordinance; returning to the way it was previously, or compromising with the timeframe and limiting the use to the 4<sup>th</sup> of July and New Year's Eve.

Once all discussion concluded, the Board of Commissioners requested that City Attorney Gene Harmon draft revisions to the ordinance in order to compromise with the concerns discussed, including revisions to the time, as 12:30 a.m. was considered too late, and to specify the certain holidays which fireworks would be allowed, which should include the 4<sup>th</sup> of July, New Year's Eve and other major holidays. Mr. DeFebbo asked for the consideration of the Board to allow Mr. Harmon until the August 16<sup>th</sup> meeting to prepare a draft recommendation. Mayor Denning reiterated to the public that the Board would not be pushing this topic aside, but would be presenting a solution soon.

#### CITY MANAGER

With the conclusion of the work session and proceeding with the regular agenda, City Manager Kevin D. DeFebbo stated he had no comments at this time.

#### APPROVAL OF MINUTES

##### Minutes of Regular Meeting July 5, 2011

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 Denning asked for discussion, and with none, a roll call vote was taken.

ROLL CALL:           Voting Yea: Nash, Waltrip, Wilkerson, Hill and Denning  
                          Voting Nay: None

Motion to approve the minutes of the regular meeting of July 5, 2011 was approved by unanimous vote.

PUBLIC COMMENTS

Mayor Denning opened the floor for any public comments. Frank Melton of 3688 Watermill Avenue expressed his concern with enforcement of handicapped parking. He recommended setting higher standards for businesses to be within the ADA code and allow for more enforcement. City Manager Kevin DeFebbo stated that he had been anticipating a need for this, and it had been studied by staff. He commented that any changes would involve ADA law, Department of Justice and a state application process. He further indicated that he would share the City's research with Mr. Melton, and if needed, this topic could be discussed at a future work session.

MUNICIPAL ORDER NO. 2011 – 146

MUNICIPAL ORDER APPROVING THE PROMOTION OF J. TODD NAPIER TO THE POSITION OF DEPUTY FIRE CHIEF IN THE FIRE DEPARTMENT

Summary of Municipal Order No. 2011 - 146 was read by the Assistant City Clerk. Motion was made by Wilkerson and seconded by Nash for consideration of said Municipal Order. Fire Chief Greg Johnson reviewed the qualifications of Mr. Napier and recommended the promotion. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL:           Voting Yea: Nash, Waltrip, Wilkerson, Hill and Denning  
                          Voting Nay: None

Municipal Order No. 2011 - 146 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 – 147

MUNICIPAL ORDER AUTHORIZING AGREEMENTS BETWEEN THE CITY OF BOWLING GREEN AND EACH OF THE NINE (9) APPROVED SUBRECIPIENTS FOR YEAR 8 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUNDING

Summary of Municipal Order No. 2011 - 147 was read by the Assistant City Clerk. Motion was made by Wilkerson and seconded by Hill for consideration of said Municipal Order. DeFebbo reviewed the approved subrecipients for Year 8 Community Development Block Grant (CDBG) Program funding. He indicated that there was a reduction in funding due to the economic conditions and that he anticipated continued reductions in the future. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL:           Voting Yea: Waltrip, Wilkerson, Hill and Denning  
                          Voting Nay: None  
                          Abstaining: Nash

Municipal Order No. 2011 - 147 was approved by majority vote. Comm. Nash abstained since his employer, Bellewood Presbyterian Homes for Children, was a recipient of some money.

MUNICIPAL ORDER NO. 2011 – 148

MUNICIPAL ORDER AUTHORIZING AND APPROVING THE ANNUAL DUES PAYMENT IN THE AMOUNT OF \$27,122 TO BARREN RIVER AREA DEVELOPMENT DISTRICT (BRADD) FOR FISCAL YEAR 2012

Summary of Municipal Order No. 2011 - 148 was read by the Assistant City Clerk. Motion was made by Wilkerson and seconded by Waltrip for consideration of said Municipal Order. DeFebbo specified this was an annual action and the dues amount was calculated based on a 50 cent per capita formula. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL:           Voting Yea: Nash, Waltrip, Wilkerson, Hill and Denning  
                          Voting Nay: None

Municipal Order No. 2011 - 148 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 – 149

MUNICIPAL ORDER AUTHORIZING THE FILING OF A MOTION TO INTERVENE OR THE FILING OF OTHER NECESSARY DOCUMENTS RELATED TO THE APPLICATION FOR PRELIMINARY PERMIT FOR BARREN RIVER LAKE DAM HYDROELECTRIC PROJECT, FEDERAL ENERGY REGULATORY COMMISSION (FERC) NO. P-13022-000, AND AUTHORIZING AGREEMENT WITH RIVERRESTORATION TO PROVIDE ASSISTANCE IN THIS ACTION

Summary of Municipal Order No. 2011 - 149 was read by the Assistant City Clerk. Motion was made by Wilkerson and seconded by Waltrip for consideration of said Municipal Order. Comm. Wilkerson spoke as the sponsor of the municipal order and explained that this was an opportunity for the City to become involved in the relicensing process and acquire some mitigation costs. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL:           Voting Yea: Nash, Waltrip, Wilkerson, Hill and Denning  
                          Voting Nay: None

Municipal Order No. 2011 - 149 was approved by unanimous vote.

MUNICIPAL ORDER NO. 2011 – 150

MUNICIPAL ORDER APPROVING AND AUTHORIZING SALE OF PROPERTY BY INTER-MODAL TRANSPORTATION AUTHORITY, INC.

Summary of Municipal Order No. 2011 - 150 was read by the Assistant City Clerk. Motion was made by Wilkerson and seconded by Nash for consideration of said Municipal Order. Mr. DeFebbo explained that with the refinancing of the ITA bonds, one of the components of control was for the City to approve the sale of property if it was less than \$25,000 an acre. He reported that City Attorney Gene Harmon wrote a memo indicating there was an unknown history to both he and Mr. Harmon as to how the sale of this property was determined. However, he advised that this should not deter support for the sale. He believed that in order to compete for economic development, it was necessary sometimes to offer a lower price for land in order to acquire new jobs. Comm. Nash asked why the copy of the memo dated October 5, 2010 from former Mayor Walker was not on letterhead and how it was delivered to the City. Mr. Harmon responded that the letter was provided to him from the Inter-Modal Transportation Authority, Inc. (ITA) attorney and the ITA confirmed that its copy was on City letterhead. Comm. Nash suggested that in the future all City officials should be involved in the process of the sale of property and no commitments should be made without Board discussion and approval. Mr. DeFebbo commented that he shared the same remarks with ITA Director Ron Bunch and Mr. Bunch understood and respected the protocol. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL:           Voting Yea: Nash, Waltrip, Wilkerson, Hill and Denning  
                          Voting Nay: None  
Municipal Order No. 2011 - 150 was approved by unanimous vote.

ORDINANCE NO. BG2011 – 33  
(First Reading)  
ORDINANCE AMENDING ZONING ORDINANCE

ORDINANCE AMENDING ARTICLES 4, 5 AND 8 OF THE ZONING  
ORDINANCE FOR THE CITY OF BOWLING GREEN, KENTUCKY  
AS RECOMMENDED BY THE CITY-COUNTY PLANNING  
COMMISSION

Title and summary of Ordinance No. BG2011 - 33 was read by the Assistant City Clerk. Motion was made by Wilkerson and seconded by Nash for first reading of said Ordinance. DeFebbo explained that this ordinance was withdrawn at the previous meeting for further review. City Attorney Gene Harmon stated that the ordinance for consideration before the Board was the recommendation of the City-County Planning Commission. However, he indicated that a few different ordinances had been drafted to reflect revisions requested by Comm. Wilkerson and staff. Mr. Harmon reviewed the drafted revisions.

Comm. Nash questioned if the traditional electronic billboards were allowable in the City limits. In response, City-County Planning Commission Director Steve Hunter confirmed that the billboard advertisement signs section of the Zoning Ordinance indicated that the illumination electronic message display was prohibited on all billboard advertisement signs, and the committee that made the decision did not want to see billboards convert to all light-emitting diode (LED), as it could be a nuisance to the community.

Motion was made by Wilkerson and seconded by Nash to amend Ordinance No. BG2011-33 to include the staff and Commissioner Wilkerson's revisions as recommended and identified on the draft ordinances to include revisions to Article 4, Section 4.6.8 (F), 4 (h)(p), 5 (d) and 12 (f). With no additional discussion, a roll call vote was taken on the amendment.

ROLL CALL:           Voting Yea: Nash, Waltrip, Wilkerson, Hill and Denning  
                          Voting Nay: None

Motion to amend Ordinance No. BG2011-33 to include recommended revisions from City staff and Commissioner Wilkerson was approved by unanimous vote.

Mr. Harmon clarified that the ordinance would require approval of first reading as amended. Motion was made by Wilkerson and seconded by Nash to approve first reading of Ordinance No. BG2011-33 as amended. Mayor Denning asked for additional discussion, and with none, a roll call vote was taken.

ROLL CALL:           Voting Yea: Nash, Waltrip, Wilkerson, Hill and Denning  
                          Voting Nay: None

First reading of Ordinance No. BG2011 – 33 as amended was approved by unanimous vote.

ORDINANCE NO. BG2011 – 34  
(First Reading)  
ORDINANCE RELATING TO BUDGET AMENDMENT

ORDINANCE APPROVING AMENDMENT NUMBER SEVEN TO  
THE CITY OF BOWLING GREEN, KENTUCKY ANNUAL  
OPERATING BUDGET FOR FISCAL YEAR 2011

Title and summary of Ordinance No. BG2011 - 34 was read by the Assistant City Clerk. Motion was made by Wilkerson and seconded by Nash for first reading of said Ordinance. Mr. DeFebbo remarked that this represented the final budget amendment for Fiscal Year 2011. Mayor Denning asked for discussion, and with none, a roll call vote was taken.

ROLL CALL:           Voting Yea: Nash, Waltrip, Wilkerson, Hill and Denning  
                          Voting Nay: None

First reading of Ordinance No. BG2011 - 34 was approved by unanimous vote.

ADJOURNMENT

There being no further business to come before the Board of Commissioners, at approximately 8:45 p.m., Mayor Denning declared this meeting adjourned.

ADOPTED: \_\_\_\_\_

APPROVED: \_\_\_\_\_  
Mayor, Chairman of Board of Commissioners

ATTEST: \_\_\_\_\_  
City Clerk

*Minutes prepared by Assistant City Clerk Ashley Jackson*