

CITY OF UNION, KENTUCKY
Monday, October 13, 2014
MINUTES
Special Business Meeting of the Union City Commission

Don Kirby, Mayor and presiding officer of the City of Union, Kentucky called to order the Special Business Meeting at 5:30 p.m. in the Union City Building Auditorium, 1843 Mount Zion Road.

PRESENT: Mayor Don Kirby, City Commissioners: Ken Heil, Donna Fryman, Deanna Kline and Bryan Miller.

OTHERS PRESENT: City Attorney Greg Voss, City Clerk/Treasurer Kathy Porter and City Engineer Barry Burke.

AUDIENCE *Sign-In Sheet*: Travis Fryman

Discussion at this meeting shall be limited to the items listed below pursuant to - (KRS 61.823(3)).

ORDINANCE NO. 2014 - 016 - AN ORDINANCE OF THE UNION CITY COMMISSION REPEALING ORDINANCE 2014-008 OF THE CITY OF UNION, KENTUCKY CODE OF ORDINANCES RELATING TO THE OFFICE OF CITY ENGINEER FOR THE CITY OF UNION, KENTUCKY. Commissioner Heil made a motion to repeal Ordinance No. 2014-016, Commissioner Miller seconded the motion. All voted in favor. **Motion carried.**

Commissioner Fryman provided a copy of an email/letter that she had sent to the Mayor and Commissioners prior to tonight's meeting. Commissioner Kline said she had not read her email yet prior to making the meeting tonight and was given a paper copy of the same. Commissioner Fryman stated that what is in her email is how she feels about the hiring of Barry Burke, PE as a contractor for engineering services for the city of Union, Kentucky.

Mayor Kirby stated the Municipal Order was written for a city employee for a monthly rate of \$4,166.00, but since the city is now considering an independent contractor-position that maybe we should go back to the hourly rate of \$85.00 per hour. Commissioner Heil stated that he had prepared a correction to the Municipal Order that would state a rate of \$85.00 per hour for the months of October, November, and December of 2014; and, January and February of 2015 not to exceed a maximum of 50 hours per month. Further, based upon The Agreement, for the month of March 2015, a maximum of 80 hours could not be exceeded per the city's requests.

City Clerk Kathy Porter asked Mr. Burke if he was an employee with Infrastructure Development Engineering, Inc. (IDE), and Mr. Burke stated that he was previously an employee until the economy went down; and, at that time became an

employee/independent contractor. City Clerk Kathy Porter asked Mr. Burke if he had any other agreement or contract with IDE that would restrict him from working for a company that was once contracted by IDE. Mr. Burke stated that in 2004 when he worked for Foppe Technical Group (the company is no longer in business), he signed a non-compete clause. However, Mr. Burke stated he did not sign any such agreement with IDE. Mayor Kirby stated typically the non-compete clause is with competitors and if you ask prior to the severance they usually allow you out of it.

Mr. Burke stated he had a meeting with IDE President, James Hahn concerning the issue; and, Mr. Burke stated his relationship with IDE remains very favorable; and, there is no other agreement, contract or non-compete clause with IDE stating he could not move forward with the city as an independent contractor. Mr. Burke had previously advised that he has secured his own professional liability and general liability insurance, with a copy of the Certificate of Insurance forwarded to the City Clerk. Mr. Burke also respectfully requested that the city compensate him for the extra cost for the insurance, which the city denied stating that such costs are included in the hourly rate, without any other deductions. Mr. Burke thanked the commissioners for the work he has thoroughly enjoyed for the last 10 years.

Attorney Voss will make the necessary changes to the Municipal Order to coincide with the request of Commissioner Heil that was agreed to by Mr. Barry J. Burke, PE.

MUNICIPAL ORDER NO. 2014 - 004 - A MUNICIPAL ORDER HIRING BARRY J. BURKE, PE AS AN INDEPENDENT CONTRACTOR FOR ENGINEERING SERVICES FOR THE CITY OF UNION, KENTUCKY. Commissioner Miller made a motion to hire Barry J. Burke, PE as a contractor for Engineering Services for the term of October 1st, 2014 and end at midnight March 31st, 2015. Commissioner Heil seconded the motion. Commissioners Heil, Kline, Miller and Mayor Kirby voted in favor of motion and Commissioner Fryman voted against. **Motion carried with a 4-1 vote.**

RESOLUTION NO. 2014 - 014 - A RESOLUTION APPOINTING KAREN FRANXMAN TO SERVE ON THE ECONOMIC DEVELOPMENT COMMITTEE (EDC) ON BEHALF OF THE CITIZENS OF THE CITY OF UNION, KENTUCKY. Commissioner Kline made a motion to appoint Karen Franxman to the EDC, Commissioner Miller seconded the motion. All voted in favor. **Motion carried.**

ADJOURNMENT: There being no further business on the agenda for this special business meeting, Mr. Heil made a motion to adjourn, seconded by Ms. Fryman. Motion carried unanimously. Mayor Kirby declared the meeting adjourned at 6:57 p.m.

Approved:

Don Kirby, Mayor

Signed on this date: November 3, 2014

Attest:

Kathy Porter, City Clerk